

FISCAL IMPACT OF PROPOSED LEGISLATION

80th Oregon Legislative Assembly – 2019 Regular Session
Legislative Fiscal Office

Measure: HB 2020 - A112

DRAFT

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

Prepared by: Krista Dauenhauer
Reviewed by: Pending
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Measure Description:

Establishes Climate Policy Office within Oregon Department of Administrative Services and directs office to adopt Oregon Climate Action Program by rule.

Government Unit(s) Affected:

Housing and Community Services Department (HCSD), Department of Environmental Quality (DEQ), Public Utility Commission (PUC), Higher Education Coordinating Commission (HECC), Oregon Department of Transportation (ODOT), Department of Administrative Services (DAS), Department of Forestry (ODF), Office of the Governor, Oregon Watershed Enhancement Board (OWEB), Oregon Department of Agriculture (ODA), Department of Energy (DOE), Oregon Health Authority (OHA), Legislative Assembly, Oregon Business Development Department (OBDD)

Analysis:

The bill establishes the Climate Policy Office (CPO) within Oregon Department of Administrative Services (DAS) and directs the CPO to adopt an Oregon Climate Action Program by rule. The bill establishes the Oregon Climate Board and the Joint Committee on Climate Action. The Oregon Climate Action Program Operating Fund is established and all monies in the Fund are appropriated to DAS; the Fund receives monies from civil penalties imposed under Section 12. The Transportation Decarbonization Investment Account is established within the State Highway Fund and monies in the Fund are credited to the Department of Transportation for a 50/50 distribution of funds, half to projects selected by the Oregon Transportation Commission and the other half to provide grants for cities, counties, and metropolitan transportation projects. Auction proceeds from the sale of allowances are distributed to the Public Utility Commission and the Auction Proceeds Distribution Fund. Moneys credited to the Auction Proceeds Distribution Fund are distributed as follows: revenues resulting from Article IX, section 3a, of the Oregon Constitution are credited to the Transportation Decarbonization Investment Account, revenues from Article VIII, section 2 (1)(g), of the Oregon Constitution are credited to the Common School Fund, further distributions are credited to the Oregon Climate Action Program Operating Fund, and monies remaining after the aforementioned distributions are transferred to the Climate Investments Fund. The Climate Investments Fund is administered by DAS and 10% of the monies are allocated for uses that directly benefit eligible Indian tribes, 40% for uses that benefit impacted communities, 20% for uses that benefit natural and working lands, no more than 1% to provide technical assistance to applicants of the aforementioned distributions, and \$10 million for deposit in the Just Transition Fund which is continuously appropriated to the Higher Education Coordinating Commission (HECC) to support economic diversification, job creation, job training, and other employment services. The Just Transition Fund shall also include a reserve account for monies allocated or appropriated by the Legislative Assembly and moneys in the reserve account may be used only to provide financial support for workers dislocated or adversely affected by climate change or climate change policies. The legislation provides for expedited review of certain questions to the Supreme Court upon petition by an interested or affected party and declares an emergency that makes this bill effective on passage.

2019-21 Biennium Estimated Fiscal Impact						
Agency	General Fund	Lottery Funds	Other Funds	Total	Positions	FTE
Business Development Department		250,000		\$ 250,000	-	-
Department of Administrative Services	15,781,347			\$ 15,781,347	33	31.08
Department of Environmental Quality			1,039,640	\$ 1,039,640	4	3.63
Department of Forestry	333,310			\$ 333,310	1	1.00
Department of Transportation			2,271,406	\$ 2,271,406	17	8.39
Housing and Community Services Department	568,654			\$ 568,654	4	2.70
Higher Education Coordinating Commission	373,254			\$ 373,254	3	1.50
Public Utility Commission			2,132,573	\$ 2,132,573	6	6.00
Total	\$ 17,056,565	\$ 250,000	\$ 5,443,619	\$ 22,750,184	68	54.30

**The costs outlined in this fiscal impact statement are primarily associated with the initial implementation of the bill in the 2019-21 biennium. Subsequent biennia costs may be significantly higher due to the roll-up of position costs, standard inflation, or undefined factors such as information technology application implementation. Costs assumed to be paid from revenues from the sale of allowances are subject to the availability of funding and may require General Fund support until sufficient revenues are generated. Additionally, the cost estimates provided by agencies do not include funding for contingencies such as possible legal challenges, employment market risk, or implementation delays.*

