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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Sen. Stefanics/Reps. Lord and Gonzales      **ORIGINAL DATE** 02/06/2025

**BILL**

**SHORT TITLE** County Petition for Cannabis License Pause      **NUMBER** Senate Bill 152

**ANALYST** Montano

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
RLD/CCD	No fiscal impact	\$40.0	No fiscal impact	\$40	Nonrecurring	General Fund
RLD/CCD	No fiscal impact	\$69.0 to \$636.0	\$69.0 to \$636.0	\$138.0 to \$1,272.0	Recurring	General Fund
<b>Total</b>	<b>No fiscal impact</b>	<b>\$109.0 to \$676.0</b>	<b>\$69.0 to \$636.0</b>	<b>\$178.0 to \$1,312.0</b>		<b>General Fund</b>

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
Regulation and Licensing Department (RLD)  
New Mexico Attorney General (NMAG)

## SUMMARY

### Synopsis of Senate Bill 152

Senate Bill 152 (SB152) amends the Cannabis Regulation Act to allow county governments to request a temporary moratorium on new cannabis producer licenses. A board of county commissioners may initiate a request to impose a two-year moratorium on the issuance of new cannabis producer licenses within its jurisdiction. To do so, the county commission must first hold a vote on the proposed petition, determining whether the moratorium applies exclusively to commercial cannabis producers or includes medical cannabis producers as well. Upon approval, the county must publish a public notice of its petition and submit the request to the Cannabis Control Division (CCD) of the Regulation and Licensing Department (RLD) within ten days.

Once CCD receives the petition, it has ten days to evaluate the request and issue a decision. If the division approves the moratorium, it will immediately halt the issuance of new cannabis producer licenses within the county for a period of two years. If the petition is denied, CCD must provide a formal written response outlining its findings and conclusions, explaining the reasons for the denial, and citing any applicable legal or regulatory justifications.

A county is not required to maintain the moratorium for the full two-year period if it determines

that the restriction is no longer necessary. If circumstances change, the county commission may vote to petition CCD to lift the moratorium before the two-year period expires. CCD will then assess the county's justification for ending the restriction early and, if the request is approved, will resume issuing cannabis producer licenses in that county.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## **FISCAL IMPLICATIONS**

RLD expects that managing moratoriums across 33 counties will require significant tracking, reporting, and oversight. The magnitude of how these new requirements will affect RLD's operating budget is dependent on how frequent the 33 counties petition to pause cannabis licensures. CCD is required to review all moratorium petitions and to provide a motion of accepting or denying after 10 days. CCD highlights that these moratoriums would become a top priority to effectively review and analysis, which in turn may push back other assignments within the agency. CCD may also require its employees to stay and work longer hours, which in turn will increase the agency's need to provide overtime for its employees.

RLD expects that there will be recurring and nonrecurring increases to the agency's operating budget, which includes \$40 thousand in nonrecurring costs for improvements to CCD's current licensing software, Salesforce. RLD is also expecting recurring costs from county specific demand studies and professional service contracts for each county petition that is received. RLD expects each demand study to cost up to \$9,000 and \$60 thousand per professional contract. Therefore, if every county submitted a petition for moratorium, then RLD would need \$297 thousand of general fund revenue to conduct the adequate amount of demand studies. RLD's analysis uses an example of receiving four county petitions and needing four contracted professionals, which may be somewhat extreme, as a contracted professional could most likely handle multiple petitions. Holding RLD's assumption as true, if all 33 counties filed a petition for moratorium at the same time, then the agency would incur a little less than \$2 million costs. In total, a hypothetical cost ceiling, based on RLD's analysis, would assume a total implementation cost of \$2.3 million. However, a more appropriate projection would be to assume six contracted professionals could handle all 33 counties. This results in a nonrecurring range of \$69 thousand for one county demand study and one contracted professional to \$636 thousand for 33 studies and six contracted professionals.

## **SIGNIFICANT ISSUES**

SB152 does not include criteria for CCD to use to approve or deny county moratorium petitions. RLD also highlights that a 10-day decision window is not ample time for the agency to prepare adequate and in-depth analysis of the county's moratorium request. RLD is expecting that these two issues should lead to legal challenges for most decisions made by CCD.

RLD added this commentary regarding other substantive issues:

SB152 does not clarify how moratoriums would impact pending license applications. This could create conflicts between current applicants and newly imposed restrictions, leading to disputes over whether applications submitted before a moratorium should be honored.

RLD also adds this commentary:

Granting CCD the authority to impose a countywide moratorium on new producer licenses also may raise concerns about overreach and market control. CCD was established to regulate and oversee the statewide cannabis industry. Empowering CCD to halt cannabis production in individual counties, without clear statutory criteria, effectively expands the CCD authority significantly beyond the limits of the current provisions of the Cannabis Regulation Act. This level of discretion could create unintended consequences, such as favoring existing license holders by preventing new competition, distorting local market dynamics, or interfering with business investment decisions. While the individual county commissions would be directly involved in the decisions to file petitions seeking moratoriums for their counties, the final decision-making on whether a moratorium would be granted would lie with the CCD. In addition, the power to approve or reject moratorium requests risk politicizing the CCD's role, exposing it to political pressure, lobbying, and legal challenges from both industry stakeholders and local governments.

The New Mexico Attorney General (NMAG) also notes that SB152 may present a conflict with the Cannabis Regulation Act due to the act restricting a local jurisdiction from prohibiting the operation of a license:

The above provision notwithstanding, SB152 may offend preemption doctrines. Whether a law limits the power of home rule authority is a two-step process. *Smith v. City of Santa Fe*, 2006-NMCA-048, 139 NM 410 The first question is whether the law in question is a “general law,” a law that applies generally throughout the state, relates to a matter of statewide concern, and impacts inhabitants across the entire state. As the Cannabis Regulation Act is likely a general law, the next question is whether the statute “expressly denies” the home rule municipality’s authority. This can be determined by analyzing whether (1) the law evidences a clear intent to negate such municipal power, (2) the law implies a clear intent to preempt that governmental area from municipal policymaking, or (3) whether the grant of authority to another body would make exercise by a home rule authority inconsistent with the statute.

## PERFORMANCE IMPLICATIONS

RLD projects performance challenges within CCD if the division experiences a high number of petitions for moratorium from the 33 counties. If the unlikely situation that all 33 counties petition for moratorium, then CCD would face an increased workload, which in turn could lead to a rushed and inconsistent decision for multiple counties. However, if CCD receives the necessary funding to improve the Salesforce licensing system and sufficient funding to conduct counties petition for moratorium, then there should be no performance challenges within CCD.