FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

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Phone:	(225)922-1234	Office:	
Return Address:	5825 Florida Blvd., Suite 2000	Rule Title:	LAC 7:XLIX.Chapters 1 - 31 (Medical Marijuana)
	Baton Rouge, LA 70806		
		Date Rule Takes Effect:	November 20, 2016

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule promulgates the administration, oversight, and permitting/licensing activities surrounding the production and distribution of medical marijuana as authorized by Act 261 of 2015. The proposed rules are being promulgated pursuant to Act 567 of the 2016 Regular Session.

The LA Dept. of Agriculture & Forestry estimates that oversight of the medical marijuana program will cost approximately \$701,000 annually. This cost includes laboratory testing (\$300,000), a marijuana inventory tracking system (\$70,000), and operating expenses (\$7,000). Initial estimates for program personnel costs are estimated to total \$324,233 annually. The LDAF has decided to reallocate existing T.O. positions for four additional necessary personnel (auditor, inspector, administrative assistant). Presently these positions are not funded. Initially the LDAF will fill the auditor, inspector, and administrative assistant positions, and utilize a current LDAF employee as the interim program manager. LDAF eventually plans on hiring a full-time program manager.

The department anticipates medical marijuana regulatory expenditures - such as laboratory testing, inspections, and inventory control - to eventually be funded through revenues raised by gross sales of the product (see Effect on Revenue Collections), but LDAF would need funding from some other source (State General Fund, etc.) to fund the initial start-up costs associated with regulating medical marijuana. Presently funds for these expenses are not included in the LDAF appropriation for FY 17 and would need to be appropriated via BA-7 request or in a supplemental appropriation, or funded via treasury seed from the Dept. of Treasury.

At present, the LSU AgCenter and the Southern University AgCenter have opted in to produce medical marijuana, but have not begun construction on production facilities. The LDAF estimates that production of marijuana for therapeutic use will not occur for another 18 - 24 months. LDAF staff indicates that laboratory testing and inventory control will not be necessary until seeds are acquired and the crop planted. As a result, some expenditures for the LDAF made pursuant to the proposed rules (i.e. product testing) may not occur in FY 17 and be delayed until FY 18 or subsequent fiscal years. Furthermore, the LDAF indicates that it will utilize existing resources to the extent possible to fund expenditures related to the start-up of regulating medical marijuana. However, it appears likely that a supplemental appropriation or treasury seed will be necessary to fund expenditures in FY 17 that cannot be absorbed within the LDAF's current appropriation.

Furthermore, the proposed rules set guidelines for the construction of medical marijuana growth facilities, as well as the practice of growing medical marijuana and producing it for therapeutic use. The LSU AgCenter and Southern University AgCenter have opted in to produce the crop, and would have to construct growing facilities pursuant to the guidelines provided in the proposed rules, which represents an indeterminable, though likely significant cost. Neither AgCenter has been appropriated funding specifically for the production of medical marijuana, and would either have to fund the construction of a facility within their existing appropriation or would have to seek third-party investment.

In addition, both AgCenters must pay an annual \$100 per employee permit fee for every employee associated with the production of medical marijuana. The number of employees both entities will utilize for the program is unknown; therefore it is reasonable to assume that they will incur an indeterminable increase in expenditures associated with permitting. An annual license fee of $100,000 is also required to grow the crop, but the LDAF is presently waiving it for both entities. In the event the LDAF no longer waives the license fee, both entities will be required to pay $100,000 annually.

The proposed rules will not have any impact on expenditures of local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase self-generated revenue collections by the department by an indeterminable amount. The funds for the medical marijuana program are authorized by R.S. 40:1046(J)(9) and proposed rule 701. The rule and law provide for the department to be paid up to 7% of gross sales quarterly. Revenue collections will depend on crop volume, market price, and demand, which cannot be estimated at this time.

