

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 242 - B**Seventy-Sixth Oregon Legislative Assembly – 2011 Regular Session
Legislative Fiscal Office

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Measure Description:

Creates Higher Education Coordinating Commission. Exempts Oregon University System from certain laws relating to state agencies.

Government Unit(s) Affected:

Oregon University System, Department of Community Colleges and Workforce Development, Oregon Student Assistance Commission, Department of Administrative Services, Department of Education, Oregon Health Authority, Department of Justice, Other State Agencies

Summary of Expenditure Impact:

Oregon University System – Fund Type	2011-13 Biennium	2013-15 Biennium
Increase Board of Higher Ed to 15 members -- Other Funds	\$14,580	\$19,440
Risk Management Consultant & new insurance program positions -- Other Funds	\$250,000	\$600,000
Risk Management insurance -- Other Funds	\$0	(\$3,200,000)
Provide own legal services -- Other Funds	\$2,307,230	\$3,076,306
Study on alternative health benefits plan -- Other Funds	\$200,000	\$0
No longer subject to DAS assessments -- Other Funds	(\$1,018,168)	(\$2,036,336)
Net -- Other Funds	\$1,753,642	(\$1,540,590)
No longer subject to DAS assessments -- General Funds	(\$236,816)	(\$473,631)
No longer have legal representation by Attorney General -- General Funds	(\$1,947,230)	(\$2,596,306)
Education & General Services base budget reduction to offset lost GF interest revenue	(\$7,184,657)	\$0
Net -- General Funds	(\$9,368,703)	(\$3,069,937)

Positions/FTE	2011-13 Biennium	2013-15 Biennium
Insurance Director and support staff	1/0.50	3/3.00

Department of Justice – Fund Type	2011-13 Biennium	2013-15 Biennium
Reduce legal staff -- Other Funds	(\$909,035)	(\$1,184,891)

Positions/FTE	2011-13 Biennium	2013-15 Biennium
Senior Attorney General and Paralegal	2/3.25	4/4.20

Summary of Revenue Impact:

Oregon University System – Fund Type	2011-13 Biennium	2013-15 Biennium
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Interest on Other Funds no longer credited to the General Fund		
Interest Earnings to OUS -- Other Funds	\$7,184,657	\$9,911,793
Loss of Interest Revenue -- General Funds	(\$7,184,657)	(\$9,911,793)

Department of Justice – Fund Type	2011-13 Biennium	2013-15 Biennium
Legal Service Fees -- Other Funds	(\$1,385,272)	(\$1,781,323)

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 establishes the Higher Education Coordinating Commission (HECC), abolishes the Office of Degree Authorization (ODA) within the Oregon Student Assistance Commission (OSAC) and transfers the duties, functions, and powers of ODA into the HECC. The measure redefines the Oregon University System (OUS) outside of consideration as a state agency for purposes of state statutes and constitutional provisions. The measure is effective upon passage. Most provisions pertaining to OUS governance changes are effective January 1, 2012. The provisions creating HECC have an operative date of July 1, 2012.

HECC and OSAC

The measure creates the Higher Education Coordinating Commission and directs the HECC to develop state goals and accountability measures for the state's post-secondary education system and develop a strategic plan for achieving those goals. The HECC is directed to evaluate and recommend changes to statutory institutional goals and is directed to develop a finance model for higher education that is aligned with the goals and strategic plan. The HECC is to recommend a consolidated higher education budget request to the Governor and Legislative Assembly, design and maintain a statewide educational data system in collaboration with the State Board of Education, administer student financial assistance programs, and approves and authorizes degrees. The measure abolishes the Office of Degree Authorization within OSAC and transfers the duties, functions, and powers into the HECC.

The fiscal impact is indeterminate. The type and the number of the positions required to fulfill the duties of the HECC are unknown and the measure does not address the source of funding for the HECC. The Legislative Fiscal Office (LFO) notes that the programmatic and budgetary scope of the establishment of the HECC is undefined. The Washington Higher Education Coordinating Board (WHECB) has similar policy and strategic planning development responsibilities as the responsibilities assigned to the HECC. The WHECB policy, planning, and research administration consists of a budgeted 16 FTE and \$12 million.

The transfer of ODA would include two full-time positions and the balance of the 2011-13 budget on the measure's operative date. The current budget proposal for ODA includes \$127,981 General Fund and \$338,670 Other Fund and two full time positions. Additionally, staff within OSAC supports ODA with accounting, payroll and other functions that are not included in these amounts. The measure is unclear if HECC would provide administrative staff support of if those functions would continue through OSAC. OSAC assumes that all current positions and operations would continue and would remain in its current office space in Eugene until further determinations are made as to the function of ODA within the HECC. The permanent location of the HECC is unknown. OSAC will incur minimal expenditures to change the agency name from "Assistance" to "Access".

