

2010 Special Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3696

STATUS: A-Engrossed

SUBJECT: Program Change Measure

GOVERNMENT UNIT AFFECTED: Department of Administrative Services; Department of Revenue; Judicial Department; Public Defense Services Commission; Legislative Counsel; Legislative Administration Committee; Legislative Fiscal Office; Department of Aviation; Department of Business and Consumer Services; Department of Energy; Public Utility Commission; Housing and Community Services Department; Parks and Recreation Department; Marine Board; Board of Tax Practitioners; Board of Clinical Social Workers; Board of Nursing; Department of Education; Teachers Standards and Practices Commission; Department of Agriculture; Department of Justice; Department of Public Safety Standards and Training; Oregon Business Development Department; Bureau of Labor and Industries; and Department of Veterans' Affairs.

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DATE: February 22, 2010

EXPENDITURES:

See Analysis

2009-2011

2011-2013

REVENUES:

See Revenue Impact Statement

EFFECTIVE DATE: On Passage

INTERIM JOINT COMMITTEE ON WAYS AND MEANS: The budgetary impact of this bill was not reviewed and approved by the Interim Joint Committee on Ways and Means Committee and is not included in the omnibus budget bill to be introduced by the committee.

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 measure implements statutory changes necessary to support the legislatively approved budget and to clarify the application of statutes. This measure, relating to state financial administration, is not an appropriation bill and therefore does not include the appropriation of funds. The measure, however, is necessary to achieve a balanced budget for the 2009-11 biennium. The measure is effective on passage.

The fiscal or budgetary impacts of provisions of this measure are contained in HB 5100, which is the budget reconciliation bill.

This measure provides for the transfer of a portion of Other Funds balances from 22 accounts and subaccounts to the General Fund (\$50 million). The fund transfers are to be made from moneys maintained in the fund accounts, and reserves on the effective date of the act. Additionally, the accounts retain adequate resources to meet working capital requirements, as needed, for continued operations. The

Other Fund transfers provided in this measure are one-time in nature and affect only the 2009-11 biennium. The transfers are to be made when the measure becomes law. Legislatively approved Other Funds expenditure limitations of the affected state agencies are not directly impacted by this measure.

The provisions of this measure that implement statutory changes necessary to support the legislatively approved budget or to clarify the application of statutes are detailed below:

Administrative Program Area

Section/Gov't Unit	Program Change	Fiscal Impact
§1 Department of Administrative Services	This section allows for Department of Administrative Services reporting to the interim Joint Committee on Ways and Means during the interim period on its review of compensation plan adjustments.	No fiscal impact.
§5 and §6 Department of Administrative Services	Technical change to reflect a change in the description of funding for county court facilities to allow the Department of Administrative Services a broader role in the construction and maintenance of county facilities and to clarify that such facilities are county facilities.	No fiscal impact.
§85 through §88 Department of Revenue	Requires recalculation of certain estate tax returns containing natural resource property from estates of decedents between January 1, 2007 and March 11, 2008.	See Legislative Revenue Impact Statement

Judicial Program Area

Section/Gov't Unit	Program Change	Fiscal Impact
§17 Judicial Department; Public Defense Services Commission; Legislative Counsel; Legislative Administration Committee; Legislative Fiscal Office; and Department of Revenue	Repeals existing HB 2287 (2009) allocation methodology and replaced with a new methodology, which now directs an immediate distribution of revenue to: (a) Legislative Counsel for the Oregon Law Commission and the Council on Court Procedures, in the amount of \$274,022; and (b) Legislative Committee Services for expenses of the Committee, in the amount of \$50,000; and Legislative Fiscal Office (\$100,000), to procure a contract to study Judicial Branch funding models. All remaining revenue will be distributed based upon the percentages established in HB 2287 during the last legislative session and after any Department of Revenue administrative expense (0.05%). The distribution will be 65% of the balance going to the Judicial Department, up to a maximum of \$22 million, and 35% going to the Public Defense Services Commission, up to a maximum of \$12.4 million.	No Fiscal Impact.
§20 through §51 Judicial Department	These sections modify HB 2287 (2009) [court fee bill] language to conform to statute for implementation by Judicial Department [Trust Modification Filing Fee; Third-Party Claims; Third-Party Complaints; Adding Parties and Increasing Claims by Amended Pleadings and not by Third-Party Complaint; Additional-Party Fee: Should Defendant(s) Pay only for Additional Defendants or also for Each Plaintiff; Additional-Party Fee: Application to Cases Involving \$10,000 or Less or more than \$50,000; and Additional-Party Fee: Which Amounts apply] and then modified offense statutes to conform to statutes related to minimum fines [Violation Surcharge in Minimum Fines; Violations Surcharge in Wildlife Violations].	See Legislative Revenue Impact Statement