Licensees must pay a $100,000 licensing fee to produce medical marijuana. However the LDAF has initially waived this fee since the LSU AgCenter or the Southern AgCenter have opted in to produce medical marijuana. Furthermore, licensees must pay a $100 permit fee for every employee associated with the medical marijuana program. All fees associated with the medical marijuana program will fund LDAF's expenditures associated with the regulation of medical marijuana production.

The proposed rules will not have any impact on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Under the proposed rules, private licensees must pay to the department up to 7% of gross sales quarterly. In addition, there is a $100 fee for a permit for each employee. Furthermore, licensees must pay an annual license fee of $100,000 to produce medical marijuana. Licensees will also incur expenses associated with constructing a production facility that meets the requirements set forth in the proposed rules. However, due to the LSU AgCenter and the Southern University AgCenter opting to produce medical marijuana, it is unclear if private firms will incur expenses associated with the production of medical marijuana in the future, as the state limits the number of licensees to one if the production is by a private firm, or two if production is by the LSU and Southern University AgCenters. Presently both AgCenters have opted in.

In addition, to the extent private investors license with the LDAF to produce medical marijuana, they would likely realize profits over time to the extent patient counts and use of the substance increases. Similarly, to the extent private investors fund the costs of producing medical marijuana at both AgCenters, they may realize a portion of gross revenues raised through the production and sale of medical marijuana products.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules affect competition, as there are structures in place (i.e. license requirements) to limit the market for production of medical marijuana in Louisiana to two producers at most. In the event the AgCenters opt out of producing medical marijuana, private firms would compete for a single license. The authorization of any entity, public or private, to produce medical marijuana will open a new business enterprise that currently is not present in LA and should offer an avenue to an indeterminable increase in employment opportunities, dependent upon the level of production and market demand.

Signature of Agency Head or Designee

Dane Morgan

Typed Name & Title of Agency Head or Designee

10/10/16

Date of Signature

Evan Brasseaux, Staff Director

Legislative Fiscal Officer or Designee

10/10/16

Date of Signature

FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rules are adopted pursuant to R.S. 40:1046 to govern the growing and production of marijuana for therapeutic use and the facility producing therapeutic marijuana. The rules and regulations include, but are not limited to, the procedures for application, qualifications, eligibility, background checks, and standards for suitability for a license and penalties for violations of the rules and regulations.

More specifically, chapter 1 of the proposed rules sets forth definitions used in the medical marijuana rules. Chapter 3 sets forth the department's authority to adopt the rules and addresses administrative matters, such as rules of construction for the proposed regulations. Chapter 5 addresses the license issued by the department to the grower and permits issued by the department to employees of the licensee, rules regarding the form, content and information required in applications, addresses suitability standards, the ownership and transferability of the license and requires permits for employees. Chapter 7 addresses fees charged by the department to the licensee. Chapter 9 addresses compliance by the licensee and permitees and inspections by the department, as well as setting forth a procedure for the licensee to request waivers from certain rules in emergency situations. Chapter 11 requires the licensee to establish internal controls for the production facility and sets forth the areas that must be covered by the internal controls. Chapter 13 sets forth record keeping and reporting requirements for the licensee and requires the licensee to submit an annual report to the department. The department, in turn, is required by law to submit an annual report to the legislature. Chapter 15 governs the production facility, including requiring certain areas of the facility to be restricted, and also addresses the use of pesticides on medical marijuana plants. Chapter 17 addresses surveillance and security requirements that the licensee must follow at the production facility. Chapter 19 requires the licensee to use a tracking system for inventory. Chapter 21 addresses quality control of the medical marijuana products produced by the licensee and requires the licensee to conduct quality assurance tests. Chapter 23 sets forth the requirements for laboratory testing, including which tests must be run, and sets forth requirements on the licensee and its employees when transporting medical marijuana or medical marijuana infused products to laboratories, pharmacies or research facilities. Chapter 27 sets forth sanitation requirements for the production facility and provides rules for the disposal of waste. Chapter 29 addresses labeling of medical marijuana or medical marijuana infused products and also addresses advertising by the licensee. Finally, Chapter 31 sets forth the procedures for the department to take enforcement action against the licensee.

