

# FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2671

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session  
Legislative Fiscal Office

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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## **Measure Description:**

Creates State Office of the Public Guardian and Conservator to provide public guardian and conservator services for persons without relatives or friends willing or able to serve as guardians or conservators.

## **Government Unit(s) Affected:**

Oregon Judicial Department (OJD), Department of Justice (DOJ), Oregon State Police (OSP), Legislative Fiscal Office (LFO), Department of Administrative Services (DAS)

## **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 2671 creates a new state agency, the State Office of the Public Guardian and Conservator (SOPGC), to provide public guardian and conservator services for Oregonians who do not have relatives or friends willing or able to assume the duties of guardian or conservator, and who lack the financial resources to obtain private fiduciary services. The administrative head of this new state agency will be appointed by the Governor. The administrative head is authorized to adopt rules, hire staff, and enter into professional contracts to carry out the duties of the office.

## The State Office of the Public Guardian and Conservator (SOPGC)

The fiscal impact of creating this new state agency is indeterminate depending on the number of clients served, and how the newly appointed administrative head decides to staff and operate this new state agency. The following rough estimates and information contained in this fiscal are meant to serve as a point of reference for further analysis upon receipt of a more concrete plan for the agency. Extrapolating from a variety of benchmark sources from within Oregon state government, and counties, as well as information from other states with existing public guardian and conservator programs, the fiscal impact of creating this new state agency could range roughly from \$1.9 million to \$3.7 million depending on an amalgamation of factors including:

### Number of Clients/Wards

The bill stipulates that the courts may not appoint this new office as fiduciary for an individual unless the office has petitioned for the appointment; therefore the office has some control over the number of clients/wards served. The state will only serve as a guardian of last resort for wards who do not have relatives or friends willing or able to assume the duties of guardian or conservator, and who lack the financial resources for private fiduciary services. This bill is a result of the work of the Joint Interim Task Force on Public Guardian and Conservator, established by HB 2237 (2011). Although this task force has data to suggest that the unmet need is significantly higher, the task force believes 250 to 300 clients/wards served annually by the SOPGC is an attainable starting target. Solely for consistency in discussion, the calculations in this fiscal are based on this target number of 250 to 300 clients/wards served annually provided by the task force.

### Staffing

The bill authorizes the administrative head of this agency to adopt rules, hire staff, and enter into professional contracts to carry out the duties of the office. Section 4 of the bill stipulates some of the services that SOPGC must provide. In addition to guardian and conservator skill sets (which include legal, medical, real estate, accounting and other financial expertise), the staff will need training/education, volunteer recruitment/training/management, contract management, and fundraising skills. At this time, it is unknown how the administrative head will choose to staff and/or use contract professional services. The level of staffing would have an impact on how clients are served, as well as the number of clients served, and the guardian/conservator to client ratio. The Department of Human Services provided three possible scenarios for staffing models that totaled:

- 10 FTEs and \$1.9 million per biennium
- 14 FTEs and \$2.9 million per biennium
- 18 FTEs and \$3.7 million per biennium.

In addition, the Department of Administrative Services provided an independent scenario that totaled 12 FTEs and \$2.4 million per biennium.

In addition to the number of employees, this range for Personal Services, and related Services and Supplies could fluctuate depending on actual vendor responses to more concrete requests for proposals for products and services such as: (1) contracts with professional guardians/conservators; (2) case management software and service contracts; (3) storage rental for the secure custody of clients' possessions; and (4) research service to help the office locate and contact relatives. The bill requires SOPGC to conduct a needs assessment before filing a petition for appointment of a fiduciary. One requirement of the needs assessment is locating and inquiring on whether any other person may be willing and able to serve as the potential client's guardian or conservator. The bill also requires SOPGC to create and execute a plan outlining the type and duration of services to be provided by the office to each person determined to be eligible for public guardian and conservator services. Furthermore, the new office may incur other expenses yet unidentified. For example: note that although the bill stipulates that a court may not charge SOPGC a fee for the filing of a petition or any other pleading by SOPGC, and prohibits the courts from ordering SOPGC to pay court costs or attorney fees in a proceeding brought on behalf of a SOPGC client, the bill is silent regarding the entity responsible for covering expenses such as court visitors. SOPGC may end up being held responsible for this and similar expenses.

