

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: SB1090

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Ebbin

3. Committee: Education and Health

4. Title: Board of Pharmacy; permit to operate pharmaceutical processor or cannabis dispensing facility.

5. Summary: Increases the limit on the number of permits that the Board of Pharmacy (the Board) may issue or renew in any year from one to two pharmaceutical processors for each health service area established by the Board of Health. The bill also allows the Board to issue or renew permits in any year for up to five cannabis dispensing facilities per pharmaceutical processor for each health service area. Under current law, the Board may issue up to five cannabis dispensing facilities for each health service area. With the exception of pharmaceutical processors permitted prior to July 1, 2023, the bill prohibits a pharmaceutical processor from receiving more than one permit from the Board.

6. Budget Amendment Necessary: Yes, item 301.

7. Fiscal Impact Estimates: Preliminary, see item 8.

8. Fiscal Implications: The provisions of this legislation would have fiscal impact on the Department of Health Professions, however, the total fiscal impact cannot be determined.

The increase in number of processors creates a fiscal impact on the Board of Pharmacy. Doubling the number of processors would mean the Board must double the number of facilities to inspect, doubling the number of applications for registered products, and increasing the number of disciplinary cases related to pharmaceutical processors. The Board cannot absorb this work with the existing five staff members. The agency would therefore need five additional positions to perform this work. DHP would need one additional Board of Pharmacy staff position (\$134,800), one additional pharmacy inspector (\$78,400), one additional investigator (\$128,700); one additional discipline case management (\$102,500) and one additional adjudication and disciplinary case position (\$136,600). These estimates include expected salary, fringe benefits and related nonpersonal services costs (i.e. computer, supplies, etc.)

The provision of the bill contains limitations by ownership on who may apply for a permit. The Board of Pharmacy does not normally handle corporate structure distinctions or ownership analyses and the terms used in the legislation are not defined. The Board will have to ensure it has an expert on these issues on the request for application (RFA) panel that can assess the interest as required in the bill. This adds an additional burden on the competitive RFA process that the Board did not have to address in the last RFA.

This bill will create a need for the Board to conduct an additional RFA process for the five additional processor permits. DHP would need additional resources in the form of additional wage positions be needed to analyze and review the proposals. Based on similar positions and workload, DHP would need \$14,000-\$21,000 for these wage positions. Because these positions will only be needed during the request for application process, a full-time employee is not necessary.

Previously, the Board had to hold two additional public meetings that required board counsel and board member attendance. The Board would need to plan for an additional 16 hours of OAG time and additional costs for Board members to travel to the two additional Board meetings.

The Board must pay for costs to counsel to defend possible appeals of Board decisions. 50 applicants originally applied to the first RFA, however, which means there is a significant potential litigation cost to any additional RFAs the Board must complete. It is unknown how many disciplinary cases or appeals will result from this legislation; therefore, any fiscal impact cannot be determined.

During the first RFA, the Board received approximately 80 banker boxes of information that had to be reviewed by Board staff and then disseminated in a timely manner to panel members. The Board incurred carrier fees of approximately \$300 to deliver those materials.

It is assumed that by doubling the number of pharmaceutical processions, that any such application and permitting fees should be sufficient to cover the provisions of this legislation.

9. Specific Agency or Political Subdivisions Affected: The Department of Health Professions.

10. Technical Amendment Necessary: No.

11. Other Comments: DHP has stated that the enactment clause is unclear in terms of its application to currently permitted processors. It may be able to be read to allow currently permitted processors to apply for the second permit in the Health Service Area authorized by the legislation. This could significantly impact the RFA process for those second permits.