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

MEASURE NUMBER: SB 448 **STATUS:** Original
SUBJECT: High performance building certification program
GOVERNMENT UNIT AFFECTED: Department of Energy, Department of Administrative Services, and Department of Higher Education
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DATE: February 26, 2009

		2009-2011		2011-2013
EXPENDITURES:				
Department of Higher Education				
Personal Services – General Funds	$	180,000	$	240,000
Services and Supplies – General Funds	$	30,000	$	40,000
	$	210,000	$	280,000

See comments below for expenditure information for Department of Energy and Department of Administrative Services.

REVENUES:
See comments below.

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.

ANALYSIS: The bill provides definitions for high performance building certification program and major facility; directs the Oregon Department of Energy to establish rules that set guidelines for the design, construction and renovation of major facilities to meet high performance building standards and criteria; requires authorized state agencies to design, construct or renovate major facilities where a 20 year life cycle cost analysis indicates it is cost effective; and, requires state agencies to apply for certification at the most stringent level that can be justified. The bill provisions apply to contracts entered into after January 1, 2010.

The bill directs the Department of Energy to set building practice criteria that meet or exceeds the energy efficiency requirements set in ORS 276.915. As the selection of criteria and standards are not known at this time, it is difficult to assess the fiscal impacts of this bill.

The Oregon Department of Energy (ODE) indicates that the bill will add a second set of criteria and standards which, in effect, will create a new program within ODE that will operate along side the State Energy Efficient Design (SEED) program. Currently all agencies participate in the SEED, which is largely focused on energy efficiency. The bill would broaden the scope of standards being applied to new construction and renovations of major facilities. As there will be some overlap, ODE expects to use

SEED staff resources to coordinate this work, at least initially. Costs of the SEED program are recovered by assessing fees to agencies who utilize the services. The incremental additional assessment fees charged to agencies impacted by the bill are not known at this time but expected to be minimal. The rulemaking activities associated with the bill can be accommodated within ODE's existing staff resources.

The Department of Administrative Services (DAS) Facilities Division indicates that the bill may create a fiscal impact for the agency in one of two ways: 1) increased up-front investment costs to meet a more stringent standard that is justified under a life cycle cost analysis, and 2) costs associated with certification. For example, the DAS Facilities Division's building plan includes the Executive Building Replacement project. At this time construction costs are estimated to be $100 to $110 million based on building to a LEED Silver standard. If DAS were to pursue a LEED Platinum standard for this project, the DAS Facilities Division anticipates increased construction costs to be $10 to $20 million. DAS Facilities Division believes that this investment would not be recoverable in a 20 year life cycle; hence, they assume they would not be required to build to that more stringent standard. If this occurs only minimal increased costs will be associated with the bill. If some other set of standards were adopted and DAS Facilities' life cycle analysis indicates that the additional upfront investment would be recovered in 20 years, the bill would require DAS to increase construction costs. As the standards have not been defined, it is not known at this time what potential increase costs might be incurred.

DAS Facilities indicates that the requirement that state agencies apply for certification would also increase costs. For example, costs associated with certification of the North Mall Office Building were $100,000 on a $25 million project. Certification costs for a project like the Executive Building Replacement project, especially at a LEED Platinum level, is estimated to approach $200,000. Again, a more precise determination of associated costs is not possible at this time.

The Department of Higher Education (DHED) states that they are steward of over 50% of Oregon's public buildings. Over time sustainability requirements have increased and become more complex. Current staffing levels are no longer adequate to meeting increasing requirements. This bill would add one more requirement, and DHED indicates that to implement the bill they would need to hire a Sustainability Project Director (1.0 FTE) to coordinate system-wide work resulting from the bill. The agency has requested $210,000 in General Funds for this new position for the 2009-11 biennium. Costs will be slightly higher, $280,000, for the 2011-13 biennium because of the January 1, 2010 effective date.

DHED also indicates that if the standards adopted were similar to LEED Gold, construction costs would increase by 1.5% on new buildings and 10-15% for renovations. Applying this assumption to the current portfolio of project would result in increased construction costs of $34 to $45 million for the 2009-11 and $70 to $96 million for 2011-13 biennia. DHED did not provide estimates for the number of projects that might be excluded from building to a more stringent because the costs were not recoverable under a 20 year life cycle analysis. DHED also did not provide estimates for costs associated with certification, but given the size of DHED' project portfolio, these costs could be substantial.