

Analysis

Item 23: Department of Human Services

Non-State Employee Collective Bargaining

Analyst: Laurie Byerly and Tom MacDonald

Request: Increase General Fund by \$22,560,757 and increase the Federal Funds expenditure limitation by \$44,333,947 for the Department of Human Services, and increase General Fund by \$570,974 and increase the Federal Funds expenditure limitation by \$880,298 for the Oregon Health Authority to cover estimated costs of non-state employee collective bargaining.

Analysis: The Department of Human Services (DHS) and the Oregon Health Authority (OHA) are requesting additional funding to cover costs of collective bargaining agreements for non-state workers. One affected group is approximately 2,800 adult foster home providers serving OHA clients receiving Mental Health (MH) services and DHS clients served by the Intellectual and Developmental Disabilities (IDD) or the Aging and People with Disabilities (APD) program. The other bargaining unit, made up of about 36,000 individuals, consists of Home Care Workers (HCWs), who care for DHS APD consumers, and Personal Support Workers (PSWs) serving DHS IDD clients. There are also about 500 PSWs serving OHA MH clients, however, the OHA budget need related to contract changes for these workers is relatively small and not part of the agencies' request; the request consists of:

- For adult foster homes serving OHA MH and DHS IDD clients, \$3.5 million General Fund and \$6.9 million total funds to pay for a 7.15% increase effective July 1, 2020. Funding to increase rates for adult foster homes serving DHS APD clients was already included in the agency's 2019-21 legislatively adopted budget.
- For HCWs and PSWs, a total of \$19.6 million General Fund and \$38.3 million Federal Funds will cover wage increases over the biennium and support an adjustment to offset wages forgone as these workers start to contribute 5% of their salaries to the Oregon Saves program beginning July 1, 2020. As of that date, a worker's hourly rate for standard levels of care will be \$15.77 per hour.

The 2019-21 legislatively adopted budget includes \$20 million General Fund for non-state employee compensation issues, which is currently appropriated to the Emergency Board as a special purpose appropriation. However, the agencies' General Fund request exceeds that amount by \$3,131,713, which is a direct result of collective bargaining agreement language around the Oregon Saves contribution. The contract acknowledges the projected overage and states, "DHS and SEIU will work together collaboratively to secure three million dollars from the legislature, during the February 2020 legislative session to help fund this retirement contribution." Similar to recent dynamics in state employee collective bargaining (Item #19), this is another example of an executive branch bargaining outcome that seems disconnected from budget and fiscal processes. The contract language explicitly directing the agency to ask for more money also appears to set a poor precedent.

Setting aside process concerns, the collective bargaining agreements driving these costs are already in place and impacting the agency's budget. Accordingly, the Legislative Fiscal Office recommends that the proposed budgetary changes be included in a budget reconciliation bill during the 2020

legislative session. The \$20 million special purpose should be accessed to cover the bulk of the General Fund costs, with the remaining \$3.1 million to come from General Fund resources made available to the Legislature during the 2020 legislative session. If those resources prove insufficient to meet statewide needs, this recommendation may need to be modified prior to final review and action by the Joint Committee on Ways and Means.

Legislative Fiscal Office Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend an increase of \$22,560,757 in General Fund and an increase of \$44,333,947 in the Federal Funds expenditure limitation for the Department of Human Services, and an increase of \$570,974 in General Fund and an increase of \$880,298 in the Federal Funds expenditure limitation for the Oregon Health Authority, in a budget reconciliation bill during the 2020 legislative session for the agencies to cover estimated costs of non-state employee collective bargaining.

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**Department of Human Services/
Oregon Health Authority
Heath**

Request: Report on non-state employee bargaining conducted by the Department of Human Services (DHS) and the Oregon Health Authority (OHA), allocate \$19,429,026 General Fund to DHS and \$570,974 General Fund to OHA from the Special Purpose Appropriation established for bargaining non-state employee labor agreements, appropriate \$3,131,713 General Fund to DHS, increase Federal Funds expenditure limitation by \$44,333,947 for DHS, and increase Federal Funds expenditure limitation by \$880,298 for OHA, all to cover the estimated costs of implementing the new labor agreement with non-state employees.

Recommendation: Acknowledge receipt of the report and approve the request during the 2020 Legislative Session.

Discussion: House Bill 5050 (2019) established a Special Purpose Appropriation to the Emergency Board of \$20 million General Fund “for allocation to state agencies for compensation changes driven by collective bargaining for workers who are not state workers.” More specifically, the Department of Human Services (DHS) and the Oregon Health Authority (OHA) contract to provide service in the community to individuals suffering from mental illness, individuals with intellectual or developmental disabilities, and senior citizens. The Departments’ budgets are built to adjust for increases in the cost of care over time but not to account for cost of living adjustments for the employees caring for clients.

