

BUDGET REPORT AND MEASURE SUMMARY

CARRIER: Sen. Burdick

Joint Committee On Ways and Means

Action: Do Pass The A-Eng Bill.

Action Date: 07/03/15

Vote:

Senate

Yeas: 11 - Burdick, Devlin, Girod, Hansell, Johnson, Monroe, Roblan, Shields, Steiner Hayward, Whitsett, Winters

Nays: 1 - Thomsen

House

Yeas: 11 - Buckley, Gomberg, Huffman, Komp, McLane, Nathanson, Rayfield, Read, Smith, Whitsett, Williamson

Nays: 1 - Whisnant

Prepared By: Michelle Deister, Legislative Fiscal Office

Reviewed By: Linda Ames, Legislative Fiscal Office

Agencies: Various

Biennium: 2015-17

Budget Summary*

	2013-15 Legislatively Approved Budget ⁽¹⁾	2015-17 Current Service Level	2015-17 Committee Recommendation	Committee Change from 2013-15 Leg. Approved	
				\$\$ Change	% Change
<u>Oregon Liquor Control Commission</u>					
Other Funds	\$ -	\$ -	\$ 8,332,933	\$ 8,332,933	
<u>Oregon Health Authority</u>					
Other Funds	\$ -	\$ -	\$ 6,693,787	\$ 6,693,787	
<u>Department of Human Services</u>					
Other Funds	\$ -	\$ -	\$ 386,411	\$ 386,411	
<u>Department of Revenue</u>					
Other Funds	\$ -	\$ -	\$ 1,864,453	\$ 1,864,453	
<u>Department of Agriculture</u>					
Other Funds	\$ -	\$ -	\$ 212,641	\$ 212,641	

Position Summary

Oregon Liquor Control Commission

Authorized Positions	0	0	30	30
Full-time Equivalent (FTE) positions	0.00	0.00	24.91	24.91

Oregon Health Authority

Authorized Positions	0	0	37	37
Full-time Equivalent (FTE) positions	0.00	0.00	23.25	23.25

Department of Human Services

Authorized Positions	0	0	3	3
Full-time Equivalent (FTE) positions	0.00	0.00	2.59	2.59

	2013-15 Legislatively Approved Budget ⁽¹⁾	2015-17 Current Service Level	2015-17 Committee Recommendation	Committee Change from 2013-15 Leg. Approved	
				\$\$ Change	% Change
<u>Department of Revenue</u>					
Authorized Positions	0	0	6	6	
Full-time Equivalent (FTE) positions	0.00	0.00	3.15	3.15	
<u>Department of Agriculture</u>					
Authorized Positions	0	0	1	1	
Full-time Equivalent (FTE) positions	0.00	0.00	1.00	1.00	

⁽¹⁾ Includes adjustments through December 2014

* Excludes Capital Construction expenditures

Summary of Revenue Changes

The Oregon Health Authority anticipates revenues from licensing fees on medical marijuana growers and processors to be approximately \$4 to \$5 million during the 2015-17 biennium.

The Department of Revenue's expenses are funded from gross marijuana tax proceeds received by the Department with the remainder to be deposited into the Oregon Marijuana Account as directed under House Bill 2041. There is no statutory cap on the level of administrative and enforcement expense that the Department may retain.

Revenue to support OLCC regulatory functions will be recovered from licensees after startup costs borrowed from the liquor fund are fully repaid with Marijuana Tax proceeds. The recommended budget anticipates an estimated average license fee of between \$4,000-\$4,500 on recreational marijuana licensees, which include growers, wholesalers, processors, and retailers. In addition, marijuana handlers will pay a license fee to cover costs of an education program and background check; this construct is similar to what is required of liquor servers. Licenses are on an annual basis, and revenue is estimated to begin to materialize in April of 2016.

