

**Senate Bill 626**

**Relating to ombudsman to serve vulnerable adults in residential care**

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Senate Bill 626 expands duties of the Long Term Care Ombudsman to advocate for residents of care facilities who have mental illness or developmental disabilities. The bill also renames the Long Term Care Advisory Committee to Residential Facilities Advisory Committee and increases membership from seven to nine.

The Subcommittee adopted the –A5 amendment, which delays the start date for the program expansion by six months, making it operative July 1, 2014. It also contains a small technical change.

The associated fiscal impact includes staff costs for developing the expanded program and working with about 125 new volunteers that will be needed to cover facilities. The budget for these expenditures, at \$585,488 General Fund and seven positions (2.81 FTE) will be included in the omnibus end of session bill.

The Capital Construction Subcommittee recommends Senate Bill 626 be amended and reported out do pass, as amended.

Joint Committee on Ways and Means

Carrier – House: Rep. Nathanson  
Carrier – Senate: Sen. Winters

**Revenue:**

**Fiscal:** Fiscal statement issued

**Action:** Do Pass the A-Engrossed Measure as Amended and be Printed B-Engrossed

**Vote:**

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

**Prepared By:** Laurie Byerly, Legislative Fiscal Office

**Meeting Date:** July 3, 2013

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**WHAT THE MEASURE DOES:** Expands duties of the Long Term Care Ombudsman (LTCO) to advocate for residents of care facilities who have mental illness or developmental disabilities and modifies various agency statutes to incorporate new responsibilities. Renames the Long Term Care Advisory Committee to Residential Facilities Advisory Committee and increases membership from seven to nine. Requires the Oregon Health Authority and the Department of Human Services to provide LTCO quarterly reports on the number of beds in residential facilities for which the LTCO is responsible. Provides for civil penalties associated with residential facilities and adult foster homes that serve persons with mental illness or developmental disabilities to be deposited into the Long Term Care Ombudsman Account instead of the Quality Care Fund.

**ISSUES DISCUSSED:**

- Need for these individuals to have an advocate
- LTCO is a nationally recognized model for advocacy
- Parallel model better than starting from scratch
- Agency has an incremental, carefully thought out roll out plan

**EFFECT OF COMMITTEE AMENDMENT:** Delays the start date for the program expansion by six months, making it operative July 1, 2014. It also changes the term “providing” to “licensed to provide” to clarify language regarding civil penalties paid into the Long Term Care Ombudsman Account.

**BACKGROUND:** The Office of the Long Term Care Ombudsman is an independent state agency that serves long term care facility residents through complaint investigation, resolution and advocacy for improvement in resident care. The mission of the Office of the Long Term Care Ombudsman is to enhance the quality of life, improve the level of care, protect the individual's rights and promote the dignity of each Oregon citizen residing in a long term care facility.

There are approximately 6,000 individuals with developmental or intellectual disabilities living in close to 1,000 licensed adult foster homes and 665 group homes in Oregon. An additional 2,500 individuals with mental or behavioral health disabilities are served in approximately 600 residential treatment homes and facilities. Most of these homes and facilities are quite small, with only 3-4 residents and they are scattered throughout Oregon.

**FISCAL IMPACT OF PROPOSED LEGISLATION****Measure: SB 626 - B**Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session  
Legislative Fiscal Office***Only Impacts on Original or Engrossed  
Versions are Considered Official***Prepared by: Kim To, Laurie Byerly  
Reviewed by: Laurie Byerly, Linda Ames  
Date: 7/3/2013**Measure Description:**

Expands scope and duties of Long Term Care Ombudsman to include adult foster homes, and to address needs of residents of care facilities who have mental illness or developmental disabilities. Renames Long Term Care Advisory Committee as Residential Facilities Advisory Committee and increases committee membership.

**Government Unit(s) Affected:**

Office of the Long-Term Care Ombudsman, Department of Human Services, Oregon Health Authority

**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.

**Summary of Expenditure Impact – Long Term Care Ombudsman:**

	2013-15 Biennium	2015-17 Biennium
General Fund		
Personal Services	406,973	1,143,344
Services and Supplies	178,515	386,107
<b>Total Funds</b>	<b>\$585,488</b>	<b>\$1,529,451</b>
Positions	7	8
FTE	2.81	7.50

**Analysis:**

Senate Bill 626 expands the duties of the office of the Long Term Care Ombudsman (LTCO) to advocate for residents of care facilities who have mental illness or developmental disabilities. The legislation also makes changes to the Long Term Care Advisory Committee, which is responsible for monitoring the Long Term Care Ombudsman Program and producing an annual program report. The bill expands the committee's scope, renames it the "Residential Facilities Advisory Committee", and increases the committee's membership from seven to nine members. The bill is effective July 1, 2014.

