

## FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2726 - B

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

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### Measure Description:

Modifies definition of "smoke shop" for purposes of Oregon Indoor Clean Air Act and directs Oregon Health Authority to adopt rules establishing a certification system for smoke shops.

### Government Unit(s) Affected:

Oregon Health Authority (OHA), Judicial Department, county health departments

### Summary of Fiscal Impact:

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:

House Bill 2726 B-Engrossed requires the Oregon Health Authority (OHA) to adopt rules establishing a certification system for smoke shops. The bill modifies the definition of a smoke shop for purposes of the Oregon Indoor Clean Air Act by limiting seating in a smoke shop, disallowing the sale or offer of food or beverages, allowing smoking for sampling purposes only, and mandating a smoke shop registration system including authority for OHA to make unannounced inspections. The bill grandfathers in existing smoking lounges. The bill contains an emergency clause and takes effect upon passage.

### Oregon Health Authority (OHA)

HB 2726 is anticipated to have a budgetary and staffing impact on the Oregon Health Authority. The bill grandfathers in two additional categories of eligibility for smoke shop certification: [1] businesses opened on December 31, 2008 that were stand-alone businesses with ventilation systems that met certain building codes; [2] businesses that filed an application for certification before the effective date of this measure that met certain requirements and was certified as a smoke shop by December 31, 2012. According to the Oregon Health Authority, approximately 100 businesses could be eligible under the first category. The authority estimates the number of potential applicants under the second category could range from 20 to 100 applicants.

The number of applications for smoke shop certifications resulting from passage of this bill could range from as few as 20 to as many as 200. At this time, the exact number of applications that OHA will receive cannot be predicted. The following figures are presented as a point of reference: Assuming a middle range increase of 100 applications, the authority estimates the cost of complying with this measure to be \$475,014 General Fund and 2.00 FTEs for the 2011-13 biennium. This amount includes attorney general fees (\$94,000), and personal services cost for two limited duration Program Analyst positions to manage the temporary increase in applications. General Fund monies would be needed because Tobacco Use Reduction Act (TURA) funds can only be used for preventive activities, and the grandfather clause expands tobacco use.

If the number of applications and the attorney general costs resulting from this bill increases to a level that cannot be absorbed by OHA with existing staff and resources, the authority may return to the 2012 Legislative Session or an Emergency Board for additional funding and position authority.

There is no bottom-line budgetary impact to the Oregon Health Authority for the 2013-15 biennium. In the longer term, passage of this bill is anticipated to result in a cost savings of approximately \$19,000 Other Funds per biennium from a reduction in appeals required to be handled by the Department of Justice. Also these changes are anticipated to reduce the number of future smoke shop applications, and therefore future workload associated with the application process. However, with the grandfather clause, these changes will not eliminate existing smoking lounges and the associated certification and regulatory activities. Under this measure, smoke shops must renew certification every five years. Because the funding source for regulatory activities is from TURA funds, if there are future cost savings and workload reductions from the decrease in the number of applications, any savings and efficiencies realized will be redirected to TURA-funded prevention activities.

#### Oregon Judicial Department (OJD)

This bill is anticipated to have minimal impact on the Oregon Judicial Department (OJD). The bill does not change the various case types involved with violation of statutes governing the Oregon Indoor Clean Air Act.

#### County Health Departments

The fiscal impact of this bill on county health departments is indeterminate, but anticipated to be minimal. Local county health departments have the authority to carry out unannounced inspections in enforcing the Indoor Clean Air Act. Any expansions under the indoor clean air act will have a fiscal impact on local public health. With passage of this bill, it is expected that there would be a need for an increase in local public health staffing to educate shop owners on what is allowed by law, and to process and investigate complaints about hookah bars.