

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2209 - A

80th Oregon Legislative Assembly – 2019 Regular Session
Legislative Fiscal Office*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Measure Description:

Requires railroads that own or operate high hazard train routes to have oil spill contingency plans that have been approved by Department of Environmental Quality.

Government Unit(s) Affected:

Counties, Cities, Special Districts, Department of Land Conservation and Development (DLCD), Oregon Military Department (OMD), Department of Revenue (DOR), Department of Environmental Quality (DEQ), Department of Fish and Wildlife (ODFW), Oregon State Police (OSP), Oregon Department of Transportation (ODOT)

Summary of Fiscal Impact:

Costs related to the measure will require budgetary action - See analysis.

Summary of Expenditure Impact:

	2019-21 Biennium	2021-23 Biennium
DEQ - Other Funds	461,394	732,229
DOR - Other Funds	236,000	50,000
OSP - Other Funds	353,867	570,513
Total Funds	\$1,051,261	\$1,352,742
Positions	3	3
FTE	2.00	3.00

Summary of Revenue Impact:

Revenue estimates to support the program are indeterminate at this time as failure to provide notice or submit a contingency plan with the associated fees will not preclude a railroad from operating on a high hazard train route and no enforcement action is required of DEQ. Furthermore, revenues collected from quarterly fees paid by the owners of oil transported by railroad are not estimated at this time as it is unknown how much of this oil is constitutionally or otherwise prohibited from taxation and not subject to fees which support the program. Finally, the outcome of the revenue splits between agencies will be determined by rule and have not been determined. Please see the Revenue Impact Statement issued by the Legislative Revenue Office for additional detail.

Analysis:

Given the indeterminate status of the Other Funds (OF) revenue which will support this program, this analysis will provide estimates of the costs if this legislation is implemented to the full extent of the conceptualized program. It is assumed that the affected agencies will use existing personnel to develop rules and begin initial implementation of the bill; hiring of the additional personnel outlined in this analysis will not occur until after January 1, 2020 when verification of the OF revenue stream and the associated workload have been proven. If revenues are not sufficient to support the associated workload, the affected agencies may need to return to the Emergency Board or an Interim Legislative Session to request additional funding resources.

The legislation requires railroads that own or operate a high hazard train route, as defined by the bill, to have an oil spill prevention and emergency response plan approved by the Department of Environmental Quality (DEQ),

which includes a contingency response and financial responsibility statement. Once a railroad begins to operate on a high hazard train route, they must notify DEQ that the railroad has commenced operation on the route. Within 90 days, unless a different agreement is made with DEQ, a contingency plan must be submitted, and the plan must be renewed at least once every five years. The legislation specifies the information that must be included in the contingency plan, which could contemplate some level of railroad participation in Oregon State Fire Marshal spill/release exercises. Before approving the plan, DEQ must provide copies of the contingency plan to the following entities for review: Department of Fish and Wildlife, office of the State Fire Marshal, Department of Land Conservation and Development, and federally recognized Indian tribes that could be impacted by an oil discharge along any portion of the high hazard train route.

Each railroad that is required to submit a contingency plan must pay a fee, established by the Department of Transportation (ODOT), as a percentage of gross operating revenues and the fee revenue is deposited in the High Hazard Train Route Oil Spill Preparedness Fund; moneys in the fund are continuously appropriated to DEQ and may not be used to pay for costs which are funded by the existing Oil Spill Prevention Fund.

The owner of oil transported by railroad must pay the Department of Revenue (DOR) a fee not to exceed \$20 for each car; payment must be remitted on a quarterly basis. The fees will be deposited into a suspense account at DOR, and after DOR has garnished administration costs, the fee revenue shall be transferred to both the High Hazard Train Route Oil Spill Preparedness Fund and the Oil and Hazardous Material Transportation by Rail Action Fund. The revenue split between funds will be determined by rule and DEQ and the office of the State Fire Marshal must both establish the fee amount by rule. DOR is authorized to conduct audits of fee payors and provide enforcement activity. Any moneys remaining in the Funds on the date of repeal of this legislation must be refunded to the payors without interest.

The State Fire Marshal must adopt a triennial tabletop exercise that includes DEQ, ODOT, the Office of Emergency Management, local responders, Indian tribes, and railroads. In the second year of the training cycle, a triennial statewide exercise of a spill or release from rail transport must be conducted to evaluate incident command staff and emergency operations centers. In the third year of the triennial training cycle a multi-agency, multijurisdictional and multidisciplinary oil or hazardous material spill or release exercise must be conducted.

Department of Environmental Quality (DEQ)

DEQ anticipates the need for two permanent Natural Resource Specialist 4 positions phased-in, one at 18 months (0.75 FTE), and the other position for 12 months (0.50 FTE) in the 2019-21 biennium. One position will be dedicated to planning response strategies to identify waters of the state, ecologically sensitive habitat, culturally and economically important areas, and to develop response strategies for each high hazard rail corridor. The second position will work with railroads on development and approval of oil spill contingency plans. Personal services costs are estimated at \$290,278 and services and supplies costs at \$171,116 for a total of \$461,394 OF in the 2019-21 biennium, total position costs for the 2021-23 biennium are estimated at \$732,229 OF.

Department of Revenue (DOR)

Updating the GenTax system, providing notifications to railroads, and development of administrative rules is estimated at \$209,118 in the 2019-21 biennium. Much of the administration work associated with collecting fees and providing audit services will be performed with existing personnel and the anticipated number of fee payers is believed to be relatively small and will not produce a significant workload. DOR administration costs will be billed to the associated suspense account and are not capped or otherwise restricted to a percentage of the funds available; therefore DOR will be reimbursed for the increase in workload associated with the bill and then remaining funds will be distributed to DEQ and the State Fire Marshal.

State Police, State Fire Marshal

Implementation of the training exercises will be managed by a full-time Public Training Specialist 2 for 18 months (0.75 FTE) in the 2019-21 biennium for an estimated cost of \$202,433 in personal services and \$151,434 in services and supplies, or \$353,867 OF total. Services and supply estimates include training equipment costs,

reimbursements for exercise controllers, and a standby ambulance. Estimates for (1.00 FTE) the 2021-23 include \$269,909 in personal services and \$300,604 in services and supplies, including costs for two training exercises, for a total of \$570,513 OF.

Local Governments

No additional fiscal impacts, associated with this legislation, are anticipated to local governments as participation in the training exercises are not mandated; participation is assumed to be at the discretion of the local budgetary authority and subject to existing funding levels.

Other

The following agencies are anticipated to have a minimal fiscal impact associated with this legislation and costs are anticipated to be absorbable within existing budgetary parameters: Department of Fish and Wildlife, Department of Land Conservation and Development, Oregon Military Department.