2021-23 Biennium Estimated Fiscal Impact						
Agency	General Fund	Lottery Funds	Other Funds	Total	Positions	FTE
Business Development Department			-	\$ -	-	-
Department of Administrative Services			13,786,305	\$ 13,786,305	33	32.00
Department of Environmental Quality			1,446,579	\$ 1,446,579	4	4.00
Department of Forestry	849,930			\$ 849,930	3	3.00
Department of Transportation			Indeterminate	\$ -	-	-
Housing and Community Services Department	398,469			\$ 398,469	3	2.00
Higher Education Coordinating Commission			363,254	\$ 363,254	3	1.50
Public Utility Commission			1,390,960	\$ 1,390,960	4	4.00
Total	\$ 1,248,399	\$ -	\$ 16,623,844	\$ 18,235,497	50	46.50

Business Development Department (OBDD)

OBDD shall conduct an analysis to determine the commercial needs for loans, or other financial assistance, to commercial and natural gas users to increase the energy efficiency of or reduce the greenhouse gas emissions from natural gas or propane-fueled equipment used in industry or commercial facilities. On or before September 15, 2020, OBDD must report to the interim Joint Committee on Climate Action on the results of the analysis and proposal for a program to serve identified needs. OBDD will contract with a third-party to prepare this analysis for an estimated cost of \$250,000 Lottery funds in the 2019-21 biennium.

Department of Administrative Services (DAS)

The legislation establishes the Climate Policy Office (CPO) within DAS to implement a Climate Action Program which will receive advice from the Oregon Climate Board. The greenhouse gas reporting functions performed by the Department of Environmental Quality (DEQ) are transferred to the CPO on January 1, 2022. Existing statute is repealed related to energy facility carbon emissions standards and forestry carbon offset provisions; and the CPO is directed to implement new standards. The estimated fiscal impact for the personnel costs associated with the creation of the CPO is \$7,539,612 personal services and \$430,372 services and supplies for a total cost of \$7,969,984 GF in the 2019-21 biennium which includes 33 positions (31.08 FTE). Positions requested for the 2019-21 biennium include the following: Human Resources Consultant 1 (2.00 FTE), Human Resources Analyst 2 (1.00 FTE), Fiscal Analyst 3 (1.00 FTE), Information Systems Specialist 6 (1.00 FTE), State Procurement Analyst (2.00 FTE), Principal Executive Manager G (2.00 FTE), Principal Executive Manager E (2.00 FTE), Economist 3 (0.88 FTE), Economist 4 (0.88 FTE), Research Analyst 3 (0.88 FTE), Research Analyst 4 (0.88 FTE), Environmental Engineer 3 (1.76 FTE), Operations and Policy Analyst 3 (2.76 FTE), Operations and Policy Analyst 4 (3.64 FTE), Natural Resource Specialist 4 (0.88 FTE), Administrative Specialist 2 (1.00 FTE), Environmental Law Specialist (1.76 FTE), Public Affairs Specialist 2 (1.76 FTE), Project Manager 3 (1.00 FTE), Executive Support Specialist 2 (1.00

FTE), and an Office Specialist 2 (1.00 FTE). Personal costs for the 2021-23 biennium are estimated at \$8,132,937 in personal services and \$445,692 in services and supplies, or a total of \$8,578,629 Other Funds (OF).

Facility rental costs for the CPO are estimated at \$297,792 per biennium. Department of Justice fees are estimated \$1,730,560 per biennium. One-time third-party contactor costs in the 2019-21 biennium include \$150,000 GF to complete a leakage risk study for the Joint Committee on Climate Action, \$200,000 GF to facilitate work with other state agencies to develop offset protocols, \$200,000 OF to provide technical assistance associated with the CPO Biennial Climate Action Investments Plan, \$200,000 to develop allowances for EITE entities and establish emission efficiency benchmarks, \$100,000 OF to develop a forecast and allowance budget. Contractor costs to provide cap and trade services for auctions is estimated at \$1,625,000 in 2019-21 and \$1.8 million OF in the 2021-23 biennium.

