

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 1542 - A2**Seventy-Seventh Oregon Legislative Assembly – 2014 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***Prepared by: Kim To
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Date: 2/25/2014**Measure Description:**

Allows private payers to hire home care workers through registry maintained by Home Care Commission.

Government Unit(s) Affected:

Department of Human Services (DHS), Oregon Employment Department (OED), Employment Relations Board (ERB)

Summary of Expenditure Impact:

Department of Human Services (DHS)

	2013-15 Biennium	2015-17 Biennium
General Fund	\$1,281,297	
Other Funds		16,714,208
Total Funds	\$1,281,297	\$16,714,208
Positions	5	5
FTE	1.41	5.00

Summary of Revenue Impact:

Department of Human Services (DHS)

	2013-15 Biennium	2015-17 Biennium
General Fund		
Other Funds		17,884,202
Total Funds	\$0	\$17,884,202

Funding for this bill will be included in the 2014 budget reconciliation bill.

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:

Senate Bill 1542 with the – A 2 amendment requires the Home Care Commission to establish and administer the Private Pay Consumer program to enable private individuals to purchase in-home care services from the Commission through the Home Care Registry. The bill directs the Home Care Commission to create a subcommittee of the commission to define and establish new classifications of in-home care workers. This subcommittee sunsets on January 1, 2015. The bill requires the private pay program to be operative by July 1, 2015; and implemented by January 1, 2016. The bill contains an emergency clause, and is effective on passage.

Department of Human Services (DHS)

Note that the calculations for this fiscal are rough estimates based on projections for a new endeavor. Due to time constraints, the Department of Human Services did not have an opportunity to perform market research to quantify the potential demand for private pay services. Extrapolating from

Multnomah county data, DHS based these calculations on the assumption that in year one of operation (2016), the Private Pay Consumer program would average 162 private pay clients who require an average of 30 hours of care per week, and build to an average of 300 clients by the second year of the program (2017).

The Department of Human Services (DHS) estimates startup costs for this program to be \$1,281,297 General Fund, and 1.41 FTEs for the 2013-15 biennium. Startup costs include:

IT contract for the expansion of the Home Care Registry, including developing an assessment tool, service plan and contract, and payment system integration	\$575,000
Translation fees for the assessment tool, service plan and contract, Private Pay Consumer guide, and other materials required by the American with Disabilities Act (ADA)	\$40,000
Marketing and communication strategy, development and implementation	\$275,000
Materials printing/publication, and Office Expenses	\$50,000
Professional Services and Attorney General Fees	\$20,000
Office Expenses	5,000
Personal Services, and related Services & Supplies for the establishment of five new positions	\$316,297
TOTAL Startup costs	\$1,281,297

To carry out the provisions of the bill, DHS anticipates establishing the following five positions, and assumes the implementation of the program by July 1, 2015 as required by the bill:

- Operations and Policy Analyst 4 to oversee the overall operations of the Private Pay Consumer program – starting date July 1, 2014
- Fiscal Analyst 3 to manage the budget and fiscal activities of the program. This position will coordinate the development and implementation of rules, policies, and guidelines that identify the type and scope of homecare services that will be available to private pay consumers; and manage the request for proposals (RFP) process to contact with marketing consultants to publicize the program, as well as intermediary services to process private pay homecare workers payments on behalf of private pay consumers – starting date July 1, 2014
- Operations and Policy Analyst 2 will support the development and update administrative rules and program materials, conduct periodic evaluations of private pay in-home care workers, maintain applications and contracts, and collaborate with community partners – starting date January 1, 2015
- Accounting Tech to setup and maintain contract ledgers and account codes for each enrolled private pay consumer, and track payments – starting date May 1, 2015
- Administrative Specialist 1 to coordinate the distribution of program and administrative materials, and provide administrative support to the Private Pay Consumer program team – starting date May 1, 2015

The Department of Human Services (DHS) estimates the on-going cost for the program to be \$16,714,208 Other Funds, and 5.00 FTEs for the 2015-17 biennium. On-going costs include:

Payroll costs for private pay in-home care workers*	\$14,828,118
Fiscal Intermediary Services for payments to private ay in-home care workers	\$527,250
IT contract for the maintenance and upgrade of Private Pay Register	\$175,000
Translation fees for the assessment tool, service plan and contract, Private Pay Consumer guide, and other materials required by the American with Disabilities Act (ADA)	\$15,000
Materials printing and publication costs	\$300,000
Professional Services and Attorney General Fees	\$20,000
Office Expenses	5,000
Personal Services, and related Services & Supplies	\$843,840
Total On-going	\$16,714,208

*To comply with the private pay in-home care workers employment and compensation provisions of the bill, calculations for payroll costs for private pay in-home care workers include projected wages, FICA, federal and state unemployment taxes, worker's compensation, and health insurance benefits. In-home care workers are not eligible to participate in the Public Employees Retirement System (PERS), the Oregon Public Service Retirement Plan (OPSR), or the Public Employees' Benefit Board (PEBB). These costs are not included in this fiscal.

The bill requires private pay consumers to pay the Private Pay program in advance for services. The bill authorizes the Home Care Commission to establish payment rates to generate sufficient revenue to reimburse up to 107% of the costs associated with the program. Revenue projections are based on a private pay rate of \$24.79 hourly, and the assumption that the program will achieve 721,500 participant hours.

The – A2 amendment ensures that the state incurs no liability for the costs of the private pay in-home care program by specifying that (1) the commission may modify private payer payment rates, if revenue generated by payments as outlined by the bill is insufficient to cover the costs of the program; and (2) if modifying payments will not generate sufficient revenue to pay the costs of the program, the commission may suspend the program following 30 days advance written notice to private payers and home care workers participating in the program.

Oregon Employment Department (OED)

The fiscal impact to the Employment Department is indeterminate. The bill considers private pay in-home care workers to be state employees for unemployment insurance purposes. If this bill becomes law, the Employment Department anticipates a number of individuals who are currently employees of private parties would transition to employees of the state for purposes of unemployment insurance. This could potentially reduce unemployment insurance taxes paid by private parties, and increase the reimbursements made by the state for unemployment benefits. At this time, OED cannot predict the number of employees who will transition from private parties to state employees, or the number of individuals who will apply for unemployment benefits.

Employment Relations Board (ERB)

The fiscal impact to Employment Relations Board is indeterminate. The bill considers private pay in-home care workers to be employees of the state for collective bargaining purposes. Currently, under the Public Employees Collective Bargaining Act (PECBA), all home care workers are state employees. At this point, ERB cannot predict if this new group of private pay in-home care workers will be part of the existing bargaining unit, will be unrepresented, or will become a separate bargaining unit. If a new group of workers results in a separate bargaining unit, and this group petitions to be a part of a bargaining unit, ERB would be required to initiate an election process. If an election is necessary, ERB could incur additional expenses to carry out the election. Whether or not passage of this bill will result in a new bargaining unit depends on the work and decision of the yet to be established subcommittee, and the decision of the new group of private pay in-home care workers.

The Department of Administrative Services (DAS)

The fiscal impact to the Department of Administrative Services is indeterminate. DAS assumes that the Department of Human Services will hire a negotiator to bargain with this new group of private pay in-home care workers. Therefore, there is no impact on the Labor Relations Unit. However, the bill directs the Home Care Commission to create a subcommittee to define and establish new classifications of home care workers. If the state is determined to be the employer of this new group of private pay in-home care workers, then, by statute, the classification determinations would become the responsibility of DAS Classification and Compensation Unit. Without knowing this outcome or the number of workers affected, DAS cannot project the potential workload impact on the Classification and Compensation Unit.