Natural Resources Program Area

Section/Gov't Unit	Program Change	Fiscal Impact
§10 Department of Land Conservation and Development	Removes the requirement that the Department of Land Conservation and Development provide clerical and other necessary support for the Land Use Board of Appeals.	No Fiscal Impact.

Economic and Community Development Program Area

Section/Gov't Unit	Program Change	Fiscal Impact
§81 Oregon Department of Veterans' Affairs	Allows moneys in the Veterans' Small Business Repair Loan Fund to be used to finance educational benefits for veterans. The funds (currently \$121,171) consist of General Fund moneys appropriated in the 2007-09 biennium for the Small Business Repair Loan program, but not spent. During the 2009 Session, the Legislature discontinued funding for the Small Business Repair Loan program; however the moneys appropriated in the prior biennium remain in the Fund.	No Fiscal Impact.

Public Safety Program Area

Section/Gov't Unit	Program Change	Fiscal Impact
§11 Oregon State Police (State Fire Marshal)	This bill increases the fees for the cardlock program in the Office of the State Fire Marshal including the facility license fee from \$250 to \$300. The customer fee is increased in two steps: the first increase beginning on July 1, 2010 from \$5 to \$7.50 and a second increase a year later from \$7.50 to \$10. Currently there is a shortfall in funding of this program (estimated at \$200,000 for 2009-11) and the difference must be made up by Fire Insurance Premium Tax (FIPT) revenues. This bill does not change the current threshold for the minimum number of gallons purchased for the program.	Fiscal impact is \$110,503 in additional revenue for 2009-11 and \$408,910 in 2011-13.
§52 to §61 Oregon State Police and Department of Transportation	Programmatically transfers the Oregon Wireless Interoperability Network (OWIN) program from the Oregon State Police to the Oregon Department of Transportation. The transfer includes General Fund, Other Funds, Federal Funds Capital Construction expenditure limitation, and staff. (Note: also included below in under the Transportation Program Area summary).	Fiscal impact depends on the date of the transfer. No net budgetary increase or decrease is expected across the two affected agencies.
§16 Department of Justice	Authorizes the Department of Justice to make payments to Project Clean Slate in the amount of \$175,000 General Fund.	No Fiscal Impact

Transportation Program Area

Section/Gov't Unit	Program Change	Fiscal Impact
§7 to §9 Department of Aviation	Expands authorized use of moneys received from aviation fuel tax that was previously dedicated only to maintenance and preservation of pavement at public use airports to include operating expenses. This change is necessary due to the decline in overall revenues available from aviation fuel taxes. The agency will take necessary steps to reduce expenditures where possible to minimize the anticipated cash shortfall in Operations thus limiting the impact to the pavement maintenance program. This provision sunsets on June 30, 2011.	Indeterminate.

Section/Gov't Unit	Program Change	Fiscal Impact
§52 to §61 Department of Transportation	Programmatically transfers the Oregon Wireless Interoperability Network (OWIN) program from the Oregon State Police to the Oregon Department of Transportation. The transfer includes General Fund, Other Funds, Federal Funds Capital Construction expenditure limitation, and staff.	Fiscal impact depends on the date of the transfer. No net budgetary increase or decrease is expected across the two affected agencies.