Summary of Capital Construction Subcommittee Action

This budget bill includes Other Funds expenditure limitation necessary for a number of agencies to implement House Bill 3400, House Bill 2041, Senate Bill 460 and Senate Bill 844, all related to marijuana programs. The affected agencies include the Oregon Liquor Control Commission,

Oregon Health Authority, Department of Human Services, Department of Revenue, and Department of Agriculture. The Subcommittee approved a total of \$17.5 million Other Funds expenditure limitation across the five agencies, and approved 77 positions (54.90 FTE). Specific agency details are described below.

Oregon Liquor Control Commission

A total of \$1,339,610 Other Funds expenditure limitation for Measure 91 start-up costs in the current biennium were approved by the December 2014 Emergency Board (\$583,000 and 4 positions) and via approval of Senate Bill 5543 the 2013-15 budget reconciliation bill passed in March of 2015 (\$756,610 and three positions), respectively. The budget approved by the Subcommittee for the Oregon Liquor Control Commission (OLCC) assumes continuation of these 7 positions, as well as phased-in costs related to inspectors, accountants, administrative assistants, and services and supplies costs.

The approved budget for the 2015-17 biennium is \$3.8 million Other Funds for personal services, \$4.5 million Other Funds for services and supplies and 30 positions (24.91 FTE). Personnel carried forward from 13-15 include the program manager, three operations and policy specialists, a compliance specialist, administrative support, and a public affairs specialist. This was augmented with the following:

- Eleven regulatory specialists (inspectors – four of which are limited duration) to be phased in as licensing infrastructure comes on line;
- A phased-in compliance specialist, responsible for handling appeals on license denials and violations, also limited duration;
- A Compliance Specialist to manage product labeling standards and testing lab certification;
- Four accounting staff, also phased in, and responsible for the following:
 - Insurance bonding requirements of those liable for tax payments – though OLCC isn't responsible for collecting the tax, bonding responsibilities still fall to OLCC under HB 3400;
 - Auditing functions related to traceability system related to agency compliance efforts
 - Licensing fee payment and administration of the Marijuana Control and Regulation Fund
 - Support to the Department of Revenue providing traceability system information to support marijuana tax collection accuracy.
- Three administrative support personnel, responsible for licensing services, hearings and violations;
- A limited duration human resources analyst;
- A limited duration compliance specialist related to manage appeals related to licensing denials and violations; and
- A procurement and contract specialist for the additional services and supplies that will be required by the agency's additional employees.

One-time services and supplies costs included in the recommended budget are:

- Development, procurement and management of the agency's traceability system amounting to \$1.9 million;
- Office set up for new employees;
- Purchase of vehicles for additional enforcement staff and inspections;
- Repayment of start-up costs incurred in the 2013-15 biennium; and
- Consulting costs related to expertise in product labeling, impairment, and other specialty information needs.

Ongoing costs include OLCC administrative overhead, IT systems maintenance and licensing, Department of Justice costs, state government service charges, and additional expenses in telecommunications, travel, and employee training due to the number of new staff.

It should be noted that the number of licensees may be influenced by licensing fee amounts levied; in turn, the total number of licensees will influence the fee amount (e.g. the more licensees over which to spread costs, the lower the individual fees). The recommended budget for OLCC assumes 749 licenses, not including marijuana handlers, and is anticipated to result in an estimated average fee of approximately \$4,500.

The following budget note is recommended:

Budget Note

When setting fees for the recreational marijuana program, the Oregon Liquor Control Commission shall consider the following:

- Fees charged should provide for sustainable operations in the 2017-19 biennium and beyond;
- Fees charged should consider the relative size and scale of operation for all classes of licenses (growers, processors, wholesalers and retailers); and
- Fees charged to licensees should not be lower than those charged by the Oregon Health Authority for equivalent medical marijuana license classes.

The Oregon Liquor Control Commission shall report quarterly to the Legislative Fiscal Office on the number of license applications, the number of licenses approved, fee amounts received, marijuana program expenditures, and progress on implementing technology initiatives associated with the recreational marijuana program.

