

**LEGISLATIVE FISCAL OFFICE
Fiscal Note**



Fiscal Note On: **HB 688** HLS 16RS 1140
 Bill Text Version: **ENROLLED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: May 5, 2016 1:04 PM **Author:** LEBAS
Dept./Agy.: Corrections **Analyst:** Monique Appeaning
Subject: Schedules II & IV of the Uniform Controlled Dangerous

CONTROLLED SUBSTANCES EN SEE FISC NOTE GF EX See Note Page 1 of 2

Adds substances to Schedules II and IV of the Uniform Controlled Dangerous Substances Law

Present law provides for the designation of controlled dangerous substances into Schedules I, II, III, IV, and V based upon the substances' potential for addiction and abuse. Proposed law adds exclusions to substances in Schedule II and adds new substances to Schedule IV.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						
REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						

EXPENDITURE EXPLANATION

Proposed law may result in an indeterminable change in SGF expenditures. The proposed legislation may result in an indeterminable increase in SGF expenditures if a defendant is convicted of 1) unlawful production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance or controlled substance analogue classified in Schedule IV; 2) if a defendant is convicted of unlawful creation, distribution or possession with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule IV as a result of certain additions to Uniform Controlled Dangerous Substances Law. This legislation also adds exclusions to Schedule II that may result in an indeterminable decrease in SGF expenditures. The exact fiscal impact of the passage of this legislation is indeterminable, since it adds certain substances and adds certain exclusions to the list of Controlled Dangerous Substances and it is not known how many people will be convicted (as a result of Schedule IV) or no longer convicted (as a result of Schedule II). However, any offender (or no longer) sentenced to the custody of the Department of Public Safety and Corrections increases (or decreases) expenditures by \$24.39 per day per offender housed in local facilities. To the extent that offenders are sentenced and housed in state facilities, the cost per day per offender is \$51.68. Currently, the Department of Corrections houses approximately 50% of state offenders at the local level and 50% at the state level.

Note: The net impact of these changes is not known.

Under current law (R.S. 40:967) – Schedule II, sentencing guidelines provides that the penalty "...to produce, manufacture, distribute, or dispense or possess with the intent to produce, manufacture, distribute, or dispense..." includes maximum imprisonment terms of 30 years, with a maximum of at least 10 years served without benefit of parole, probation, or suspension of sentence in certain instances.

Under current law (R.S. 40:969) – Schedule IV, sentencing guidelines provides that the penalty "...to produce, manufacture, distribute, or dispense or possess with the intent to produce, manufacture, distribute, or dispense..." includes maximum imprisonment terms of 40 years, with a maximum of at least 10 years served without benefit of parole, probation, or suspension of sentence in certain instances.

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REVENUE EXPLANATION

There is no anticipated direct material effect on state revenues as a result of this measure. However, there may be an indeterminable change in local funds revenue through the imposition of fines if imposed that would accrue to local government entities. Schedule II provides that in certain instances a maximum imposed fine "...to produce, manufacture, distribute, or dispense or possess with the intent to produce, manufacture, distribute, or dispense..." is \$600,000 and under Schedule IV it is \$100,000. Note: Exclusions were added to Schedule II, yet Schedule IV added new substances.

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|---|--|--------------|
| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} | |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} | |

Evan Brasseaux
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Staff Director

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CONTINUED EXPLANATION from page one:

Continued Expenditure Explanation From Page One

For illustrative purposes, if 10 defendants were convicted (or no longer convicted) of a crime delineated in Schedule II or IV, with 5 offenders housed at the local level and 5 offenders at the state level, the annual cost of incarceration would be \$44,512 at the local level (5 offenders x \$24.39 per day x 365 days) and \$94,316 at the state level (5 offenders x \$51.68 per day x 365 days) for a total cost of \$138,828 (\$44,512 + \$94,316).

Under present law, the current number of state offenders for Schedule II (A)(1)(4) is:

- Possession = 4,567
Possession with intent to distribute or dispense = 2,232
Distribution = 2,234

Under present law, the current number of state offenders for Schedule IV(E)(3) is:

- Possession = 780
Possession with intent to distribute or dispense = 172
Distribution = 68

Senate Dual Referral Rules House

- 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}
13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}
6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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