

2009 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: SB 46

STATUS: A Engrossed

SUBJECT: Fingerprinting of certain person for purposes of criminal records checks; persons who knowingly make false statements; and declaring an emergency.

GOVERNMENT UNIT AFFECTED: Department of Education, Oregon State Police, Local Education Agencies

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REVIEWED BY: Monica Brown

DATE: January 30, 2009

EXPENDITURES:

See comments

REVENUES:

See comments

EFFECTIVE DATE: On passage.

GOVERNOR'S BUDGET: This bill is 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.

ANALYSIS: The measure grants authority to the Department of Education (ODE) to request state or nationwide criminal records checks for any person hired by a school district or private school, with some exceptions. ODE currently has authority to request criminal records checks on employees who have direct, unsupervised contact with students as determined by the school district or private school. This measure would broaden ODE's authority. The measure gives ODE authority to determine whether an applicant knowingly made a false statement on a criminal history verification form as to prior convictions. The measure directs ODE to develop a process and criteria to use for appeals of a determination. It also requires the Superintendent of Public Instruction to inform school districts or private schools if an applicant has been convicted of a crime or has knowingly made a false statement. The measure permits school districts and private schools to contract with a person who knowingly made a false statement. Finally, the measure declares an emergency.

ODE reports a minimal fiscal impact to the department as a result of an increase in fingerprinting workload for ODE staff. ODE reports that the additional workload is unknown and depends on the number of employees hired by school districts that are not currently requiring the background check for all employees. ODE currently has the authority to charge for fingerprinting and revenue from the background checks will be paid to the public safety entity to which the background checks are submitted. ODE estimates 240-300 criminal background checks each biennium for which false swearing is an issue. Of these checks, ODE reports that only a small number result in an appeal and hearing. ODE states that the enactment of this measure could result in a reduction in the number of appeals heard due to the fact that ODE staff are allowed to make the determination that a person knowingly made a false statement as to prior convictions. Finally, ODE reports that it will need to revise the Oregon Administrative Rules specific to fingerprinting and background checks. ODE can likely absorb this through its normal rule-

making process, however this is dependent upon the total number of bills passed in the 2009 session that create a need for rule-making and rule revision.

The fiscal impact for Oregon State Police (OSP) is indeterminate at this time due to the uncertainty of how many additional applicant fingerprint card submissions per biennium OSP will receive from ODE. OSP's ability to absorb the additional workload within its existing resources depends on the number of employee background checks required by ODE.