Legislative Program Area

Section/Gov't Unit	Program Change	Fiscal Impact
§2 Semi-independent State Agencies	This section is related to the reporting requirements for semi-independent agencies, including financial reviews and audits.	No fiscal impact.

The following table summarizes, by section and agency, the Other Fund transfers to the General Fund.

Section/Gov't Unit	Account/Description	Transfer Amount
§84 Department of Revenue	Tax amnesty program receipts for personal, corporate and inheritance taxes in the Tax Amnesty Fund; the fund had a balance of \$32.9 million as of January 31, 2010.	\$31,000,000
§66 Department of Consumer and Business Services	The Workers Compensation Premium Assessment Operating Account of the Department of Consumer and Business Services (DCBS) is funded through fees and assessments paid by businesses that the Department regulates. The fund is used to pay administrative expenses of the Workers' Compensation programs. DCBS fiscal policy requires a six to twelve month expenditure ending balance. The ending balance is projected to be just over \$32.2 million at the end of the 2009-11 biennium. After deducting six months of actual and projected expenditures, the ending balance is expected to be \$2.4 million more than minimum requirements under DCBS fiscal policy. The transfer of \$500,000 from the ending balance will result in an ending balance of \$31.7 million.	\$500,000
§67 Department of Consumer and Business Services	The Self-Insured Employer Adjustment Reserve of the Department of Consumer and Business (DCBS) is funded by an assessment paid by employers or employer groups that opt to self-insure. If a self-insured employer becomes insolvent or otherwise defaults on its workers' compensation obligations, workers' compensation benefits for the employer's injured workers and their beneficiaries are paid out the fund. Some of the money is later recovered from self-insured employers' surety bonds or letters of credit. DCBS fiscal policy requires a six to twelve month expenditure ending balance. The ending balance is projected to be just over \$2.3 million. After deducting six months of actual and projected expenditures, the ending balance is expected to be \$2.1 million more than minimum and \$1.97 million more than the maximum requirement under DCBS fiscal policy. The transfer of \$500,000 from the ending balance will result in an ending balance of just over \$1.8 million.	\$500,000

Section/Gov't Unit	Account/Description	Transfer Amount
§71 Department of Energy	\$1,000,000 is transferred from the State Department of Energy account; these funds represent Business Energy Tax Credit Application fees collected in excess of what was projected in the 2009-11 legislatively adopted budget. BETC application fee revenue is expected to exceed end of session projections by \$1.2 million. The transfer will result in an ending fund balance equivalent to approximately eight months of program operating expenditures.	\$1,000,000
§68 Public Utility Commission	\$2,000,000 is transferred from the Public Utility Commission Account. The transfer leaves an ending balance equivalent to approximately 16 months operating expenditures for the Utility Regulation program, and is not expected to result in an increase to the rate of assessment levied against utilities.	\$2,000,000
§78 Housing and Community Services Department	\$750,000 is transferred from the Community Development Incentive Project Fund – These funds consist of anticipated repayments of loans made from the Community Incentive Project Fund, which would otherwise be allocated to housing development or preservation in a future biennium.	\$750,000
§70 Oregon Parks and Recreation Department	The All-Terrain Vehicle Account is funded by non-highway fuel tax receipts that is determined by the Oregon Department of Transportation (ODOT) to be tax on fuel used by Class I, Class II, and Class III all-terrain vehicles in off-highway operation and that is not refunded. The Legislature approved an increase in fuel taxes, to fund highway improvement projects. A byproduct of that increase increases the amount expected for the All-Terrain Vehicle Account by \$2.4 million. Because these resources were unanticipated, there is no fiscal impact. The agency will retain an ending balance of \$3.7 million or the equivalent of 8.7 months operating expenditures.	\$2,200,000
§69 Oregon Marine Board	Unanticipated revenue from fuel tax rate (boats) The LAB projected \$11.0 million dollars in distributions for fuel taxes paid by boaters. The increase in revenue is due to the increase in the fuel tax enacted by the 2009 Legislative Assembly. This will leave the Board with a projected ending balance of \$868,000 or 3.3 months of working capital in the Administrative Account	\$430,000
§64 Board of Tax Practitioners	The Board has realized vacancy savings and the collection of fines in excess of projections. This will leave the Board with a projected ending balance of \$338,000 or 7.7 months of working capital.	\$430,000
§63 Board of Clinical Social Workers	Operations reserve to 4.5 months of expenditures (\$41,000) this will leave the Board with a projected ending balance of \$191,000.	\$41,000
§65 Board of Nursing	Consumer Protection fund to 4.6 months of expenditures (\$200,000) this will leave the Board with a projected ending balance of \$2,150,000.	\$200,000
§73 Department of Education	Tuition Protection Fund was established to protect students when career schools cease provision of educational services. Resources available in this fund are provided through career school licensing fees. Based on historical claims to the Fund, this reallocation is not expected to lower the balance in the Fund below the minimum of \$1 million.	\$1,000,000