LTCO estimates there are approximately 7,600 persons living in 1,816 licensed adult foster homes and group homes in Oregon serving persons with developmental disabilities and mental illness. To provide the subject matter expertise needed to develop and refine the expanded program, the agency would add one permanent full-time Program Analyst 4 position. Based on the Ombudsman's experience in supervising over 200 volunteers visiting over 2,320 licensed long term care facilities, the LTCO would use the same model to support this program. Five full-time require deputy ombudsman positions (Program Analyst 2 classification) would ultimately be needed to work with approximately 125 new certified volunteers. Consistent with an expected gradual ramp-up for the new program, four of these positions would be phased in over the last 12 months of the 2013-15 biennium, with the fifth position phased-in at the start of the 2015-17 biennium.

A half-time Volunteer Recruiter position (Program Analyst 1) would also be required to develop and maintain volunteer ranks and an Administrative Specialist would help support the new program, staff, volunteers, and expanded committee. The associated fiscal impact for this work is anticipated to be

\$585,488 General Fund and seven positions (2.81 FTE) for the last 12 months of 2013-15 biennium; and \$1,529,451 General Fund and eight positions (7.50 FTE) for the 2015-17 biennium.

LTOC's fiscal impact includes one-time (equipment, training) and ongoing (rent, travel) costs associated with almost doubling the agency's size. In addition, the fiscal addresses costs for the facility poster required under the bill and for per diem/expenses attributable to the two new committee members.

The Department of Human Services (DHS) and the Oregon Health Authority (OHA) are required to provide LTCO, at least quarterly, bed counts for each of the residential facilities under the LTCO's scope of responsibility. This reporting is expected to have little to no fiscal impact on either agency.

The bill changes the current disposition of civil penalties recovered from residential facilities and adult foster homes. Currently, these penalties are deposited into the Quality Care Fund, and can be used by DHS for training, technical assistance, quality improvement initiatives, and licensing activities. Under SB 626-A, the civil penalties associated with residential facilities and adult foster homes that serve persons with mental illness or developmental disabilities would instead go into the Long Term Care Ombudsman Account. Statute allows the LTCO to use funds in this account, which are budgeted with Other Funds expenditure limitation, to carry out any program responsibilities.

The most recent estimate for this disposition change is that about \$2,750 per month in civil penalties would be redirected from the Quality Care Fund to the LTCO account. The amount associated with civil penalties for mental health providers is unknown. Since the number of, timing of, and cash flow for these civil penalties fluctuate and are somewhat indeterminate, this fiscal impact statement does not identify a specific amount for expenditure in 2013-15. However, once revenues accrue and civil penalty trends solidify, these revenues could be budgeted in future biennia to offset or augment agency General Fund expenditures.

While the change will divert future revenues from the Quality Care Fund, the fiscal impact on DHS programs and expenditures is indeterminate. The fund was created in 2009 to provide training to providers and improve quality of care. However, while some expenditures have been covered by the fund, no consistent spending patterns from the fund have been established. The fund's current balance of about \$1.4 million has been identified by the Legislative Fiscal Office as a potential resource for use within the 2013-15 budget.

**PROPOSED AMENDMENTS TO  
A-ENGROSSED SENATE BILL 626**

1 On page 8 of the printed A-engrossed bill, line 12, delete “providing” and  
2 insert “licensed to provide”.

3 In line 14, delete “providing” and insert “licensed to provide”.

4 On page 9, after line 11, insert:

5 **“SECTION 19. The amendments to ORS 410.550, 441.100, 441.103,  
6 441.109, 441.113, 441.117, 441.121, 441.124, 441.127, 441.131, 441.133, 441.137,  
7 441.142, 441.146, 441.153, 443.455 and 443.825 by sections 1 to 17 of this  
8 2013 Act and the repeal of ORS 441.147 by section 18 of this 2013 Act  
9 become operative on July 1, 2014.”.**