

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

MEASURE NUMBER: SB 583

STATUS: A-Engrossed

SUBJECT: Oregon consumer theft protection

GOVERNMENT UNIT AFFECTED: Department of Consumer and Business Services, Department of Administrative Services and the Oregon Judicial Department

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DATE: April 17, 2007

| | <u>2007-2009</u> | <u>2009-2011</u> |
|-------------------------------|-------------------------|-------------------------|
| EXPENDITURES: | | |
| Personal Services | \$ 167,950 | \$ 237,379 |
| Services and Supplies | \$ 34,067 | \$ 30,024 |
| Total Other Fund Expenditures | \$ 202,017 | \$ 267,703 |

| | <u>2007-2009</u> | <u>2009-2011</u> |
|---|-------------------------|-------------------------|
| REVENUES: | | |
| General Fund – reduced Securities fee transfers | \$ (\$32,484) | \$ Unknown |

POSITIONS / FTE:

| | | |
|-------------------------------------|-------|-----|
| Investigator 3 / Hearings Officer 3 | 2/1.5 | 2/2 |
|-------------------------------------|-------|-----|

EFFECTIVE DATE: October 1, 2007.

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 enacts the Oregon Consumer Identity Theft Protection Act. The bill includes provisions for consumer notification of breaches of security of computerized data; allows consumers to place and temporally lift a freeze on their consumer report; sets limitations for printing or displaying a social security numbers; creates a duty for those who “own, maintain or otherwise possess data” to safeguard personal information (effective January 1, 2008); and, authorizes the Department of Consumer and Business Services (DCBS) to enforce and make rules to implement the provisions of the bill.

DCBS indicates that implementation of the bill will require two permanent positions; a full-time Investigator 3 and a Hearings Officer 3. Staff will complete one-time and on-going activities. One-time activities include development of forms and publications, administrative rulemaking, and legislative reporting. On-going activities include public outreach, consumer complaint response, investigation, and enforcement activities. Personal Services and related Services and Supplies expenditures are estimated to be \$202,017 for 2007-09 and \$267,703 for the 2009-11 biennia. Personal Services expenditures are lower in 2007-09 because of the October, 2007 effective date.

Section 15 of the bill allows the DCBS Director discretion to fund the program with fees and assessments from the Division of Finance and Corporate Securities and the Oregon Insurance Division. For the 2007-09 biennium, a combination of fees and assessments would be used (see table). DCBS has not made a final determination on the funding for the 2009-11 biennium, however, the Department anticipates using just Securities fees. Surplus Securities fees are transferred to the General Fund; therefore, use of Securities fees to fund implementation of this bill would have a negative impact on General Fund.

Proposed Allocation of Identify Theft Program Costs by Major Financial Program

| DCBS Program | 2005-07 Biennial Budget | Percent Share | 2007-09 Allocation | 2009-11 Allocation |
|--|--------------------------------|----------------------|---------------------------|---------------------------|
| Insurance (includes producer regulation) | 10,539,483 | 49.22% | \$ 99,434 | Undetermined |
| Banks and Trusts | 3,240,474 | 15.14% | 30,585 | Undetermined |
| Credit Unions | 1,355,477 | 6.33% | 12,788 | Undetermined |
| Mortgage Brokers/Bankers | 1,977,583 | 9.24% | 18,666 | Undetermined |
| Consumer Finance | 854,695 | 3.99% | 8,060 | Undetermined |
| Securities | 3,442,322 | 16.08% | 32,484 | Undetermined |
| Total | 21,410,034 | 100.00% | \$ 202,017 | \$ 267,703 |

DCBS indicates that potential civil penalty revenues associated with the bill are indeterminate at this time.

The Oregon Judicial Department (OJD) anticipates that the bill will have some impact on the entire Oregon Judicial System, however, this impact is not expected to result in a measurable increase or decrease in court operation costs. The bill will create additional administrative work for the courts and divisions, but the impact is assumed to be minimal. OJD’s Information Technology Division may incur costs to comply with Section 12; however, OJD expects that costs will be below the \$50,000 minimal threshold. OJD does not have data on how the bill might affect procedures and operations in municipal or justice courts.

The Department of Administrative Services Enterprise Security Office (ESO) indicates that steps have already been taken to maintain reasonable safeguards to protect the security, confidentiality and integrity of the State’s personal information. A survey of state agencies indicated that small state agencies or boards might have a fiscal impact from the bill. As only a small sample of agencies responded to the survey, the exact extent of the potential fiscal impact to small state agencies is indeterminate. The State’s Chief Information Security Officer indicates that the implementation of security safeguards is largely accomplished through modifications to internal processes so implementation of safeguards should have minimal expenditure impact on an agency. The ESO will make guidance available to state agencies on what they might do to meet reasonable safeguards to protect personal information with minimal fiscal impacts.

The bill currently does not have a subsequent referral to the Joint Committee on Ways and Means. The Legislative Fiscal Offices recommends that this bill be referred to Ways and Means because of the potential General Fund impacts and need for Other Fund limitation.