Section/Gov't Unit	Account/Description	Transfer Amount
§72 Department of Education	Education Cash Account (Youth Corrections Education). Resources available to this program are provided through the State School Fund. Based on program expenditures, the Department is able to lower the cash on hand while still maintaining services.	\$316,000
§74 Teacher Standards and Practices Commission	Resources available to this program are provided through licensing fees. Based on program expenditures, the Department is able to lower the cash on hand while still maintaining services and an adequate operating reserve.	\$346,000
§62 Department of Agriculture	This transfer is from fees paid to the Department of Agriculture to operate the Pesticide Use Reporting System (PURS). After the PURS system was mothballed during the 2009 legislative session, the remaining balance of \$885,973 Other Funds for PURS operation was transferred to the main pesticides program. This fund sweep of approximately half the transferred balance is projected to leave a balance of \$3 million in the main pesticides program by the end of the biennium. Based on current revenue projections, this transfer should not require ODA to raise fees during the 2009-11 current biennium.	\$443,000
§76 Department of Justice	The Protection and Education Fund receives revenues from settlements or judgments due the state. Funds are used for the Department of Justice's consumer protection and financial fraud activities.	\$2,500,000
§75 Department of Justice	Transfer of General Fund share of extra balance in Legal Services Fund over what is required for working capital.	\$2,973,501
§80 Oregon Business Development Department	Transfers program income of \$300,000 from the Strategic Reserve Fund to the General Fund. The Department uses the Strategic Reserve Fund to make loans and grants for the purposes of recruiting businesses to Oregon and retaining businesses in the state. Monies transferred do not include any Lottery Funds in the Strategic Reserve Fund. The Strategic Reserve Fund, which holds both Lottery Funds and Other Funds, is projected to have a \$412,000 ending balance of Other Funds after the transfer, plus additional Lottery Funds.	\$300,000
§79 Oregon Business Development Department	The Credit Enhancement Fund contains monies reserved to pay loans guaranteed by the Department that go into default. The fund is projected to have an \$8.0 million ending balance after the transfer. If this fund balance is insufficient to cover loan defaults, Lottery Funds are allocated for this purpose. The remaining fund balance is expected to be sufficient to finance loan defaults without necessitating the use of Lottery Funds.	\$1,000,000
§83 Bureau of Labor and Industries	The Prevailing Wage Rate Education and Enforcement Account is financed from a fee assessed to public agencies undertaking capital projects covered under the state's prevailing wage law, and is used to enforce that law. This Account is projected to have a \$1 million ending balance after the transfer.	\$1,600,000
§77 Public Defense Services Commission	Transfers \$500,000 from the Application Contribution Program for public defense. This account will retain an ending balance of approximately \$390,000.	\$500,000
Total		\$50,029,501