B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

R.S. 40:1046 requires the department to adopt these rules. The department is the state agency charged with oversight of the growing and production of medical marijuana.

C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rules will result in an increase in the expenditure of funds by the department. The medical marijuana program will be funded by the fees set forth in Act 567 of the 2016 Regular Session of the Louisiana Legislature and proposed rule 701.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ______ Yes. If yes, attach documentation.

(b) __X__ NO. If no, provide justification as to why this rule change should be published at this time

The medical marijuana program is not going to be funded by the state general fund. The program will be funded by self-generated revenue.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

The LA Dept. of Agriculture & Forestry estimates that oversight of the medical marijuana program will cost approximately $701,000 annually. This cost includes laboratory testing ($300,000), a marijuana inventory tracking system ($70,000), and operating expenses ($7,000). Initial estimates for program personnel costs are estimated to total $324,233 annually.

COSTS	FY 16	FY 17	FY 18
Personal Services	324,233	324,233	324,233
Operating Expenses	77,000	77,000	77,000
Professional Services			
Other Charges		300,000	300,000
Equipment			
Major Repairs & Constr.			
TOTAL	401,233	701,233	701,233
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The LDAF has decided to reallocate existing T.O. positions for four additional necessary personnel (auditor, inspector, administrative assistant). Presently these positions are not funded. Initially the LDAF will fill the auditor, inspector, and administrative assistant positions, and utilize a current LDAF employee as the interim program manager. LDAF eventually plans on hiring a full-time program manager.

The department anticipates medical marijuana regulatory expenditures - such as laboratory testing, inspections, and inventory control - to eventually be funded through revenues raised by gross sales of the product (see Effect on Revenue Collections), but LDAF would need funding from some other source (State General Fund, etc.) to fund the initial start-up costs associated with regulating medical marijuana. Presently funds for these expenses are not included in the LDAF appropriation for FY 17 and would need to be appropriated via BA-7 request or in a supplemental appropriation, or funded via treasury seed from the Dept. of Treasury.

At present, the LSU AgCenter and the Southern University AgCenter have opted in to produce medical marijuana, but have not begun construction on production facilities. The LDAF estimates that production of marijuana for therapeutic use will not occur for another 18 - 24 months. LDAF staff indicates that laboratory testing and inventory control will not be necessary until seeds are acquired and the crop planted. As a result, some expenditures for the LDAF made pursuant to the proposed rules (i.e. product testing) may not occur in FY 17 and be delayed until FY 18 or subsequent fiscal years. Furthermore, the LDAF indicates that it will utilize existing resources to the extent possible to fund expenditures related to the start-up of regulating medical marijuana. However, it appears likely that a supplemental appropriation or treasury seed will be necessary to fund expenditures in FY 17 that cannot be absorbed within the LDAF's current appropriation.

Furthermore, the proposed rules set guidelines for the construction of medical marijuana growth facilities, as well as the practice of growing medical marijuana and producing it for therapeutic use. The LSU AgCenter and Southern University AgCenter have opted in to produce the crop, and would have to construct growing facilities pursuant to the guidelines provided in the proposed rules, which represents an indeterminable, though likely significant cost. Neither AgCenter has been appropriated funding specifically for the production of medical marijuana, and would either have to fund the construction of a facility within their existing appropriation or would have to seek third-party investment.

In addition, both AgCenters must pay an annual $100 per employee permit fee for every employee associated with the production of medical marijuana. The number of employees both entities will utilize for the program is unknown; therefore it is reasonable to assume that they will incur an indeterminable increase in expenditures associated with permitting. An annual license fee of $100,000 is also required to grow the crop, but the LDAF is presently waiving it for both entities. In the event the LDAF no longer waives the license fee, both entities will be required to pay $100,000 annually.

The proposed rules will not have any impact on expenditures of local governmental units.

