

## FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 4167

80th Oregon Legislative Assembly – 2020 Regular Session  
Legislative Fiscal Office

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

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### **Measure Description:**

Modifies statewide greenhouse gas emissions reduction goals.

### **Government Unit(s) Affected:**

Cities, Department of Administrative Services (DAS), Department of Energy (DOE), Department of Environmental Quality (DEQ), Department of Forestry (ODF), Department of Justice (DOJ), Department of Revenue (DOR), Employment Department (OED), Housing and Community Services Department (HCSD), Metro, Oregon Department of Agriculture (ODA), Oregon Judicial Department (OJD), Oregon Watershed Enhancement Board (OWEB), Special Districts, Counties, Department of Consumer and Business Services (DCBS), Department of Land Conservation and Development (DLCD), Department of State Lands (DSL), Higher Education Coordinating Commission (HECC), Legislative Revenue Office (LRO), Oregon Business Development Department (OBDD), Oregon Department of Transportation (ODOT), Oregon Parks and Recreation Department (OPRD), Public Utility Commission (PUC)

### **Summary of Fiscal Impact:**

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

### **Analysis:**

#### **Overview of HB 4167**

HB 4167 sets new targets for greenhouse gas emissions in Oregon through a program called the Oregon Greenhouse Gas Initiative (OGGI). Targets are to be met by limiting emissions from fossil fuels, electricity, and industrial processes. Over time, allowable emissions from these sectors will decrease in order to meet greenhouse gas emissions goals. Allowances for these regulated sectors, which is the authorization to emit one metric ton of carbon dioxide, will be sold at auction. Funds from the sale of allowances will be distributed to various state agencies, local governments, and Indian tribes to be used to further the overall greenhouse gas reduction goals of the OGGI.

HB 4167 directs a newly-created Office of Greenhouse Gas Regulation (OGGR), housed within the Department of Environmental Quality (DEQ), to conduct the first auction of allowances in January 2022. Policy direction of the OGGR is to be provided by a newly-created Oregon Greenhouse Gas Reduction Board (GGRB).

#### **Guide to the fiscal impact for HB 4167**

The programs described in HB 4167 are generally intended to be self-supporting based on revenue collected from the auction of allowances. However, the Legislative Fiscal Office (LFO) assumes that agencies will use General Fund or existing Other Funds funding streams until the 2023-25 biennium. Revenues generated from the auction of allowances could be available to agencies to offset General Fund costs as soon as January 2022, but it is uncertain how much money will be collected from the auctions initially and when these funds will be available for agency use.

This fiscal includes initial estimates for budgetary impacts and staffing in the 2021-23 biennium. All agencies will need to request additional staff and funding for the 2021-23 biennium either during the 2021-23 budget cycle, during the 2021 Legislative Session, or through the Emergency Board.

**Expenditure overview**

Initial cost estimates for implementation of this measure are \$19,873,362 General Fund and \$2,885,786 Other Funds in 2019-21. In 2021-23, costs are estimated at \$22,354,805 total funds.

<b>2019-21 Biennium Estimated Fiscal Impact</b>			
<i>Agency</i>	<i>General Fund</i>	<i>Other Funds</i>	<i>Total Funds</i>
Revolving Loan Fund	\$ 10,000,000		\$ 10,000,000
DAS	\$ -	\$ 307,170	\$ 307,170
DEQ	\$ 8,877,792	\$ 145,722	\$ 9,023,514
DLCD	\$ 327,162	\$ -	\$ 327,162
DOJ*	\$ -	\$ 455,597	\$ 455,597
HCSD	\$ 158,091	\$ -	\$ 158,091
LRO	\$ 150,000	\$ -	\$ 150,000
OBDD**	\$ 100,000	\$ 500,000	\$ 600,000
ODA	\$ 111,536	\$ -	\$ 111,536
ODF	\$ 119,215	\$ -	\$ 119,215
ODOT	\$ -	\$ 127,517	\$ 127,517
PUC	\$ 29,566	\$ 1,349,780	\$ 1,379,346
<b>Total</b>	<b>\$ 19,873,362</b>	<b>\$ 2,885,786</b>	<b>\$ 22,759,148</b>

