

**FISCAL IMPACT OF PROPOSED LEGISLATION****Measure: HB 2721**79th Oregon Legislative Assembly – 2017 Regular Session  
Legislative Fiscal Office***Only Impacts on Original or Engrossed Versions are Considered Official***Prepared by: Kim To  
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Date: 4/6/2017**Measure Description:**

Increases penalties for assault committed against flagger or highway worker who is performing official duties.

**Government Unit(s) Affected:**

Department of Corrections (DOC), District Attorneys and their Deputies, Judicial Department, Legislative Assembly, Criminal Justice Commission (CJC), Oregon Department of Transportation (ODOT), Public Defense Services Commission

**Analysis:**

House Bill 2721 expands the crime of assault in the third degree to include physical injury to flaggers and highway workers performing official duties. In addition, the bill creates a seven-member Task Force on Road Worker Safety charged with identifying ways to increase flagger and highway worker safety. The task force must report its findings and recommendations to the legislature by September 15, 2018. The bill takes effect on passage. The task force sunsets on December 31, 2018.

Department of Corrections (DOC)

<b>Agency -- Fund Type</b>	<b>2017-19 Biennium</b>	<b>2019-21 Biennium</b>
Department of Corrections -- General Fund		
Prison Cost	\$51,593	\$167,594
Special Payments	\$13,661	\$68,270
<b>Total Cost</b>	<b>\$65,254</b>	<b>\$235,864</b>

With passage of this bill, the Criminal Justice Commission (CJC) projects an additional five convictions of assault in the third degree a year. Using the conviction rates for Assault III from 2014 to 2016, CJC estimates about 33% would result in a prison sentence within a Department of Corrections (DOC) facility, 13% would be sentenced to local control, and the remainder or 54% would receive a probation sentence with an average length of 30 months.

DOC assumes a three-month lag between the bill's effective date and the date first offenders may be received. The Prison Cost amounts above reflect projected additional costs of incarceration within DOC. The Special Payments amounts above represent funds DOC would distribute to the community corrections departments of counties for the costs of probation, post-prison supervision, and local control. The estimated length of stay is assumed to be approximately 22 months in a DOC facility at a cost per day of \$110.34. DOC notes that this is the permanent bed rate, as there is no available emergency bed capacity. The estimated length of stay in local control is approximately 3 months, with an estimated 30 months of probation. The cost per day estimate for local control and probation is \$11.69 per offender.

HB 3194 (2013) requires a 10-year estimate of the fiscal impact for measures with an effect on crimes and sentencing. Using the conviction rate assumptions listed above, DOC anticipates the costs for the 2021-23 biennium to be \$307,691 General Fund, \$318,859 General Fund in 2023-25, and \$319,761 General Fund in 2025-27.

Oregon Judicial Department (OJD), Public Defense Services Commission (PDSC), Department of Justice (DOJ), District Attorneys and their Deputies

Expanding the crime of assault in the third degree to include physical injury to flaggers or highway workers is anticipated to result in additional felony cases in circuit court. However, the fiscal impact of those cases is anticipated to have a minimal fiscal impact to District Attorneys and their Deputies, OJD, PDSC, and DOJ.

Oregon Department of Transportation (ODOT)

ODOT is directed to provide staff support to the task force. This fiscal assumes that ODOT will reprioritize duties and responsibilities of existing staff to support the task force, including attending meetings and drafting the report to the legislature, as well as furnishing the task force with existing available data, information, advice, and other support.

Legislative Assembly

The bill specifies that non-legislative members of the task force serve as volunteers and are not entitled to compensation and reimbursement. However, two members of the task force will be legislative members who are entitled to per diem and travel reimbursement. The estimated per diem and travel reimbursement cost for the two legislative members is \$402 per day. This amount includes the Federal Insurance Contribution Act (FICA) tax, and assumes per diem remains at \$142 per day, and the average mileage of 90 miles at the current rate of \$0.535 per mile. Although the 2017-19 Legislative Assembly budget contains funds allocated for interim committee and task force, if the work required by this task force, or if the cumulative enactment of other legislation with interim committees and task forces exceeds expenditure levels beyond those assumed in the 2017-19 budget, additional General Fund resources may be required. The task force would not incur additional costs to the Legislative Assembly budget if the meetings are held at the Capitol building during Legislative Session, Task force or Legislative Days.