Department of Planning and Budget
2023 Fiscal Impact Statement

1. **Bill Number:** SB788ES1

House of Origin	☐	Introduced	☒	Substitute	☒	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Favola

3. **Committee:** Senate Finance and Appropriations

4. **Title:** Transition medical cannabis program from Board of Pharmacy to Virginia Cannabis Control Authority

5. **Summary:** The engrossed bill amends the powers and duties of the Cannabis Control Authority Board by authorizing the Board to grant, suspend, restrict, revoke, or refuse to grant or renew any license or permit issued or authorized pursuant to this subtitle (§ 4.1-604)

   The bill adds Chapter 16 (Medical Cannabis Program) by transferring oversight and administration of the Commonwealth's medical cannabis program from the Board of Pharmacy to the Virginia Cannabis Control Authority (4.1-1600 through 4.1-1605)

   The bill repeals §§ 54.1-3442.5 through 54.1-3442.8, the twenty-first enactment of Chapter 550 and the twenty-first enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I.

   The bill establishes that the Regulations Governing Pharmaceutical Processors (18VAC110-60) as promulgated or amended by the Board of Pharmacy prior to July 1, 2023, will remain in full force and effect and shall be administered by the Virginia Cannabis Control Authority (the Authority) until the Board of Directors (the Board) of the Authority promulgates regulations to implement the provisions of this legislation, which shall model, to the greatest extent practicable, the Regulations Governing Pharmaceutical Processors (18VAC110-60) promulgated by the Board of Pharmacy. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto will apply to the Board's initial adoption of regulations to implement the provisions of this legislation. The Authority must be vested with all powers and duties held by the Board of Pharmacy prior to July 1, 2023.

   The bill establishes that any valid, active permits, certifications, and registrations issued by the Board of Pharmacy pursuant to § 54.1-3408.3 of the Code of Virginia, as amended by this act, Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia, as repealed by this legislation, or regulations promulgated pursuant thereto

prior to July 1, 2023, will remain valid until their expiration date and be considered to have been issued by the Board of Directors of the Virginia Cannabis Control Authority

The bill also establishes that the Virginia Cannabis Control Authority may assess and collect regulatory fees from each pharmaceutical processor in an amount sufficient to implement this legislation.

6. **Budget Amendment Necessary**: Yes, Item 397 (Nongeneal Fund Appropriation)

7. **Fiscal Impact Estimates:** Preliminary (see Item 8 below)

8. **Fiscal Implications:** During the 2020 General Assembly Session, the Department of Health Professions ("DHP") received $204,828 in nongeneral fund appropriation and 2 FTE for the Board of Pharmacy to administer the operations of the five cannabis processors pursuant to SB976 (Chapter 1278). The bill included language providing DHP with emergency regulatory authority for the Board of Pharmacy to increase fees to fund the additional positions. The medical cannabis program ("MCP") is 100 percent nongeneral fund supported through license fees. The license fees, as established under 18VAC110-60-20, are listed in 4 categories: 1) Registration of practitioner, 2) Registration by a qualifying patient, parent, legal guardian, or registered agent, 3) Pharmaceutical processor permit, and 4) Cannabis dispensing facility permit. During the 2022 General Assembly Session, patient registration fees were eliminated (SB671). According to DHP, the agency has the equivalent of 6.75 FTE working on the MCP (3 FTE, 2 wage employees and 2 part-time employees). In addition, DHP used other agency resources from IT, HR, Finance and Procurement departments to support the MCP. If this legislation were to pass, DHP anticipates transferring 4.75 FTE to other Board of Pharmacy duties leaving 2 FTE and associated nongeneral appropriation to transfers over to the Cannabis Control Authority ("CCA").

   According to the CCA, the agency anticipates requiring a total of 8 FTE (5 Programmatic FTE's and 3 Enforcement FTE's) to operate the MCP.

Program Personnel	**Enforcement Personnel**
3 Program Associates	2 Enforcement Specialist
1 Program Manager	1 Enforcement Manager
1 Administrative Assistant	

   In addition to personnel costs, the CCA indicates that a seed-to-sale system will be needed to guard against illegal diversion into and out of the MCP and to ensure that tainted/adulterated product can be identified and promptly removed to protect patients. The estimated cost for a seed-to-sale system is $2,500,000.

   The total estimated fiscal impact of this legislation on the CCA is $3,708,818. However, after factoring in existing appropriation that the CCA has earmarked for the seed-to-sale system and the transfer of two positions and associated funding from DHP, the net fiscal impact in FY 2024 is expected to be $1,003,990 and 6 FTE (see table below):

Expenditures	FY24
Seed-to-Sale Tracking Software	$2,500,000
Medical Cannabis Program Licensing Software	300,000
Medical Cannabis Program Enforcement Personnel (3 FTE)	335,002
Medical Cannabis Program Administration (5 FTE)	573,816
Subtotal	$3,708,818
Less: Existing appropriation earmarked for seed-to-sale	2,500,000
Less: Transfer from DHP (2 FTE)	204,828
Net nongeneral fund fiscal impact for CCA	**$1,003,990**

According to DHP, the MCP nongeneral fund cash balance at the end of FY 2023 is estimated to be $2.1 million. License fee revenue is renewable annually and with the estimated year end nongeneral fund cash balance in the program, it is anticipated that this estimated balance could be available to support the MCP program at the CCA for FY 2024 and FY 2025 to support the nongeneral fund appropriation required by this legislation.

9. **Specific Agency or Political Subdivisions Affected:** Virginia Cannabis Control Authority and Department of Health Professions Board of Pharmacy

10. **Technical Amendment Necessary:** No

11. **Other Comments:** None