Initial development of information technology systems for the CPO is estimated at \$1.8 million GF in the 2019-21 biennium and it is likely that the CPO will require more sizable IT investments once project development plans are in place; however, a \$1 million placeholder has been included in the estimated fiscal impact in the table above for the 2021-23 biennium. DAS estimates that one-time contracting costs with the agency for a Project Manager, Data Analyst and Data Architect, in the amount of \$1,136,156 in the 2019-21 biennium, will be necessary to prepare the business requirements and solution architecture for information technology systems to support the Program. Finally, the CPO will maintain memberships in the US Climate Alliance and Pacific Coast Collaborative, as well as other regional and national collaborative groups for an estimated cost of \$305,000 per biennium. Additional services and supplies costs associated with Board meetings, travel and meals is estimated at \$66,855 in the 2019-21 biennium and \$74,324 in the 2021-23 biennium.

The -A112 amendment potentially has additional fiscal implications associated with staff workload to process petitions for judicial review served by registered or certified mail, and for legal costs. The potential additional workload and legal costs associated with this amendment are indeterminate because it is unknown how many petitions will be processed and the duration and complexity of the legal review process. The Legislative Fiscal Office notes that \$1,730,560 has been assumed for Department of Justice fees for DAS in the 2019-21, however it is unknown if this will be sufficient. The agency may need to return in subsequent legislative sessions to request additional resources or General Fund appropriation to implement the bill with the -A112 amendment.

Department of Energy (ODOE)

The bill requires the Housing and Community Services Department (HCS) and ODOE to jointly submit a biennial report to the Governor and the Legislative Assembly on the statewide energy burden. The Oregon Global Warming Commission (OGWC), currently in ODOE, is abolished effective January 1, 2020; and all records must be transferred to the Oregon Climate Board. Statute related to the Energy Facility Siting Council is repealed which will require rulemaking to permit the removal of site certificate conditions imposed under the agency's CO₂ Standard. Overall, the legislation removes some duties and responsibilities of the agency and adds new workload in other areas; for this reason, the overall impact to the agency will be minimal as existing staff resources will be reassigned to support the new requirements of the legislation and rulemaking costs are estimated to be absorbable within existing budgetary parameters. As a result of this legislation, the agency believes that there could be an increase in the number of siting facility applications; since the facility review process is cost-recovery this is not anticipated to burden General Fund resources.

Department of Environmental Quality (DEQ)

The greenhouse gas reporting functions performed by DEQ are transferred to the CPO on January 1, 2022. Upon transfer of the Greenhouse Gas Reporting Program, the CPO may require entities subject to reporting requirements to have submissions audited by an independent third-party to verify accuracy of the records. The legislation also expands the authority to establish fees for the purpose of administering the greenhouse gas reporting; the expanded authority allows the CPO to collect fees from all entities subject to the reporting requirement. Expansion of the Greenhouse Reporting Program in the 2019-21 biennium is anticipated to require three additional positions including a Natural Resource Specialist 4 (0.88 FTE), an Environmental Law Specialist

(0.88 FTE), and a Principal Executive Manager E (0.88 FTE) for an estimated cost of \$575,838 in personal services and \$172,751 in services and supplies for a total cost of \$748,589 Other Funds in the 2019-21 biennium. The positions would be budgeted at full-time in the 2021-23 biennium for an estimated total cost of \$855,529 OF. Furthermore, the agency has the following existing personnel that will be transferred to CPO in the program transition: Natural Resource Specialist 4, Natural Resource Specialist 3, Natural Resource Specialist 2, and an Information Systems Specialist 6. Hiring an independent contractor to conduct an audit is estimated at \$300,000 OF in the 2021-23 biennium. DEQ anticipates that the current greenhouse gas reporting revenue is sufficient to cover the costs of these additional positions in 2019-21.

Additionally, DEQ is directed to establish new standards for the monitoring, collection, and control of methane emissions from landfills emitting more than 25,000 tons of CO₂e annually; this is anticipated to result in the regulation of 7-10 landfills. DEQ requests one new permanent full-time Environmental Engineer 3 to lead the rulemaking efforts to support existing air quality permit staff in developing and verifying permit conditions. This position (1.00 FTE) is estimated to cost \$223,885 in personal services and \$67,166 in services and supplies for a total of \$291,051 OF per biennium. DEQ anticipates that the Title V revenue from current permit fees for landfills is sufficient to cover these additional costs in 2019-21.