The Department of Education currently collaborates with higher education in the design and maintenance of a statewide educational data system through a federal grant. The Department assumes the scope of work required by the measure will fall within the current system that is scheduled to be complete in 2012.

The measure does not address the specific requirements of the statewide educational data system. If the requirements of the data system fall outside of the scope of work of the current data system, the Department may need to seek additional funding or positions.

The Department of Education assumes that the Statewide Education Data System would be owned and operated by OUS and that the Department would contribute to the standards, data, and reporting on an ongoing basis. The Department estimates the cost of ongoing staff support beyond the scope of the current data system would be approximately 4 positions totaling 2.50 FTE and estimated costs of \$456,255 General Fund.

Oregon University System

The measure redefines the Oregon University System (OUS) outside of consideration as a state agency for purposes of state statutes and constitutional provisions. This change exempts OUS from certain laws that govern state agency operations and is intended to provide operational flexibility and efficiencies. The measure expands membership of the Board of Higher Education from 12 to 15 members. This change is anticipated to have a minimal impact on expenditures of less than \$20,000 for a full biennium. The Board of Higher Education would be required to submit biennial funding requests to the HECC by May 1 of even-numbered years. If the HECC requires changes to the funding request they must notify OUS by June 15. The measure establishes a process for OUS to enter into a performance compact with the state and submit the funding request to the Department of Administrative Services (DAS) on or before September 1 of the same even-numbered year. The bill prohibits the Legislative Assembly from making a General Fund appropriation for OUS to any other entity other than DAS.

The measure establishes a process for the Board of Higher Education to set enrollment fees, such as tuition, as long as they are based on limits established by the HECC. The measure eliminates the requirement of OUS to request expenditure limitation from the Legislature including but not limited to enrollment fees. Interest on any OUS reserves, including General Fund appropriations, would be credited to OUS. Currently, interest from fees paid for tuition, housing, parking, food, or General Fund appropriations are credited back to the General Fund. OUS estimates that this change would reduce the General Fund revenues by \$4,281,554 in 2011-13 (18 months) and \$5,906,737 in 2013-15. These estimates are based on Fiscal Year 2008-10 average daily balances in the OUS Fund and an interest rate of less than 1%. The Governor's budget estimated an average return in the Treasury Short Term Fund of 1.72% for 2011-13. Using this interest rate and average balances, the General Fund revenue reduction would be \$7,181,657 in 2011-13 (18 months) and \$9,911,793 in 2013-15. OUS has agreed to a corresponding General Fund reduction in the base budget for Education and General Services to offset the lost General Fund revenue from interest earnings so that the General Fund is held harmless from this change in who retains interest earnings. HB 2208, which passed in 2009, was introduced at the request of OUS to consolidate their numerous accounts into one Oregon University System Fund to allow for more effective investment of revenues. A new position was added to the OUS budget in 2009 to oversee Fund investments. One impetus of this change was the desire to outperform the Treasury's Short Term Fund rate of return. This investment policy, coupled with the fact that interest rates have generally been increasing recently and average cash balances are currently higher than average over the last 10 years, means even use of the projected Treasury Short Term interest rate and 2008-10 average balances may understate the General Fund impact of the interest retention changes in the bill.

The measure exempts OUS from participation in the state's risk management and insurance programs. Under ORS 278, these programs are directed and managed by DAS, which assesses state agencies to cover the cost of providing insurance and other services. However, OUS does not plan on making any insurance changes during 2011-13 and would remain with the DAS programs through that biennium. OUS indicates they would hire a consultant, estimated at \$100,000, in 2011-13 to evaluate options for procurement of insurance in 2013-15. OUS also indicates it would hire an insurance director position July 1, 2012 estimated at \$75,000 for 12 months, to work on the transition and oversee any new insurance program. OUS assumes it could save as much as \$2.6 million in 2013-15 by procuring its own risk and insurance coverage outside the DAS managed programs. In 2006, the Western Interstate

Commission for Higher Education sent DAS a proposal that indicated OUS could save \$2 million per year by participating in their self-insurance pool as opposed to the state's pool. While much of the land and buildings utilized by OUS are in fact, state owned there appears to be no provision in the bill for the state to verify that the level of insurance of its assets purchased by OUS outside the state pool is adequate to protect those assets.