Not included in the bargaining were rate increases for Adult Foster Homes for seniors and people with disabilities. These foster homes received an increase of \$15.3 million total funds in the 2019-21 Legislatively Adopted Budget for the Department of Human Services. Also excluded from this request are Personal Support workers for individuals with mental illness. The budget authority for raises for the approximately 500 workers was included in OHA’s 2019-21 Legislatively Approved Budget.

Adult Foster Homes are single-family residences providing 24-hour staffing and assistance with activities of daily living in a community setting to individuals who struggle to care for themselves. There are approximately 2,800 Adult Foster Homes in the state and they collectively have the capacity to serve approximately 6,300 individuals per year. Home care workers and personal support workers are individuals who are employed by Medicaid funded clients to provide assistance with activities of daily living in that person’s home. There are currently approximately 36,000 home care workers and personal support workers in the state. They currently earn \$14.65 per hour for standard levels of care. After bargained increases, these amounts will increase to \$15.00 per hour on January 1, 2020 and to \$15.77 per hour on July 1, 2020.

DHS and OHA estimate the bargained increases will result in the following costs for each group of workers during the 2019-21 biennium:

Bargaining Group	Agency	General Fund	Federal Funds
I/DD Adult Foster Homes	DHS	\$2,964,872	\$6,055,122
I/DD Personal Support Workers	DHS	\$9,400,394	\$18,332,769
Mental Health Personal Support Workers	OHA	Not Included	
APD Home Care Workers	DHS	\$10,195,474	\$19,946,055
Mental Health Adult Foster Homes	OHA	\$570,974	\$880,298
APD Adult Foster Homes	DHS	Not Included	
Total		\$23,131,713	\$45,214,244

The amounts requested exceed the Special Purpose Appropriation by \$3.1 million. In addition to the \$20 million Special Purpose Appropriation established for non-state employee bargaining, the bargaining parties agreed that they would include an additional \$3 million to enroll Home Care and Personal Support Workers in the Oregon Saves Program. This amount is the equivalent of an automatic five percent contribution to an Individual Retirement Account program managed by the Oregon State Treasury.

The Oregon Health Authority estimates the rollup costs of the bargained agreements are \$1.1 million General Fund and \$1.8 million Federal Funds in the 2021-23 biennium. The DHS estimates the agreements reached will cost an additional \$21.0 million General Fund and \$42.1 million Federal Funds in 2021-23.

Legal References: Increase the General Fund appropriation established by chapter 668 1(4) for the Department of Human Services for aging and people with disabilities and intellectual / developmental disabilities programs by \$22,560,739 for the 2019-21 biennium.

Increase the Federal Funds expenditure limitation established by chapter 668 3(4) for the Department of Human Services for aging and people with disabilities and intellectual / developmental disabilities programs by \$44,333,947 for the 2019-21 biennium.

Increase the General Fund appropriation established by chapter 695 1(1) for the Oregon Health Authority for Health Systems, Health Policy and Analytics, and Public Health by \$570,974 for the 2019-21 biennium.

Increase the Federal Funds expenditure limitation established by chapter 695 4(1) for the Oregon Health Authority for Health Systems, Health Policy and Analytics, and Public Health by \$880,298 for the 2019-21 biennium.

December 9, 2019

The Honorable Senator Elizabeth Steiner Hayward, Co-Chair
The Honorable Senator Betsy Johnson, Co-Chair
The Honorable Representative Dan Rayfield, Co-Chair
Interim Joint Committee on Ways and Means on Human Services
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Re: Joint request for General Fund and Federal Fund limitation for non-state employee bargaining from the non-state employee bargaining special purpose appropriation and from the General Fund.

Dear Co-Chairpersons:

Nature of the Request

The purpose of this letter is to both provide a report on non-state employee bargaining and to request funding from the Special Purpose Appropriation and from the General Fund to cover the estimated cost of bargaining.

Agency Action

During the 2019 Legislative Session, a Special Purpose Appropriation (SPA) of \$20 million General Fund was created for non-state employee bargaining including the Oregon Health Authority's (OHA) Health Systems Division (HSD) bargained rates for providers serving Mental Health (MH) clients in Adult Foster Homes (AFH) and rates for AFH providers serving Department of Human Services (DHS) clients in Intellectual or Developmental Disabilities (I/DD) and Aging and People with Disabilities (APD) programs. The initial stages of bargaining have concluded with the following agreements.

DHS and OHA Adult Foster Homes:

A 7.15% increase for the providers serving People with Intellectual or Developmental Disabilities (I/DD) and Mental Health (MH) Adult Foster homes

beginning July 1, 2020. APD Adult Foster homes were bargained separately from funds provided directly to the APD budget and are not included in this request.

For I/DD the estimated costs are \$2,964,872 GF and \$6,055,122 FF. The MH estimated costs are \$570,974 GF and \$880,298 FF.

Net request for Adult Foster Home bargaining for both agencies is \$3,535,846 GF and \$6,935,420 FF.

