

**JOINT PERFORMANCE REVIEW COMMITTEE  
OCTOBER 20, 2016  
MINUTES**

The Joint Performance Review Committee met upon adjournment of the Senate and House State Agencies and Governmental Affairs Committees on Thursday, October 20, 2016 in Room B, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, John Cooper, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Lance Eads, Michelle Gray, Milton Nicks, Jr., Dan Sullivan, and Clarke Tucker.

Other legislator present: Representative John Payton.

**Call to Order**

Representative Hammer called the meeting to order.

**Opening Remarks by Co-Chairs**

Representative Hammer told committee members the purpose of the meeting is to hear from state agencies concerning the financial impact to their agencies should one or both of the medical marijuana ballot measures pass in the November election.

He recognized Matthew Miller, staff attorney, Bureau of Legislative Research to provide legal guidance on the parameters of the Committee's discussion. Mr. Miller referenced Act 312 passed in the 2013 legislative session regarding the use of public funds to support or oppose ballot measures. Provisions of Act 312 include:

- It is unlawful for a public servant or a governmental body to expend or permit the use of public funds to support or oppose a ballot measure
- The term governmental body is defined and specifically includes committees of the legislative branch
- The term public servant is defined and exempts elected officials, but there is no exemption for governmental bodies made up of elected officials
- The statute prohibits a legislative committee from expending funds to support or oppose a ballot measure including expenses associated with a committee meeting if the purpose of the meeting is to support or oppose a measure

Mr. Miller said there are exceptions in Act 312 which give latitude to public servants within the scope of their official duties. He also said the meeting's agenda statement is clear regarding the Committee's review of the impact to state agencies should one or both of the ballot measures for the sale of medical marijuana pass in the November 2016 election.

Paul Gehring, Assistant Commissioner, Policy and Legal Division, Arkansas Department of Finance and Administration (DF&A), Boyce Hamlet, Director, Alcohol and Beverage Control (ABC) Enforcement, Bud Roberts, Director, ABC Administration, Ann Purvis, Deputy Director, Arkansas Department of Health, and Bill Bryant, Director, Arkansas State Police, were each sworn in under oath by Representative Hammer. Mr. Gehring gave an overview of the report prepared by DF&A, (Handout 1) pertaining to the Arkansas Medical Marijuana

Amendment (AMMA) Administrative Implementation. He said for the purpose of the report DF&A separated the implementation requirements into three areas:

**Administrative Analysis** – DF&A analyzed the impact to administrative agencies responsible for implementing the new regulations. Data was obtained from states who have existing medical marijuana available for sale in their state. One issue found in each of the states is the businesses are cash-based. Federal banking laws prevent cash-based businesses access to the federal banking system. DF&A will have to increase the level of auditing to ensure that appropriate records are kept by individuals in the medical marijuana industry.

**Tax Administration Analysis** – Mr. Gehring said sales taxes and sales tax reporting is usually done electronically. DF&A will be responsible for the development of the process for receipt of sales tax cash payments, which are accepted only at the DF&A Offices located in the Ledbetter Building in Little Rock, Arkansas. Sales tax reports are required to be submitted on a monthly basis and will also have to be filed at the DF&A office location in Little Rock. Mr. Gehring noted that the amendment ballot measure for the medical marijuana sales designates the Arkansas Beverage Control Board (ABC) as the regulatory authority. The ABC will be responsible for the development of rules, procedures, regulations, and the enforcement of the provisions within the amendment.

**Budget Analysis** – DF&A determined that the costs for administrative compliance to the state agencies is based on revenue estimates shown on page one of the handout, with an estimate of \$2.4 million in sales tax collections. Revenue distributions designated in the medical marijuana amendment included:

- 5% to the Department of Health
- 2% to the ABC Administration Division
- 2% to the ABC Enforcement Division
- 1% to the Medical Marijuana Commission

Mr. Gehring then reviewed page three of the DF&A report (Handout 1) regarding revenue projections for net sales of medical marijuana. The DF&A Excise Tax Office performed an analysis of six states where medical marijuana is available; Maine, New Jersey, Nevada, Rhode Island, Illinois, and New Mexico. He said that DF&A was able to obtain actual revenue amounts collected in each state. Mr. Gehring said an important aspect of the findings in the analysis is based on the fact that all the comparison states have mature markets of medical marijuana sales.

The DF&A analysis includes:

- A comparison of revenue collections based on each state's population
- An average per capita sale of medical marijuana in each state
- An average per capita sale, based on all six states, was \$12.85 million
- The per capita sale amount was multiplied by Arkansas's state population with a projected revenue in the amount of \$38.2 million
- State and local sales taxes to be applied to sales is estimated in the amount of \$2.4 million

Mr. Gehring stated that DF&A does not believe that the \$2.4 million in state and local sales tax will be generated within its first year of medical marijuana sales because of the amount of time it will take to establish the systems needed. DF&A estimates that the estimate of

\$2.4 million in state revenue from possible collection of sales taxes would not be obtained until fiscal year 2019.

Representative Hammer recognized Bud Roberts, Director, ABC. Mr. Roberts discussed the additional personnel his agency will need to oversee the regulation of the sale of medical marijuana in Arkansas. The ABC proposes hiring one additional attorney and two assistants who will be responsible for the promulgation of rules, responses to inquiries, licensing of cultivation and dispensary facilities, and the registration of persons employed in the industry. Mr. Roberts said the ABC will also be responsible for the regulation of medical marijuana sales and the development of the Medical Marijuana Commission, which is required by the amendment ballot measure.

Representative Hammer recognized Boyce Hamlett, Director, ABC Enforcement Division. Mr. Hamlett said he has had discussions with the U.S. Drug Enforcement Administration (DEA) and the Arkansas State Police regarding enforcement issues. The ABC Enforcement Division proposes hiring six additional enforcement agents.

Representative Hammer recognized Ann Purvis, Deputy Director for Administration, Arkansas Department of Health (ADH). Ms. Purvis reviewed responsibilities of the ADH listed in the medical marijuana amendment ballot measure:

- Creation and registration of identification cards for patients and designated caregivers
- Development of a tracking system of individuals
- Development of a tracking system for dispensaries
- Development of a tracking system for amounts of medical marijuana dispensed

Representative Hammer recognized Colonel Bill Bryant, Director, Arkansas State Police. Colonel Bryant discussed the additional personnel and equipment needed by the Arkansas State Police if either or both measures pass. He reviewed his handout that he provided to the committee that gives a detailed list of personnel and equipment cost including:

- Increase Drug Recognition Experts (DRE) officers from 39 up to 150
- Expand the DRE program by adding both a lieutenant and sergeant position
- A total of eighteen additional criminal investigators will be needed for the six Criminal Investigation Departments (CID) throughout the state, which is an increase of three investigators for each of the CID departments
- Additional vehicles, safety equipment, and office equipment will be needed
- Implementation of specialized training
- Total budget increase projected at \$2.87 million

Tom Atchley, Excise Tax Administrator, DF&A was sworn in under oath by Representative Hammer. Mr. Atchley responded to questions concerning the basis for the data used by DF&A to create their report (Handout 1) which was presented by Mr. Gehring. Legislators asked how DF&A derived the per capita medical marijuana sales projections listed in the report. Mr. Atchley said that DF&A obtained the information from all of the states that have medical marijuana available in their state and who were willing to provide their data. He said DF&A used only data provided by tax officials in those states.

There being no further business, the meeting adjourned at 5:00 p.m.