The measure requires the Board of Higher Education to establish a committee to evaluate options for group health benefit plans and an optional retirement plan and to report to the Legislature prior to October 1, 2012. The measure prohibits OUS from implementing any changes to group health plans or retirement plans prior to the 2013-15 biennium. OUS currently offers an Optional Retirement Plan (ORP) to certain employees in lieu of participating in the Public Employees Retirement System. About 24.9% of OUS employees currently participate in the ORP, this reflects 36.4% of those employees who are eligible. Under existing law, OUS has the authority to provide alternative group health plans outside the Public Employees Benefit Board (PEBB), so long as the same level of benefits as the PEBB plan can be offered at a lower cost. OUS indicates they would hire a consultant, estimated at \$200,000 in 2011-13 to evaluate options for alternative health plans and make recommendations. The OUS employees currently enrolled in PEBB are likely cheaper to provide health insurance for than the rest of the state employees enrolled in PEBB. A 2006 study by a consultant hired by OUS estimated that a \$12 million per year "cross-subsidy" existed within PEBB, whereby OUS was paying more to provide health insurance for its pool of employees than they would if not pooled with all the other employees of the state. Therefore, while the extent of the impact of OUS no longer participating in PEBB is indeterminate, the cost savings to OUS would be shifted to other entities remaining in PEBB.

The measure allows OUS to purchase property and construct facilities without seeking legislative approval if completed without General Fund monies or general obligation bonds. The measure states that OUS has primary responsibility for maintaining and preserving state owned buildings utilized by OUS. The measure establishes a revenue bond program allowing OUS to issue revenue bonds. Projects utilizing proceeds from Article XI-F(1) and Article XI-G general obligation bonds would still need to be authorized by the Legislature.

The measure removes OUS from being represented by the Department of Justice (DOJ) except for bond issuance. OUS would no longer be considered a unit of government, could not request or receive Attorney General legal service, and would be responsible for indemnity, liability, and defense of tort claims. The 2011-13 Governor's budget includes \$2,596,306 General Fund to pay for Attorney General expenses. OUS estimates that hiring attorney's and entering into retainer agreements could cost \$20,000 more per month than currently being paid to DOJ for legal services. The effect of this change is a reduction in General Fund Attorney General costs beginning January 1, 2012 of \$1,947,230 and an estimated increase of Other Fund expenditures for institutions and the Chancellor's Office to hire legal representation of \$2,307,230.

The measure would exempt OUS from paying certain state assessment charges that fund the DAS. OUS would continue to pay Treasury, Secretary of State and Employment Relations Board assessments as well as the Central Government Service Charges that are used to fund the Legislative Assembly and the Office of the Governor. Based on the 2011-13 Governor's budget for State Government Service Charges, removing OUS from paying DAS assessments beginning July 1, 2012 would result in \$236,812 General Fund savings and \$1,018,168 Other Fund savings to OUS.

PEBB and OEGB

The fiscal impact to PEBB and OEGB are indeterminate until the committee established by the Board of Higher Education reports to the Legislature on the options for an optional retirement plan and group health benefit plans. Currently, 48 OUS faculty members have enrolled in OEGB benefit plan coverage.

PEBB's consultant, Mercer, estimates that if OUS opts out of PEBB, funding rates would increase 4.7% based on an analysis of OUS statewide claims. Using the 4.7% as a proxy for the impact to Kaiser Permanente and Providence Choice plans, the increased costs to PEBB would be \$51 million in 2013-

15 if OUS opts out. This estimate is for only the percentage rate increase and does not include any additional stabilization funds that may be required to bring the fund to actualization. These funds are paid by state agencies participating in PEBB.

DAS and Other State Agencies

The fiscal impact to the state's risk management program is unknown until OUS determines if it will remain with the DAS program in 2013-15. The measure is unclear if outstanding liabilities are transferred to OUS upon separation from the Risk Management Program. The amount of risk charges to state agencies are determined based on actuarial projections. As an example, OUS Risk charges are \$23,798,415 in the 11-13 Governor's budget, however the State Insurance Fund is not actuarially sound due to the transfer of moneys from the fund by the 2009 Legislature. An independent review of the State Insurance Fund will need to take place in order to determine if OUS owes money to the fund or if the fund owes OUS money at the time of separation. This would include OUS share of statewide claims and commercial insurance purchases, interest earned, and other expenses paid.

OUS will no longer pay DAS assessments used to fund the Budget and Management Division, State Controller's Division, Office of the Director, and Facilities Division. DAS anticipates proportionally increasing assessments on other state agencies to recoup the lost revenue. Based on the 2011-13 Governor's budget, those assessments would increase by about 3.6%. Most of these assessments are FTE driven so the amount and impact of the cost shift will vary based on each agency's actual 2011-13 FTE, as well as the overall size of the 2011-13 DAS budget.

DOJ anticipates reducing legal staff positions previously dedicated to OUS work. The total reduction includes 3.25 FTE and \$909,035 Other Funds in 2011-13. DOJ anticipates a corresponding reduction in revenue of \$1,385,272 Other Funds in 11-13.

The measure exempts OUS from the Department of Energy's State Energy Efficiency Design (SEED) program rules. Currently OUS-related projects make up for approximately 75% of all SEED projects. Administration of the SEED program is dependent on the demand for the program and the revenue generated by the program to pay for expenses. If OUS chooses not to continue utilizing the Department's SEED program, the Department may need to reduce administrative staff dedicated to the program.