*\*Other Funds are derived from fees paid by DEQ and PUC to DOJ*  
*\*\*Other Funds are derived from General Fund deposit in the Revolving Loan Fund*

The 2019-21 costs include \$9.9 million General Fund, for agencies to implement the provisions of the measure, and a \$10 million General Fund appropriation to seed the Traded Sector Greenhouse Gas Reduction Revolving Loan Fund. These Revolving Loan Funds are to be disbursed as low- or zero-interest loans to trade-exposed natural gas users and emissions-intensive trade exposed facilities, to finance projects or upgrades that will lead to reduction in greenhouse gas emissions. The revolving loan program will be operated by the Oregon Business Development Department (OBDD). Administrative costs to the department, estimated to total \$500,000 in the 2019-21 biennium, will be funded from the \$10 million General Fund deposit, leaving \$9.5 million remaining for project loans. The agency will need a \$500,000 Other Funds expenditure limitation increase in its budget to allow this.

The costs outlined in this fiscal impact statement are primarily associated with the initial implementation of the bill in the 2019-21 biennium. Subsequent biennial costs may be significantly higher due to the roll-up of position costs, standard inflation, or undefined factors such as information technology application implementation. Additionally, the cost estimates provided by agencies do not include funding for contingencies such as possible legal challenges, employment market risk, or implementation delays.

**Revenues and fund types**

Revenues from auctions of allowances could be available as soon as January 2022, when the first auction is required to take place. Revenues are to be distributed in order as follows:

1. Auction proceeds first are deposited in the Auction Proceeds Distribution Fund
2. Constitutionally dedicated funds within the Auction Proceeds Distribution Fund are distributed to the:
  - a. Transportation Decarbonization Investments Account (TDIA), within the State Highway Fund
  - b. Common School Fund

3. Certain remaining funds in the Auction Proceeds Distribution Fund are distributed to the Oregon Greenhouse Gas Initiative Operating Fund for administration of the program
4. All remaining funds are distributed to the Climate Investments Fund (CIF)

#### The Transportation Decarbonization Investments Account

Funds in the TDIA are distributed to the Oregon Department of Transportation (ODOT). Ten percent of funds go to ODOT for transportation projects, and 90 percent to local governments for planning and implementation of metropolitan climate plans.

#### Climate Investments Fund

Funds in the CIF are first distributed to the Just Transition Fund. The Just Transition Fund receives 10 percent or \$10 million from the CIF, whichever is less.

Remaining funds are to be distributed as follows:

- 25 percent goes to the Oregon Watershed Enhancement Board (OWEB) for uses that benefit natural and working lands;
- 25 percent goes to the Oregon Department of Forestry (ODF) for wildfire mitigation; and,
- 50 percent is allocated by the Legislature, in a manner that prioritizes greenhouse gas reductions, with:
  - 10 percent distributed for the benefit of eligible Indian tribes;
  - 20 percent to local governments; and
  - 20 percent to agencies of state government

Estimates of the revenues available to state agencies as a result of this measure will be provided in a Revenue Impact Statement by the Legislative Revenue Office.

#### **Fiscal impacts by agency**

##### **Department of Environmental Quality**

This measure establishes the Oregon Greenhouse Gas Reduction Board (GGRB). The Board adopts rules for the Office of Greenhouse Gas Regulation (OGGR) to implement the Oregon Greenhouse Gas Initiative within DEQ. The administrator of the OGGR is appointed by the Governor and confirmed by the Senate, as is the Board, so this Office appears to operate largely outside of DEQ and Environmental Quality Commission (EQC) purview.

