

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1089 (Delegate Acevero, *et al.*)

Ways and Means and Health and
 Government Operations

Maryland People's Fund - Establishment

This bill establishes the Maryland People’s Fund that consists of (1) income tax revenue distributed as specified; (2) money appropriated in the State budget; (3) interest earnings; and (4) any other money from any other source accepted for the benefit of the fund. Expenditures from the fund may only be made in accordance with the State budget. The Comptroller must determine the State income tax paid by each owner of a licensed medical cannabis entity that is attributable to income derived from the medical cannabis industry and deposit 25% of that amount into the new fund. The Natalie M. LaPrade Medical Cannabis Commission must provide the Comptroller certain information.

Fiscal Summary

State Effect: General fund revenues decrease by \$531,000 in FY 2020 and special fund revenues increase by the same amount. Out-years reflect continued diversion of general fund revenue to the new Maryland People’s Fund. General fund expenditures increase by \$342,200 in FY 2020 to hire staff and create a new tax form; out-years reflect annualization, elimination of one-time costs, and ongoing staff costs.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
GF Revenue	(\$531,000)	(\$707,900)	(\$778,700)	(\$856,600)	(\$942,300)
SF Revenue	\$531,000	\$707,900	\$778,700	\$856,600	\$942,300
GF Expenditure	\$342,200	\$83,000	\$85,800	\$88,700	\$91,800
Net Effect	(\$342,200)	(\$83,000)	(\$85,800)	(\$88,700)	(\$91,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The Maryland People's Fund is a special, nonlapsing fund that cannot be used for administrative expenses. The State Treasurer must invest the money in the fund in the same manner as any other State money may be invested.

By December 1 each year, the Comptroller must determine the State income tax paid by each owner of a licensed medical cannabis grower, processor, or dispensary that is attributable to income derived from the medical cannabis industry for the immediately preceding taxable year. Then, after making income tax revenue distributions from individuals as currently required under the Tax-General Article, the Comptroller must distribute 25% of the State income tax paid by each licensed medical cannabis entity owner attributable to income tax derived from the medical cannabis industry into the Maryland People's Fund.

Current Law:

Natalie M. LaPrade Medical Cannabis Commission

The Natalie M. LaPrade Medical Cannabis Commission is responsible for implementation of the State's medical cannabis program, which is intended to make medical cannabis available to qualifying patients in a safe and effective manner. The program allows for the licensure of growers, processors, and dispensaries and the registration of their agents, as well as registration of independent testing laboratories and their agents. There is a framework to certify health care providers (including physicians, dentists, podiatrists, nurse practitioners, and nurse midwives), qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification. Additionally, recent legislation extended legal protections to third-party vendors authorized by the commission to test, transport, or dispose of medical cannabis, medical cannabis products, and medical cannabis waste. In December 2018, the commission proposed regulations that require registration of secure transportation companies and address the shipment of products between licensees.

Income Tax Distribution

The Revenue Administration and Compliance divisions of the Comptroller of the Treasury are primarily responsible for collecting and administering the income tax. Individual income tax revenues (after an allowance for refunds, administrative costs, and unallocated withholdings) are distributed to the general fund. The local portion of the tax imposed by the counties and Baltimore City is collected by the State and, after deducting administrative costs and a pro rata share of refunds, is distributed to local governments.

Background: As of January 9, 2019, the commission issued 15 final and 3 pre-approved grower licenses; 16 final and 2 pre-approved processor licenses; and 71 final and 31 pre-approved dispensary licenses. Additionally, the commission has registered five independent laboratories. The commission maintains a list of licensees on its [website](#). Furthermore, there were 79,427 registered patients, 54,236 certified patients, 4,890 caregivers, and 1,243 certifying providers. The commission reported that, in the first 13 months of sales, there were \$112.1 million in retail sales at medical cannabis dispensaries in the State.

State Revenues: Under the bill, general fund revenues decrease by an estimated \$530,955 in fiscal 2020 and special fund revenues increase correspondingly. **Exhibit 1** shows the estimated impact of the bill on the general fund and the new Maryland People’s Fund from the required distributions over the five-year period covered by this fiscal and policy note.

Exhibit 1
Revenue Impact on the General Fund and the Maryland People’s Fund
Fiscal 2020-2024

	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
General Fund	(\$530,955)	(\$707,940)	(\$778,734)	(\$856,607)	(\$942,268)
MD People’s Fund	530,955	707,940	778,734	856,607	942,268

Source: Department of Legislative Services

Medical cannabis sales totaled over \$96.0 million in 2018, and cannabis sales are expected to grow as more licenses are issued and the number of patients increases. Thus, this estimate is based on projected medical cannabis sales in Maryland of almost \$250 million in tax year 2020 and reaching nearly \$441 million by tax year 2024. This estimate also assumes a profit margin of 18% of sales. Most of the pre-approved license holders are limited liability corporations, so it is assumed that taxpayers file under the individual income tax. However, to the extent that the taxpayers are corporations, general funds decrease by a lesser amount and special fund revenues are less because the bill does not redirect corporate income tax revenues.

State Expenditures: General fund expenditures increase by \$342,204 in fiscal 2020, which accounts for the bill’s October 1, 2019 effective date. This estimate reflects the cost of hiring one full-time permanent revenue administrator in the Comptroller’s Office to (1) promulgate regulations for the apportionment of income and potentially tax expenditures; (2) determine eligible income tax paid by licensed medical cannabis entity

owners that is attributable to income derived from the medical cannabis industry; and (3) make required distributions to the new fund. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate also includes a one-time cost to create a new tax form for licensed medical cannabis entity owners to make the required distributions.

Position	1.0
Salary and Fringe Benefits	\$61,845
One-time Expense for New Tax Form	275,000
Operating Expenses	<u>5,359</u>
Total FY 2020 State Expenditures	\$342,204

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

The commission can provide information to the Comptroller with existing budgeted resources and staff.

This analysis does not reflect expenditures from the new Maryland People’s Fund as the bill does not specify how the fund may be used, only that it may *not* be used for administrative expenses and that expenditures may be made only in accordance with the State budget. Under the revenue assumptions above, the Maryland People’s Fund will have a fund balance of more than \$3.8 million by the end of fiscal 2024.

Additional Comments: The Comptroller’s Office advises that it will be impossible to make the required distribution in the first year the bill is effective since that would require distribution changes that were not in place for the tax year 2018 filing season. This analysis assumes that the required distribution is made in fiscal 2020 for tax year 2019.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller’s Office; Maryland Department of Health; Department of Legislative Services

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