Department of Forestry (ODF)

The legislation repeals the ODF forestry offset program and modifies the agency's ability to participate in the carbon offset market. ODF would be required to assist in the development of forestry carbon offset protocols that would allow for the sale and management of carbon off set credits in the forestry sector. In the 2019-21 biennium the agency anticipates needing an Operations and Policy Analyst 3 (1.00 FTE) to work on the offset protocols with CPO and to develop a reporting framework; this position is estimated to cost \$198,700 in personal services and \$59,610 in services and supplies for a total of \$258,310 GF per biennium. Some aspects of the reporting and studies would be contracted through Oregon State University for an estimated cost of \$75,000 GF per biennium. Additionally, the agency requests two additional Natural Resource Specialist 4 positions (2.00 FTE) in the 2021-23 biennium to provide oversight of the offset auction funds being directed to the forestry sector and to continue ecosystem carbon work; as well as build relationships between various stakeholder parties. These two positions are estimated to cost \$397,400 personal services and \$119,220 services and supplies for a total cost of \$516,620 GF in the 2021-23 biennium.

Department of Transportation (ODOT)

Oregon Department of Transportation (ODOT) must execute the allowance auctions and produce a proposal for issuing refunds or credits from the Transportation Decarbonization Investment Account (TDIA) and create a grant program funded by the account. ODOT must submit a report to the Governor, Joint Committee on Climate Action, and Joint Committee on Transportation by January 1 of each even year, on the entities that received money from TDIA. ODOT must also, jointly with CPO, select an independent third-party to audit all projects funded from the Climate Investments Fund and submit a report to the Governor and the Joint Committee on Climate Action. The agency's 2019-21 position requests are as follows: Operations and policy Analyst 4 (3.00 FTE), three Program Analyst 3 (2.00 FTE), and a Professional Engineer (0.13 FTE), Human Resources Analysts 3 (0.25 FTE), Information Systems Specialist 8 (0.50 FTE), Operations and Policy Analysts 3 (0.63 FTE), Procurement and Contract Specialist 3 (1.13 FTE), Procurement and Contract Specialist 2 (0.75 FTE) for an estimated cost of \$1,769,020 in personal services and \$141,516 in services and supplies for a total of \$2,090,971 OF in the 2019-21 biennium.

Additional one-time contractor costs to the agency include \$130,435 to hire a consultant to provide program oversight services to ensure ODOT's compliance with industry best practices, and \$50,000 for a modeling and analysis consultant to measure program goals. ODOT is not asking for additional resources for the 2021-23 biennium at this time, however the Highway Division is expected to require an additional 300 positions phased in during the 2021-23 and 2023-25 biennia. ODOT will request these additional resources through a phased approach during the 2021, 2022, 2023, and 2024 legislative sessions.

Higher Education Coordinating Commission (HECC)

The Higher Education Coordinating Commission (HECC) must, in consultation with the State Workforce & Talent Development Board, Employment Department, and other interested state agencies, establish a Just Transition Program to distribute funds to programs and activities that provide financial support for workers dislocated or adversely affected by climate change or climate change policies. On even-numbered years, HECC must deliver a report to the Governor and the Joint Committee on Climate Action regarding the Just Transition Plan. Initial rules and program policies and procedures will be developed by an Operations and Policy Analyst 4 (0.25 FTE) and after the development phase the position will be responsible for report writing and coordination with the Just Transition Advisory Committee. A Program Analyst 3 position (1.00 FTE) will evaluate grant applications and provide contract management services and monitoring for the program. Support for the Just Transition Advisory Committee is anticipated to require an Administrative Specialist 2 (0.25 FTE) position. Costs associated with these three positions are estimated at \$279,426 for personal services and \$83,828 for services and supplies, or \$363,254 per biennium. One-time vendor costs to update the I-Trac system for the workforce development boards is estimated at \$10,000 in the 2019-21 biennium. No funding assumptions have been made in this analysis regarding moneys to be deposited in the reserve account.