Oregon Health Authority

The Subcommittee approved a budget for the Oregon Health Authority (OHA) medical marijuana program that includes \$5.8 million Other Funds expenditure limitation and 25 positions (19.58 FTE) that will be paid using fee revenues generated by licensing growers, processors, and dispensaries. A portion of the expenditures (\$1.3 million) will be passed through to Shared Services in both OHA and the Department of Human Services to support positions in the Office of Information Services and the Background Check Unit (15 positions and 6.26 FTE).

Staffing is included to do inspections and enforcement related to grow sites, processors, and dispensaries, including work related to the early start of retail sales in dispensaries. Fourteen full-time Compliance Specialists positions (11.17 FTE) are included to do this work. The three positions related to the early start of retail sales in dispensaries are limited duration.

The approved budget includes staff to manage the program, including policy, rule-making, communication and education. Other staff will ensure the accountability of tracking and product reporting, including the monitoring and tracking of necessary fiscal and auditing functions, as well as conduct data analysis and process improvement. The budget includes 10 full-time permanent positions (8.19 FTE) for these functions. One additional limited duration position (0.22 FTE) is included to staff the Task Force on Medical and Public Health Research of Cannabis, as required in Senate Bill 844. The agency has made their best estimate of specific position classifications needed for the various functions. However, as they implement the program they may find that they need a somewhat different mix of classifications.

OHA anticipates using the OLCC tracking system, rather than building their own. The agency expects to pay OLCC roughly \$300,000 for the use of the system during the 2015-17 biennium, although this estimate is preliminary. Other costs include system work related to reporting, as well as the development of a licensing system to handle growers, processors and dispensaries. A total of 12 positions (3.67 FTE) in the Office of Information Services and \$0.9 million Other Funds expenditure limitation will be needed during the 2015-17 biennium. Only four positions will continue into the 2017-19 biennium. It should be noted that discussions between OHA and OLCC regarding the use of the tracking system are at a very preliminary stage. At this point OHA is hopeful that this arrangement will work, but it is possible that additional constraints may be identified at a later date.

The budget includes \$0.4 million Other Funds and three positions (2.59 FTE) in the Department of Human Services Shared Services, to conduct background checks.

The agency expects to use a portion of the current ending balances for the existing medical marijuana program and dispensary program, in order to start work on implementing these new responsibilities before fee revenues are received. The agency expects to report back to the Joint Committee on Ways and Means during the 2016 legislative session on program implementation, including expenditures and fee levels, and the program budget can be adjusted as needed at that time.

Department of Human Services

The approved budget includes \$0.4 million Other Funds and three positions (2.59 FTE) in the Department of Human Services Shared Services, to conduct background checks. This will be paid by the Oregon Health Authority.

Department of Revenue

The Subcommittee approved a \$1,864,453 Other Funds expenditure limitation increase and the establishment of the following permanent full-time positions: one Operations and Policy Analyst 2 (0.83 FTE) and one Operations and Policy Analyst 3 (0.83 FTE) for program development; one Economist 3 for data analysis (0.25 FTE); one Accountant 3 for revenue receipts and distributions (0.19 FTE); and one Administrative Specialist 2 for tax return processing (0.67 FTE). One limited duration Public Affairs Specialist 2 position for education and outreach (0.38 FTE) was also established. Personal service costs total \$511,214 with associated services and supplies of \$232,993 and capital outlay of \$20,246. The 2017-19 roll-up costs total \$1,153,321 Other Funds and include five positions (3.75 FTE).

Additionally, \$1.1 million of Other Funds expenditure limitation was established for adding point-of-sale functionality to the Department's ongoing Core Systems Replacement project (CSR), which is a commercial-off-the-shelf product. This is a one-time expenditure for a vendor payment that is to be phased-out of the agency 2017-19 biennial budget. This is funding in addition to, and to be tracked separate from, the Article XI-Q bond funding for the CSR project, which is the primary source of funding for all four phases of the project.