3. Sources of funding for implementing the proposed rule or rule change.

The funds needed to implement the proposed rules will eventually be self-generated from fees charged

SOURCE	FY 16	FY 17	FY 18
State General Fund	SEE BELOW	SEE BELOW	SEE BELOW
Agency Self-Generated	SEE BELOW	SEE BELOW	SEE BELOW
Dedicated			
Federal Funds			
Other (Specify)	SEE BELOW	SEE BELOW	SEE BELOW
TOTAL			

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The LDAF presently does not have an appropriation for these funds. The department will likely require an appropriation (State General Fund, etc.) via BA-7 request, supplemental appropriation, or funds via treasury seed from the Dept. of Treasury. The department anticipates the funding to eventually be covered by revenues from fees associated with regulating the program, but initial start-up funding has not yet been appropriated or identified.

The funds for the medical marijuana program are authorized by R.S. 40:1046(J)(9) and proposed rule 701. The rule and law provide for the department to be paid up to 7% of gross sales quarterly. The number of patients eligible to use medical marijuana that may choose to do so is unknown. Rule 701 also sets forth a license fee of $100,000 to be paid by the licensee (waived for state universities). Revenue collections will depend on crop volume, market price, and demand, which cannot be estimated at this time.

B. <u>COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.</u>

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

It is not anticipated that the proposed rules will have an impact on local government units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

The proposed rules will increase self-generated revenue collections by the department by an indeterminable amount. The funds for the medical marijuana program are authorized by R.S. 40:1046(J)(9) and proposed rule 701. The rule and law provide for the department to be paid up to 7% of gross sales quarterly. Revenue collections will depend on crop volume, market price, and demand, which cannot be estimated at this time.

Licensees must pay a $100,000 licensing fee to produce medical marijuana. However the LDAF has initially waived this fee since the LSU AgCenter or the Southern AgCenter have opted in to produce medical marijuana. Furthermore, licensees must pay a $100 permit fee for every employee associated with the medical marijuana program. All fees associated with the medical marijuana program will fund LDAF's expenditures associated with the regulation of medical marijuana production.

REVENUE INCREASE/DECREASE	FY 16	FY 17	FY 18
State General Fund			
Agency Self-Generated	INCREASE	INCREASE	INCREASE
Dedicated Funds*			
Federal Funds			
Local Funds			
TOTAL			

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The licensee is required by law to pay the department up to 7% of gross sales quarterly. At this time, there is no way to estimate what the amount of gross sales will be, though an increase in revenues can be expected as a result of the 7% assessment.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Under the proposed rules, private licensees must pay to the department up to 7% of gross sales quarterly. In addition, there is a $100 fee for a permit for each employee. Furthermore, licensees must pay an annual license fee of $100,000 to produce medical marijuana. Licensees will also incur expenses associated with constructing a production facility that meets the requirements set forth in the proposed rules. However, due to the LSU AgCenter and the Southern University AgCenter opting to produce medical marijuana, it is unclear if private firms will incur expenses associated with the production of medical marijuana in the future, as the state limits the number of licensees to one if the production is by a private firm, or two if production is by the LSU and Southern University AgCenters. Presently both AgCenters have opted in.

In addition, to the extent private investors license with the LDAF to produce medical marijuana, they would likely realize profits over time to the extent patient counts and use of the substance increases. Similarly, to the extent private investors fund the costs of producing medical marijuana at both AgCenters, they may realize a portion of gross revenues raised through the production and sale of medical marijuana products.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

It is not anticipated that the proposed rules affect on competition, as there are structures in place (i.e. license requirements) to limit the market for production of medical marijuana in Louisiana to two producers at most. In the event the AgCenters opt out of producing medical marijuana, private firms would compete for a single license. The authorization of any entity, public or private, to produce medical marijuana will open a new business enterprise that currently is not present in LA and should offer an avenue to an indeterminable increase in employment opportunities, dependent upon the level of production and market demand.