

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2236

Seventy-Sixth Oregon Legislative Assembly – 2011 Regular Session
Legislative Fiscal Office

Prepared by: Kim To
Reviewed by: Linda Ames
Date: 2/14/2011

Measure Description:

Directs the Oregon Health Authority to establish a registry and advisory committee related to birth anomalies and adverse pregnancy outcomes.

Government Unit(s) Affected:

Oregon Health Authority (OHA)

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:

HB 2236 requires the Oregon Health Authority (OHA) to establish a uniform statewide registry and tracking system for birth anomalies and adverse pregnancy outcomes. The bill also instructs OHA to appoint an advisory committee, in collaboration with the March of Dimes, to guide the agency in establishing and operating this registry and tracking system.

The bill directs OHA to adopt rules requiring facilities to report and make available relevant information to the agency. Adopted rules should ensure that personally identifiable information contained in the registry is not released to the public, and is in compliance with state and federal laws regarding confidentiality of health records. When collecting this data, OHA is to inform the individual or the parent/guardian if the individual is a minor. Affected individuals or parents/guardians may request removal of personally identifiable information from the registry at any time. This measure also requires OHA to analyze the information collected to investigate the incidence, trends and causes of birth anomalies and adverse pregnancy outcomes; and develop, assess and evaluate measures to prevent birth anomalies and adverse pregnancy outcomes.

HB2236 specifically states that OHA is required to carry out the provisions of this bill only when the agency determines that it has received a sufficient legislative appropriation or other funding to do so. OHA is directed to adopt a rule and notify Legislative Counsel when the agency secures funding. At this time, a specific funding source is not identifiable. The Legislative Fiscal Office (LFO) notes that permitting the agency to make such determinations can be contrary to the legislative process because it could result in a decision to move a certain amount of funds from an existing statutory requirement or priority to a different priority based solely at the discretion of agency staff. While some budgetary flexibility for an agency is appropriate and necessary, certain fundamental budget prioritization decisions are a legislative prerogative. Also, note that other funding available to the agency not only includes the agency's (un-obligated and obligated) cash funds, but also can be interpreted as funds generated from such actions as a fee increase, asset sale or borrowing. In addition, the agency's decision to carry out the provisions of this bill could lead to agency requests from a future legislature or Emergency Board for more General Fund through the rebalance process. Alternatively, if the agency determines that it does not have sufficient funding, to what extent is the agency obligated and for how long?

For the reasons mentioned above, LFO's protocol is to issue an explanatory fiscal impact statement providing an analysis of the expenditures, revenues, staffing, and organizational effects of implementing the provisions of the bill.

The Centers for Disease Control and Prevention (CDC) recognize three types of birth anomalies and adverse pregnancy outcome monitoring systems, each rated differently for completeness of data:

- Vital Records: Use of birth and fetal death certificates provided by the state's Department of Health (Rating: Poor)
- Passive Reporting: Use of medical reports submitted by staff from hospitals, clinics, or other facilities (Rating: Fair to Good)
- Active System: Use of trained personnel who systematically review records in hospitals, clinics, or other facilities (Rating: Excellent)

OHA current process for capturing adverse pregnancy outcomes is through birth and fetal death certificates. Implementing the provisions of this bill would allow the agency to move from a Vital Records system to a Passive Reporting system.

OHA calculates the fiscal impact of this bill to be \$665,358 [6 Positions/2.39 FTE] for the first biennium and approximately \$463,386 [3 Positions/2.50 FTE] for subsequent biennia.

The first biennium's one-time startup costs of \$338,018 include costs for the purchase of application software and personal services for the following temporary positions:

- 1) One Operations & Policy Analyst to serve as the informatics manager defining and developing statistical and analytical plans to support the delivery of this project;
- 2) One Research Analyst to help establish protocols for data collection, analysis and reporting; and
- 3) One Information Systems Specialist to design, create and test the registry database; create implementation materials and manuals; as well as provide outreach and training to designated facilities.

Ongoing costs of \$327,340 for the first biennium and \$463,386 for subsequent biennia include annual licensing fee for software, State Data Center costs and personal services costs for the following permanent positions:

- 1) One Operations & Policy Analyst to work with stakeholders and reporting entities to manage data gathering, and coordinate the rule making requirements of the bill;
- 2) One Research Analyst to manage the database including analysis and reporting; and
- 3) A half-time Office Specialist to provide administrative support to the advisory committee and the program.

Members of the advisory committee are not entitled to compensation or reimbursement so no expenses for advisory committee members are included in the fiscal.

The Legislative Fiscal Office notes that OHA's estimate may be low. The bill requires that OHA not only collect the data but also analyze the information collected to (a) investigate the incidence, trends and causes of birth anomalies and adverse pregnancy outcomes; and (b) develop, assess and evaluate measures to prevent birth anomalies and adverse pregnancy outcomes. These requirements may necessitate the time and expertise of professionals beyond the qualifications of an Operations & Policy Analyst and Research Analyst. They would require the expertise of medical epidemiologists, medical records consultants, clinicians and medical researchers who can review the information submitted by required facilities to ensure the completeness, accuracy and validity of the data as well as to integrate the information from the registry with studies of genetics, molecular biology, epidemiology, etiology and environmental exposures to investigate the incidence, trends and causes of these conditions.

The Legislative Fiscal Office also notes that the information technology fiscal analysis for the registry database serve as a high-level preliminary approximation. If this bill passes, OHA will have to complete more thorough option analyses, feasibility studies and quality business cases with associated revised cost estimates for the information technology component of the program.