Combined, the requests for Adult Foster Home bargaining would reduce the Special Purpose Appropriation from \$20,000,000 to \$16,464,154, assuming the I/DD and MH distributions occur to the respective agencies.

DHS Home Care Workers and Personal Support Workers:

For both groups the following was bargained: An increase of \$0.35/hr starting 1/1/20 (1/5/20 for HCW), a \$0.03/hr increase for a computer system beginning 7/1/20 (7/5/20 for HCW) and finally a \$0.77/hr increase on 7/1/20 (7/5/20 for HCW), which is intended to get to a withholding of a full 5% for retirement benefits.

Pricing estimates are as follows:

DD/PSW I/DD Costing					
Increase Number	Effective Date	Increase Amount	Cost of Increase, Before OPE	Cost of Increase, After OPE @ 9.75%	GF cost @ 32.87% match
1	1/1/2020	\$ 0.35	\$ 10,212,972	\$ 11,208,737	\$ 3,684,312
2	7/1/2020	\$ 0.03	\$ 569,006	\$ -	\$ 284,503
3	7/1/2020	\$ 0.77	\$ 15,056,425	\$ 16,524,426	\$ 5,431,579
Total All Increases			\$ 25,838,403	\$ 27,733,163	\$ 9,400,394

HCW (APD) Costing					
Increase Number	Effective Date	Increase Amount	Cost of Increase, Before OPE	Cost of Increase, After OPE @ 9.75%	GF cost @ 32.87% match
1	1/5/2020	\$ 0.35	\$ 11,125,112	\$ 12,209,810	\$ 4,013,365
2	7/5/2020	\$ 0.03	\$ 575,907		\$ 287,953
3	7/5/2020	\$ 0.77	\$ 16,338,696	\$ 17,931,719	\$ 5,894,156
Total All Increases			\$ 28,039,715	\$ 30,141,529	\$ 10,195,474

With a net total of:

PSW & HCW Costs Combined						
Increase Number	Effective Date PSW	Effective date HCW	Increase Amount	Cost of Increase, Before OPE	Cost of Increase, After OPE @ 9.75%	GF cost @ 32.87% match
1	1/1/2020	1/5/2020	\$ 0.35	\$ 21,338,084	\$ 23,418,547	\$ 7,697,676
2	7/5/2020	7/5/2020	\$ 0.03	\$ 1,144,912	\$ -	\$ 572,456
3	7/1/2020	7/5/2020	\$ 0.77	\$ 31,395,121	\$ 34,456,145	\$ 11,325,735
Total All Increases				\$ 53,878,117	\$ 57,874,692	\$ 19,595,867

The net General Fund need for Home Care Workers and Personal Support Workers is \$19,595,867.

The total increase is \$23,131,713 or \$3,131,713 over the Special Purpose Appropriation amount of \$20 million.

Included in the bargaining language is the following:

“The parties agree to work collaboratively to secure an additional general fund appropriation in the amount of \$3M [million] in the 2020 Legislative Session. The \$3M [million] is intended to help fund the 5% retirement contribution referenced in the Retirement Security Letter of Agreement.

If the 2020 Legislative Assembly appropriates the additional \$3M target for worker wages/retirement contributions, then the scheduled wage increases shall be as follows:

Increase #1 for DD PSWs: Effective 1/1/20: \$.35/hr

Increase #2 for DD PSWs: Effective 7/1/20: \$.77/hr

Increase #1 for HCWs/PCAs: Effective 1/5/20: \$.35/hr

Increase #2 for HCWs/PCAs: Effective 7/5/20: \$.77/hr

If the additional \$3M is not fully secured in the February 2020 special session, the Parties will meet and confer to adjust the July 2020 wage increase to fit within the adjusted bargaining pot.”

Action Requested: DHS and OHA request acknowledgement of receipt of this report. In addition, DHS requests \$19,429,026 General Fund from the Special Purpose Appropriation and an additional \$3,131,731 General Fund and \$44,333,947 of Federal Funds expenditure limitation. OHA requests \$570,974 General Fund from the Special Purpose Appropriation and \$880,298 in Federal Funds expenditure limitation.

Legislation Affected:

OHA, HSD	ch 695 1(1) General	\$570,974
	ch 695 4(1) Federal	\$880,298
DHS APD/IDD	ch 668 1(4) General	\$22,560,739
	ch 668 3(4) Federal	\$44,333,947

If you have questions, please contact Eric Moore at 503-884-4701.

Sincerely,



Eric Luther Moore
DHS Chief Financial Officer



Patrick M. Allen
OHA Director

cc: Ken Rocco, Legislative Fiscal Office
Laurie Byerly, Legislative Fiscal Office
Tom McDonald, Legislative Fiscal Office
George Naughton, Department of Administrative Services
Tamara Brickman, Department of Administrative Services
Ali Webb, Department of Administrative Services
Mike Streepey, Department of Administrative Services
Patrick Heath, Department of Administrative Services