

2008 First Special Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: SB 1087

STATUS: B-Engrossed

SUBJECT: Increases term of imprisonment for persons convicted of specified drug and property crimes under certain circumstances.

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DATE: February 20, 2008

EXPENDITURES:
See analysis.

2007-2009

2009-2011

REVENUES:
See Revenue Impact Statement

EFFECTIVE DATE: See analysis.

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.

ANALYSIS: This bill enhances the penalties or sentences of those convicted of various property and drug related crimes. These changes and other provisions of the bill are referred to the voters as part of the November 2008 ballot. The increases in sentences and related issues affect: (1) drug manufacturers of larger amounts of methamphetamine (meth), heroin, ecstasy and cocaine; (2) those persons who deliver meth, cocaine, ecstasy or heroin to someone under 18 years of age; (3) those persons who steal \$10,000 or more from a person 65 years of older; (4) certain repeat property offenders; and (5) those committing mail theft. The bill also establishes a grant program (administered by the Department of Corrections -- DOC) for counties to pay for jail operation costs, treatment of drug dependent persons under community supervision, and intensive supervision (including incarceration) of drug addicted offenders. The DOC is also required to provide appropriate drug and alcohol treatment for those incarcerated in DOC facilities that are at medium to high risk of re-offending and who have moderate to severe treatment needs. The Criminal Justice Commission (CJC) is authorized to provide grants to counties for drug courts.

Election Fiscal Impact

The costs of this measure are only effective if the voters pass this measure with more votes than Initiative Petition 40. The actual costs of this measure are indeterminate based on the actual election costs and depend on the number of initiatives on the November 2008 ballot.

Under procedures established in Oregon Revised Statute 250.125 and 250.127, a financial impact committee is created for each state measure submitted to the ballot through the initiative and referendum processes. This committee will prepare the official financial impact for the ballot measure; but for purposes of this fiscal impact statement, a discussion of the potential fiscal impact to the DOC, the Public Defense Services Commission, and the Oregon Judicial Department is provided below if the voters approve the ballot measure in November 2008.

Secretary of State

The Legislatively Adopted Budget for the Secretary of State (SOS) for 2007-09 provided \$1.2 million to fund the voters' pamphlets in the 2008 election cycle. The SOS cost of voter pamphlets are dependant upon the number of ballot measures and the number of supporting and opposing arguments. At this point, the total number of initiatives and legislative referrals affecting the 2008 election cycle will not be known until the respective deadlines of the primary and general elections have passed. Therefore, the cumulative impact of all referrals on the SOS budget, including this measure, cannot be determined. LFO assumes that the SOS will seek a General Fund appropriation from the Emergency Board, if actual voters' pamphlet costs exceed available resources.

County Government

For counties, the addition of a single ballot measure has a minimal fiscal impact unless the addition of a legislatively introduced ballot(s) increases the size of the county ballot beyond a single page. Counties with multiple page ballots would experience increased expenditures for printing, postage, and counting.

Implementation Fiscal Impact

Department of Corrections

If this measure is passed and becomes effective it will have an overall 2007-09 impact of \$767,103 General Fund to the Department of Corrections (DOC). This cost is based on the need for 120 more prison beds by the end of the current biennium due to the increases in sentences. The DOC has current capacity for this estimated 2007-09 increase in the prison population. This increased prison cost is offset by a small reduction (\$69,750 GF) in the community corrections programs as fewer offenders are sentenced to probation but sent to prison.

The estimated 2009-11 impact grows to a net \$62.1 million GF impact for DOC with an additional increase in those under DOC incarceration of over 1,400 and a \$3.2 million offset in community corrections savings. This \$62.1 million amount includes \$3.4 million in alcohol and drug treatment costs for this new population. The increase of over 1,400 in the prison population will likely require a significant acceleration in the schedule of opening additional units at the recently opened prison in Madras (Deer Ridge). It will also mean the construction plans for the next prison at Junction City will need to be accelerated or the agency will have to start to seek significant numbers of rental beds in other states. Because the state has only utilized out-of-state rental beds on a very limited basis, it is not clear if out-of-state rental beds are more expensive than in-state beds or if the supply of out-of-state is adequate. If the decision is made to accelerate the construction of the new prison, the debt service costs would likely be more than \$25.0 million GF during in future biennia. The net impact on the DOC budget is expected to grow to over \$106 million by 2013-15 (not including debt service) and assumes requiring an additional 1,670 beds.

This measure also establishes a new state grant program under DOC to assist in paying for county costs of operating jails, treatment costs for drug dependent offenders under county supervision, and intensive supervision for offenders under county supervision. In addition, there is a requirement that DOC provide appropriate treatment to those offenders in the DOC system who are at medium to high risk of offending and have moderate to severe alcohol and drug treatment needs. There is also the expectation that funding for drug courts would be increased through grants made by the Criminal Justice Commission. There is no amount set for these costs for the grants and DOC treatment programs by the bill and it is assumed that the amount would be set through the budget process starting in 2009-11.

Public Defense Services Commission and Oregon Judicial Department

The costs to the Public Defense Services Commission (PDSC) and to the Oregon Judicial Department (OJD) are indeterminate. This bill increases sanctions, provides for more intensive post prison supervision and increases funding for drug courts. As sanctions increase, prosecutor leverage increases and plea bargains may increase. This could lower the impact on courts. In addition, as the sanctions increase and if prosecutors choose not to plea bargain, then offenders are more likely to seek a court trial, thereby increasing the workload on the court system. Increased sanctions may also increase the length and complexity of trials. The more intensive post prison supervision provided for in the bill could increase the number of parole violation hearings, or the increased supervision may keep more parolees from violating parole and thereby decrease the number of hearings. As the frequency of trials or hearings increase, then PDSC's costs for attorney time and investigator time will increase.