2007 Regular Legislative Session FISCAL ANALYSIS OF PROPOSED LEGISLATION Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: SB 576 STATUS: A-Engrossed

SUBJECT: Creation of high performance building certification program for public buildings **GOVERNMENT UNIT AFFECTED:** Department of Energy, Department of Higher-Education, Department of Administrative Services, Department of Transportation and Legislative Administration

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DATE: May 10, 2007

EXPENDITURES: See Comments.

EFFECTIVE DATE: On Passage.

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: The bill directs the Department of Energy (DOE), in cooperation with the Department of Administrative Services (DAS), to adopt a high performance building certification program, and that large facility projects be designed to be meet program certification standards. Large facility projects are defined as those larger than 10,000 square feet and of a value of more than \$4 million of state government financial participation. DOE may approve large facility projects that are not planned, designed and constructed to the high performance building standards in certain circumstances. The bill exempts affordable housing projects. The bill directs public bodies to document and report on cost differences resulting from large facility projects certified as high performance buildings. DOE shall create a high performance building advisory committee and prepare a consolidated report to the Governor and appropriate interim committees of the Legislature by September 1 of each even-numbered year. On or before July 1, 2012, an interim committee of the Seventy-sixth Legislative Assembly is to review implementation of the bill and report to the Senate President and Speaker of the House of Representatives.

The bill contains two high-level fiscal impacts; cost to create and implement the certificate program and costs related to application of the certification standards. The fiscal information that follows captures the costs to create and implement the program; the costs associated with application of the certificate program standards are indeterminate as the standard is not yet defined. The Governor's Executive Order No. 06-02 directs all new state buildings or major renovations to meet, at a minimum, the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) program's silver equivalency status. Assuming the standard is LEED Silver or less, the fiscal impact is expected to be minimal and absorbable in most cases.

Department of Energy (DOE):

The DOE indicates that the additional workload to create and implement the certification program can be absorbed with existing resources. The Agency indicates that the high performance building certificate program will be incorporated into the State Energy Efficiency Design (SEED) Program, and that existing infrastructure. DOE indicates that support for rulemaking, data compiling and reporting are activities that are already a component of the SEED Program, and the incremental workload associated with the

certificate program is expected to be minimal. Providing staffing to the advisory committee will require 0.10 of an FTE assuming that the committee meets 2-3 times per year. DOE states that this additional workload can be assumed without impacting the Agency's ability to deliver on its other commitments.

Legislative Administration:

The bill directs that on or before July 1, 2012 an appropriate interim committee of the Seventy-sixth Legislative Assembly shall conduct a performance audit of the high performance building program, review implementation, and report findings to the Senate President and Speaker of the House of Representatives. The Legislative Assembly does not currently have a body dedicated to performance auditing; hence, it is unclear which Legislative Agency would be responsible for supporting implementation of this component of the bill. The Legislative Fiscal Office (LFO) could coordinate contracting with a reputable performance auditor to accomplish the audit. Related Professional Service costs are estimated to be \$25,000. This expenditure would likely be deferred to the 2009-11 biennium, given the July 2012 report date. LFO could assume the contracting process and project oversight workload with existing resources.

Department of Administrative Services (DAS):

DAS indicates that coordinating with DOE to adopt the high performance building certificate program can be assumed with existing resources. The Department has four proposed large facility projects planned for the 2007-09 biennium. If the high performance building certificate program standard is at or below the LEED Silver certification, DAS indicates that data tracking and reporting requirements can be accomplished with existing resources. DAS indicates that increasing the standard would increase costs. For example, the Department estimates that meeting the equivalent of a LEED Gold certification would increase costs by two percent, or approximately \$400,000 for 2007-09 and \$1,500,000 for the 2009-2011 biennia. The expectation is that costs will ultimately be recovered by lower building operating expenses; however, the amount of savings is unknown at this time.

Department of Higher Education:

Oregon University System (OUS) currently has 32 proposed projects this biennium that would be considered large facility projects. OUS has set an expectation that these projects be designed to LEED Silver certification; however, the agency does not have sufficient resources to monitor that projects are actually meeting this requirement. OUS indicates that they will need one full-time Sustainability Project Director to work with the DOE to help establish the high performance building certification program. OUS is aware that this is not an expectation of the bill; however, given the large number of OUS projects that will be impacted by the standard, the Department indicates that effective implementation of the bill is best ensured by their active participation in the development process. This position will also coordinate data collection and reporting across OUS projects, and monitor project development and implementation efforts to ensure that the certification standards are met. Related Personal Services costs are estimated to be \$180,000 for 2007-09 and \$240,000 for the 2009-11 biennia. Related Services and Supplies costs are \$30,000 for 2007-09 and \$40,000 for the 2009-11 biennia, which makes total expenditures \$210,000 for 2007-09 and \$280,000 for the 2009-11 biennia. Expenditures are lower for the 2007-09 biennium as they assume a January 1, 2008 date. Funding of this position would be Other Funds as the costs would be charged to the portfolio of projects.

OUS also indicates that if the certification standard were comparable to the LEED gold certification, construction costs would likely increase by 2% for new buildings and 10 to 15 percent for renovations.

Oregon Department of Transportation (ODOT):

ODOT has one proposed large facility project—renovation of the Transportation Building located on the Capitol Mall. The Department has designed the project to be LEED Silver certified. ODOT indicates that a higher standard would have increased costs. For example, to redesign to a LEED Gold certification

standard, the Department estimates needing to expend and additional \$160,000 for redesign, \$100,000 for LEED application and processing fees, and \$1.6 million in increased construction costs.

Over 25 state agencies have statutory authority to own state buildings and LFO does not have a readily available list of all large facility projects that would be subject to the requirements of the bill, so it is difficult to assess how many agency may be subject to the requirements of this bill. Given this unknown factor, an agency may need to return to the Emergency Board if budgeted resources prove insufficient to cover the actual costs of this measure.