Ongoing contracted vendor operations and maintenance cost is estimated to be \$100,000 for the 2015-17 biennium and \$200,000 for the 2017-19 biennium. Additionally, the CSR point-of-sale functionality may require contract changes and additional costs for project management, organizational change management, and independent quality assurance services. Such costs may need to be part of a separate budget request, once final costs are determined.

The Department of Administrative Services is requested to unschedule \$1.1 million of expenditure limitation related to the CSR project that may only be scheduled upon the joint approval of the Office of the State Chief Information Officer and the Legislative Fiscal Office, after a more detailed evaluation of the information technology implementation plan for this project enhancement.

The CSR point-of-sale functionality would be implemented by January 1, 2017, as part of the project's Phase-III roll-out. Even though the bill specifies that the tax is effective January 2016 for retail sales, it is assumed that retail sales will not begin until the fourth quarter of 2016, as that is anticipated to be when legal marijuana would likely first be available for sale at licensed retail establishments. The Department will begin processing tax returns from medical dispensaries one quarter after the October 2015 start date or January 4, 2016. From that date until the January 1, 2017 Core Systems Replacement project implementation, tax returns will be processed manually using legacy information technology applications.

The Department anticipates a high compliance rate by marijuana retailers due to licensure requirements and other regulatory authorities of Oregon Liquor Control Commission; therefore no resources are added for enforcement. Additionally, no new resources were added for revenue collection activities, which the Department states can be absorbed within its current budget.

The agency may require additional Other Funds expenditure limitation in addition to the amount approved by the Subcommittee to process tax payments made in cash. Federal banking restrictions limit the ability of marijuana businesses to obtain bank accounts. Therefore, most, if not all, tax payments under the measure will likely be in the form of cash, which will necessitate changes to the agency cash collection and handling procedures, which could include infrastructure upgrades for building (Salem or satellite office) security. Agency-wide administrative overhead charges were also not included in the Other Funds expenditure limitation approved by the Subcommittee.

Department of Agriculture

The Subcommittee approved a \$212,641 Other Funds expenditure limitation increase and the establishment of one Natural Resource Specialist 3 position (1.00 FTE) to serve as the Department of Agriculture's Marijuana Policy Analyst. The position will act as coordinator to work and consult with state agencies and others on marijuana issues as required by marijuana implementing legislation passed this session. \$25,000 Other Funds for Capital Outlay expenditures is added on a one-time basis. The position was added to the Administration Division as it will work on issues that touch all three of the agency's program areas including food safety, weights and measures, pesticides, laboratory testing, nurseries, interaction with other agricultural commodities, as well as market access and development. Revenue for the Other Funds comes through a transfer from the Oregon Liquor Control Commission.

DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION

HB 5047-A

Various Agencies

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
Oregon Liquor Control Commission									
<u>SUBCOMMITTEE ADJUSTMENTS</u>									
SCR 004 - Marijuana Regulation									
Personal Services	\$ -	\$ -	\$ 3,827,721	\$ -	\$ -	\$ -	\$ 3,827,721	30	24.91
Services and Supplies	\$ -	\$ -	\$ 4,505,212	\$ -	\$ -	\$ -	\$ 4,505,212	0	0.00
<hr/>									
SUBCOMMITTEE RECOMMENDATION *	\$ -	\$ -	\$ 8,332,933	\$ -	\$ -	\$ -	\$ 8,332,933	30	24.91
<hr/>									
Oregon Health Authority									
<u>SUBCOMMITTEE ADJUSTMENTS</u>									
SCR 020-06 - Public Health									
Personal Services	\$ -	\$ -	\$ 2,692,302	\$ -	\$ -	\$ -	\$ 2,692,302	24	19.36
Services and Supplies	\$ -	\$ -	\$ 1,695,232	\$ -	\$ -	\$ -	\$ 1,695,232	0	0.00
SCR 020-08 - Health Policy Programs									
Personal Services	\$ -	\$ -	\$ 44,057	\$ -	\$ -	\$ -	\$ 44,057	1	0.22
Services and Supplies	\$ -	\$ -	\$ 79,161	\$ -	\$ -	\$ -	\$ 79,161	0	0.00
SCR 010-45 - Shared Services									
Personal Services	\$ -	\$ -	\$ 757,891	\$ -	\$ -	\$ -	\$ 757,891	12	3.67
Services and Supplies	\$ -	\$ -	\$ 140,421	\$ -	\$ -	\$ -	\$ 140,421	0	0.00
SCR 010-50 - State Assessments and Enterprise-wide Costs									
Services and Supplies	\$ -	\$ -	\$ 518,954	\$ -	\$ -	\$ -	\$ 518,954	0	0.00
Special Payments	\$ -	\$ -	\$ 765,769	\$ -	\$ -	\$ -	\$ 765,769	0	0.00
<hr/>									
SUBCOMMITTEE RECOMMENDATION *	\$ -	\$ -	\$ 6,693,787	\$ -	\$ -	\$ -	\$ 6,693,787	37	23.25
<hr/>									
Department of Human Services									
<u>SUBCOMMITTEE ADJUSTMENTS</u>									
SCR 010-45 - Shared Services									
Personal Services	\$ -	\$ -	\$ 320,248	\$ -	\$ -	\$ -	\$ 320,248	3	2.59
Services and Supplies	\$ -	\$ -	\$ 66,163	\$ -	\$ -	\$ -	\$ 66,163	0	0.00
<hr/>									
SUBCOMMITTEE RECOMMENDATION *	\$ -	\$ -	\$ 386,411	\$ -	\$ -	\$ -	\$ 386,411	3	2.59
<hr/>									

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE	
			LIMITED	NONLIMITED	LIMITED	NONLIMITED				
Department of Revenue										
<u>SUBCOMMITTEE ADJUSTMENTS</u>										
SCR 001 - Executive Division										
Personal Services	\$	- \$	- \$	70,077 \$	- \$	- \$	- \$	70,077 \$	1	0.38
								-		
SCR 002 - General Services Division										
Personal Services	\$	- \$	- \$	45,242 \$	- \$	- \$	- \$	45,242 \$	1	0.25
								-		
SCR 003 - Administrative Division										
Personal Services	\$	- \$	- \$	30,225 \$	- \$	- \$	- \$	30,225 \$	1	0.19
								-		
SCR 006 - Business Division										
Personal Services	\$	- \$	- \$	365,669 \$	- \$	- \$	- \$	365,669 \$	3	2.33
Services and Supplies	\$	- \$	- \$	232,994 \$	- \$	- \$	- \$	232,994 \$		
Capital Outlay	\$	- \$	- \$	20,246 \$	\$	- \$	- \$	20,246 \$		
SCR 030 - Core Systems Replacement										
Personal Services	\$	- \$	- \$	- \$	- \$	- \$	- \$	-	0	0.00
Services and Supplies	\$	- \$	- \$	1,100,000 \$	- \$	- \$	- \$	1,100,000 \$		
<hr/>										
SUBCOMMITTEE RECOMMENDATION *	\$	- \$	- \$	1,864,453 \$	- \$	- \$	- \$	1,864,453 \$	6	3.15
<hr/>										
Department of Agriculture										
<u>SUBCOMMITTEE ADJUSTMENTS</u>										
SCR 010 - Admin and Support Services										
Personal Services	\$	- \$	- \$	160,377 \$	- \$	- \$	- \$	160,377 \$	0	0.00
Services and Supplies	\$	- \$	- \$	27,264 \$	- \$	- \$	- \$	27,264 \$	0	0.00
Capital Outlay	\$	- \$	- \$	25,000 \$	- \$	- \$	- \$	25,000 \$	0	0.00
<hr/>										
SUBCOMMITTEE RECOMMENDATION *	\$	- \$	- \$	212,641 \$	- \$	- \$	- \$	212,641 \$	1	1.00
<hr/>										