Housing and Community Services Department (HCS)

The bill requires the HCS and ODOE to jointly submit a biennial report to the Governor and the Legislative Assembly on statewide energy burdens. The bill requires that HCS, in consultation with ODOE, convene and provide staff support to an Energy Burden and Poverty Working Group. HCS must also produce a proposal for a residential home heating assistance program by September 15, 2020. The agency would establish a full-time Operations and Policy Analyst 3 position to establish rules, consult with ODOE and the Public Utilities Commission, coordinate the work group, analyze data, and prepare reports. A half-time Administrative Specialist 2 position would assist with filing rules, support the analyst position, schedule meetings, and conduct other duties related to the work group. A half-time Research Analyst 3 position will collect, analyze, and report energy burden data; develop and maintain the inventory of statewide programs that address energy burden by funding source; and determine the annual funding necessary for the programs. A limited duration Information Systems Specialist 7 position will evaluate data collection requirements and determine if an existing IT system can be enhanced to support the requirements of the legislation or if a new IT system should be developed or purchased. Future costs related to the purchase of a new system are not accounted for in this analysis. These four positions (2.69 FTE) are budgeted at \$506,491 personal services and \$62,163 services and supplies or a total of \$568,654 GF in the 2019-21 biennium; and three positions (2.00 FTE) budgeted at \$353,206 personal services and \$45263 services and supplies for a total of \$398,469 GF in the 2021-23 biennium.

Legislative Assembly

The legislation requires an unspecified number of members to participate in the Joint Committee on Climate Action and the Committee may meet during both session and interim. The bill also requires reimbursement for out of state travel and the Legislative Policy and Research Office to provide staff to implement the duties and functions of the Joint Committee. Additionally, two Legislative members are required to serve on the Oregon Climate Board and may receive per diem and expenses from the Legislative Assembly. It is anticipated that the 2019-21 Legislative Branch budget will contain enough funds allocated for the Legislative Policy and Research Office (LPRO) to support the committee and Legislative member reimbursements; however, if workload from the Committee or the combined effect of all legislation requiring support from LPRO proves to exceed the capacity of existing staff, the office may return to the Legislature to request additional General Fund and position authority. A Legislative Analyst 3 position (1.00 FTE) would have an estimated fiscal impact of \$259,427 per biennium.

Public Utility Commission (PUC)

Fiscal impacts to the PUC relate to the appointment of the Commissioner to the Oregon Climate Board, development of rules for allocating allowances for electric and natural gas companies, oversight and verification of use of auction proceeds from the allowances, consultation on the climate action investment plan, on even-numbered years prepare a report related to electric and gas allowances, establishment of mechanisms which ensure cost recovery by public utilities associated with compliance with the Oregon Climate Action Program,

adoption of a rate schedule for public utilities to assist low-income residential customers, and allow a rate schedule of an electric company or natural gas utility that support the adoption of alternative forms of transportation vehicles. These undertakings by the PUC are estimated to require six positions budgeted as Utility and Energy Analyst 3 (6.00 FTE) for an estimated cost of \$1,517,672 in personal services, \$581,901 in services and supplies, and \$33,000 in capital outlay for cubicles, for a total cost of \$2,132,573 OF in the 2019-21 biennium funded from revenues generated from PUC's assessment on utilities; and four permanent positions (4.00 FTE) for an estimated cost of \$1,390,960 OF in the 2021-23 biennium. Cost estimates include \$424,320 for initial Attorney General fees in the 2019-21 biennium.

All State Agencies & Indian Tribes

Appointment of agency representatives to the Oregon Climate Board, rulemaking, and collaboration on behalf of state agencies, not specifically named above, for the following sections of this legislation are anticipated to be minimal and absorbable within existing budgetary parameters: Section 31-offset protocols, Section 32 - offsets, consultation and reporting, Section 33 - methodology for designing impacted communities, Section 52 - Justice Transition Program, Section 57 - biennial climate action investment plan, and Section 128 - credit proposal. Any additional workload associated with the legislation will be addressed by reprioritizing duties of existing staff resources and those costs will be absorbed within existing budgetary parameters.