### Advisory Committee

The bill establishes a seven-member Public Guardian and Conservator Advisory Committee to advise and monitor the work of SOPGC. The bill specifies that the members of this committee must meet at least once a month. ORS 292.495 allows the compensation and reimbursement of expenses of similar state board or commission to be subject to the availability of funds in the budget of that agency. If SOPGC chooses to reimburse members of this advisory committee, the cost would vary depending on the frequency and location of committee meetings, as well as the number and geographic location of commission members. In addition, many similar boards and committees chose to have meetings in differing locations throughout the state in order to provide access and enable stakeholder involvement statewide. Meeting costs for this advisory committee could include rental of facilities and equipment, as well as the cost of printing and distributing meeting documents. As a point of reference, note that mileage reimbursement alone for one member travelling from Medford to Portland for one meeting at the current rate is approximately \$400.

### Certification

HB 2671 requires SOPGC to certify staff and volunteers as public guardians and conservators. At this time, it is unknown how many individuals SOPGC will need to certify in a given biennium. In addition, it is unknown whether the new agency will use existing certifying entities or establish its own certification process. Currently, the Oregon Certified Professional Fiduciary Certification is a voluntary program. An individual must be a Nationally Certified Guardian through the Center for Guardianship Certification to become an Oregon Certified Professional Fiduciary. The application, exam and background check fees for certification is approximately \$575 per person, with a

recertification fee of \$250 required every three years. In addition, SOPGC will need staff and resources to track and manage the external certification of staff and volunteers. Alternatively, if SOPGC decides to establish its own certification process, the agency will need staffing and resources to implement and maintain this independent certification process.

#### Funding Source

Public conservator and guardian programs in other states are mostly funded with state general fund supplemented with other funds revenues from client fees, estate recovery, interests on trust accounts, foundation grants, and private donations. Some states supplement general fund by leveraging federal funds through Medicaid Targeted Case Management, and Social Services Block Grants. This bill allows SOPGC to solicit and accept gifts, grants and donations from public and private sources. At this time, it is unknown if SOPGC will be able to obtain moneys from these other funds and federal funds resources.

#### Department of Justice (DOJ)

Extrapolating from the caseload of the public guardianship and conservatorship program in Multnomah county, the Department of Justice estimates the fiscal impact of this bill to be approximately \$336,586 and 1.50 FTEs per biennium. If this bill passes, DOJ anticipates establishing two positions: One full-time Assistant Attorney General to handle the probate contested cases and motion practice; and one half-time Legal Secretary to schedule and prepare motions and pleadings.

#### Oregon Judicial Department (OJD)

The fiscal impact of this bill on state courts is indeterminate depending on the number and scope of petitions filed by SOPGC in a given biennium. The bill stipulates that a court may not charge a fee for the filing of a petition or any other pleading by SOPGC. The bill also prohibits the court from ordering SOPGC to pay court costs or attorney fees in a proceeding brought on behalf of a SOPGC client. The Judicial Department reports that the current average cost for a probate case, which includes guardianship and conservatorship cases, is approximately \$298 per case. Assuming a target number of 250 to 300 petitions a year, OJD estimates the biennial impact to average between \$123,041 and \$164,054 a biennium.

#### Oregon State Police (OSP)

The bill requires individuals providing authorized public guardian and conservator services, or has personal contact with a client/ward through SOPGC to undergo a criminal records check, including fingerprint identification. OSP anticipates absorbing this increase in workload with existing staff and resources.

#### Department of Administrative Services (DAS) and Legislative Fiscal Office (LFO)

As a new state agency, the State Office of the Public Guardian and Conservator's budget will be subject to Executive Branch review, and approval or modification by the Legislative Assembly. DAS and LFO will use existing staff and resources to absorb this increase in workload.