

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2671 - A

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
Reviewed by: Laurie Byerly, Steve Bender, Monica Brown
Date: 5/14/2013

Measure Description:

Establishes the Office of the Public Guardian and Conservator within the Office of the Long-Term Care Ombudsman 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:

Long Term Care Ombudsman, Oregon Judicial Department (OJD), Department of Justice (DOJ), Oregon State Police (OSP)

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 A-Engrossed establishes Office of the Public Guardian and Conservator (OPGC), within the Long Term Care Ombudsman (LTCO). The OPGC is charged with (1) providing 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; (2) educating the public about public guardian and conservator services; (3) certifying deputy guardians and conservators; (4) developing model standards of conduct and practice for guardians and conservators; (5) developing and implementing a training program for deputy guardians and conservators; (6) recruiting, training and supervising volunteers; (7) establishing a process to determine eligibility of persons to receive public guardian and conservator services; (8) cooperating with county guardian and conservator offices; (9) working with existing programs to develop and expand guardian and conservatorship programs in Oregon; and (10) making recommendations to the legislature.

Long-Term Care Ombudsman (LTCO)

The fiscal impact of this bill to the Long Term Care Ombudsman is anticipated to be \$462,421 General Fund, and 2.25 FTE for the 18 months of 2013-15 biennium; and \$709,045 General Fund, and 3.00 FTE for the 2015-17 biennium. The bill provides for the appointment of a full-time Public Guardian and Conservator, and the hiring of one full-time Deputy Guardian and Conservator, and one administrative staff position.

The Legislative Fiscal Office notes that the fiscal impact on LTCO is an estimate for the start-up of the Office of the Public Guardian and Conservator. It contains essentially the Personal Services, and related Services and Supplies for the establishment of three additional staff positions within the Long Term Care Ombudsman to launch the Office of the Public Guardian and Conservator. As OPGC/LTCO develop the standards of operations and practices for providing public guardianship and conservatorship, the agency may incur other expenses not fully accounted for in the ombudsman's fiscal estimate, including:

Services & Supplies, Special Payments

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 OPGC 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 OPGC 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, although the bill stipulates that a court may not charge OPGC a fee for the filing of a petition or any other pleading by OPGC, and prohibits the courts from ordering OPGC to pay court costs or attorney fees in a proceeding brought on behalf of a OPGC client, the bill is silent regarding the entity responsible for covering expenses such as court visitors. OPGC may end up being held responsible for this and similar expenses.

Certification

HB 2671 requires OPGC to certify staff and volunteers as public guardians and conservators. At this time, it is unknown how many individuals OPGC 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, OPGC will need staff and resources to track and manage the external certification of staff and volunteers. Alternatively, if OPGC decides to establish its own certification process, the agency will need staffing and resources to implement and maintain this independent certification process.

Department of Justice (DOJ)

Department of Justice estimates roughly 175 hours of attorney time to provide guidance, establish rules and procedures for the new OPGC. While the department will carry out this work with existing staff, the estimated Attorney General cost to OPGC is \$65,798 for the 2013-15 biennium. Attorney General fees are included in the Long Term Care Ombudsman's estimates. The fiscal impact of this bill on DOJ for the 2015-17 biennium is indeterminate depending on the number of clients OPGC will serve by the 2015-17 biennium.

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 OPGC 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 OPGC. The bill also prohibits the court from ordering OPGC to pay court costs or attorney fees in a proceeding brought on behalf of an OPGC 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.

Oregon State Police (OSP)

The bill requires individuals providing authorized public guardian and conservator services, or has personal contact with a client/ward through OPGC to undergo a criminal records check, including fingerprint identification. OSP anticipates absorbing this increase in workload with existing staff and resources. Note that the 2011 Legislature approved a \$47.25 administratively established fee for criminal background checks. All criminal background fees would be collected by OPGC/LTCO and passed through to the Oregon State Police.