

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 136 - A

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office

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

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Measure Description:

Provides that franchisee or subfranchisor is not employee of franchisor if franchise is subject to state or federal law, if franchisee or subfranchisor obtains license, registration or other authorization required under federal, state or local law to operate franchise and if franchisee or subfranchisor is business entity formed under laws of, or authorized to do business in, this state or is sole proprietor of business in, and resident of, this state.

Government Unit(s) Affected:

Department of Consumer and Business Services (DCBS)

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 bill amends the state’s franchise disclosure laws to exempt franchisees from the definition of an employee. The bill requires franchises to remain compliant with state law and federal regulation regarding disclosures of franchise documents in order to remain exempt from the definition of employee. Franchisees are required to hold any necessary license, registration or other authorization to do business in the state in order to be exempt from the definition of employee and franchisees are required to either incorporate in this state or obtain an authorization to do business in this state in order to be exempt from the definition of employee. Additionally, a franchisor can’t defend against a claim from a franchisee that states they are an employee if the franchisor violates the Federal Trade Commission act or engages in an unlawful practice under ORS 646.608. A franchisee or sub-franchisor is also required to file a copy of the franchise that includes a signed statement in which the parties to the franchise attest that they understand and agree to the terms.

Due to the ambiguity in the bill relating to the role of the Department of Consumer and Business Services (DCBS) the fiscal impact is indeterminate. It is likely that DCBS will incur costs associated with rule making and possibly need additional positions to investigate complaints and take administrative action when questions arise about an employment relationship between a franchisor and a franchisee.