

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: SB 7088

INTRODUCER: Agriculture Committee and Senator Bradley

SUBJECT: Fees/State Hemp Program

DATE: March 25, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	_____	<b>AG Submitted as Comm.Bill/Fav</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 7088 authorizes the Department of Agriculture and Consumer Services (department) to specify by rule the amount of the initial registration and renewal fees for participation in the state hemp program. SB 1020 (2019 Regular Session) by Senator Bradley authorizes the department to adopt rules to administer a state hemp program and provides guidance for the administration of the program consistent with federal law.

Fees collected by the department may not exceed \$500 per application. The department may waive payment of the fees. Any fees collected must be deposited in the Plant Industry Trust Fund, which is administered by the department.

The bill would take effect on the same date that SB 1020 or similar legislation, if adopted during the 2019 Regular Session or an extension thereof, becomes law.

**II. Present Situation:**

**SB 1020 (2019 Regular Session)**

SB 1020 (2019 Regular Session) by Senator Bradley authorizes the department to adopt rules to administer a state hemp program pursuant to 7 U.S.C s. 1639p. This federal law was created by the Agricultural Improvement Act of 2018 (2018 Farm Bill), which legalized the industrial use of hemp. It also provides standards for a state's department of agriculture or an Indian tribe to have primary regulatory authority over the production of hemp by applying for approval to the United States Secretary of Agriculture. SB 1020 does not authorize the assessment of any fees or taxes.

Industrial hemp is a Cannabis sativa plant, which is a controlled substance under state law and federal law. Hemp may be used as a fiber and grain crop, building material, and animal feed.

Under the bill, the department's rules must include, but are not limited to, provisions for the production and sale of hemp products, including the federal requirements for a state program.

The bill takes effect upon becoming law.

### **License Fees – Single Subject Requirement**

In the 2018 General Election, voters approved Amendment 5 to the Florida Constitution.<sup>1</sup> The amendment added Section 19 to Article VII of the Florida Constitution, which requires a supermajority vote to impose, authorize, or raise state taxes or fees. No state tax or fee may be raised by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature.<sup>2</sup>

“Fee” means any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service. “Raise” means to increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis; to increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or to decrease or eliminate a state tax or fee exemption or credit.<sup>3</sup>

The Florida Constitution also requires that a state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject.<sup>4</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 581.217, F.S., to require a person who applies for initial registration or for renewal of registration in the state hemp program to submit a fee with the application. The department will adopt a rule to determine the fee, which may not exceed \$500 per application. The department may waive payment of the fee by rule. Program fees must be deposited in the Plant Industry Trust Fund for operations explicitly related to the administration of the state hemp program.

**Section 2** provides that this act shall take effect on the same date that SB 1020 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>1</sup> Election results for the state constitutional amendments are available at <https://floridaelectionwatch.gov/Amendments> (last visited Mar. 21, 2019).

<sup>2</sup> FLA. CONST. art. VII, s. 19(b).

<sup>3</sup> FLA. CONST. art. VII, s. 19(d).

<sup>4</sup> FLA. CONST. art. VII, s. 19(e).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

Section 19, Art. VII of the State Constitution limits the authority of the legislature to enact legislation that imposes or raises a state tax or fee by requiring such legislation to be approved by a 2/3 vote of each chamber of the legislature. Such state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject.

For purposes of this limitation the term “fee” is defined, in pertinent part, to mean any charge or payment required by law, including any fee for service fee or cost for licenses, and charge for service.

This bill authorizes the Department of Agriculture and Consumer Services to adopt, by rule, an application fee of not more than \$500 imposed on anyone who applies for initial registration, or for renewal of registration to the state hemp program. Because the department does not have such authority under current law, the provisions of Section 19, Art. VII of the State Constitution appear to apply, requiring this legislation to be approved by a 2/3 vote of each house of the legislature.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill

**B. Private Sector Impact:**

Persons applying for registration, or for renewal of registration, with the state hemp program, would be required to submit an application fee not to exceed \$500 per application. The department may waive payment of the fee.

**C. Government Sector Impact:**

The department has not yet provided input on the fiscal impact of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates paragraph (e) of subsection (4) of section 581.217, F.S, as created by SB 1020.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.