The newly-created Board and Office will run auctions of allowances; track emissions allowances and retire them at the correct rate for each entity; enforce this measure; designate impacted communities, which are communities in Oregon at risk of being disproportionately impacted by climate change; develop a Just Transition Plan for aiding households, businesses, and workers impacted by climate change or climate change policies; develop a climate investment action plan for new revenues; and complete various reporting requirements, among other duties.

The EQC is charged with adopting standards and requirements for reducing methane emissions from landfills and may require registration and reporting to determine greenhouse gas emissions by certain entities.

Because OGGR runs the auctions of allowances, all revenues generated by this measure are dependent on OGGR's ability to accomplish rulemaking before the first auction in January 2022. Should rulemaking happen on schedule, agencies that receive auction revenues may be able to offset General Fund with these new Other Funds revenues before the end of the 2021-23 biennium. Should this not happen on schedule, then the timeline and costs for DEQ/OGGR and all other agencies dependent on auction revenues are likely to change.

DEQ estimates they will need 31 new positions (17.33 FTE) in 2019-21, with a total cost of \$9,873,362 General Fund and \$145,722 Other Funds to staff OGGR. In 2021-23, the program will likely expand to approximately 40

positions (37.13 FTE) with a total cost of \$14,779,398 General Fund and \$1,240,837 Other Funds. Over two biennia, this includes:

- Two positions to support the GGRB (Operations and Policy Analyst 4, Administrative Specialist 2)
- Five Air Quality Division positions (Greenhouse Gas Reporting Analysts, Landfill Methane Engineer, etc.)
- 14 positions related to management and administration (HR, IT, etc.)
- 21 positions in the new OGGR (Rules Writer, Economists, Carbon Markets Manager, Policy Analysts, etc.)

The costs above also include position-related Services and Supplies, an estimated \$327,600 in funding for rent, and estimated Department of Justice (DOJ) costs of \$850,000 in 2019-21 and \$1.7 million in 2021-23. OGGR will also have several one-time costs related to third-party contracts, which include:

- A contract to provide cap and trade services such as a compliance tracking and auction platforms, at an estimated cost of \$900,000 annually (the only ongoing contractor cost), and start-up costs of \$500,000
- Modifications to the agency's Environmental Data Management System related to new greenhouse gas reporting requirements - \$250,000
- An independent Quality Assurance contract for projects going through Stage Gate review - \$50,000
- Development of offset protocols - \$400,000
- A review of methods to reduce industrial manufacturing emissions - \$500,000
- Development of a forecast for the allowance budget - \$400,000
- A study for emissions reduction through waste reduction or recycling - \$125,000
- Audits of projects funded by auction proceeds- this cost is indeterminate but a placeholder amount of \$500,000 is included in this fiscal.

DEQ has noted that recent changes to pay equity requirements have resulted in new position hires coming on board at Step 5, even though new positions within state agencies are generally budgeted at Step 2. This fiscal includes the costs of hiring new positions at Step 5.

DEQ may need to return to the Emergency Board or a future meeting of the Legislative Assembly to request additional funding related to rent and legal costs. DEQ's offices are currently at capacity, and there may be additional rental costs beyond what is projected if DEQ needs to negotiate for additional office space to house new OGGR staff. Legal costs are based on DOJ and DEQ projections, but given the relatively unprecedented nature of this program, it is difficult to state these costs with certainty at this time.

### **Public Utility Commission**

PUC is directed to undertake rulemaking on how to distribute allowances for electric companies and natural gas users; to oversee utility trust accounts; to consult on the climate action investment plan; to determine and oversee rate relief programs for certain energy consumers; to incorporate the goals of this act into planning and rate cases; and to fulfill reporting requirements.

PUC anticipates they will need eight new permanent, full-time positions in 2019-21 (3.75 FTE), with another position phasing in for 2021-23 (nine positions total, 8.50 FTE) to complete this work. Anticipated staffing needs include one Principal Executive Manager E, five Utility and Energy Analysts 3, one Economist 4, one Operations and Policy Analyst 3, and one Accountant 3. General Fund costs are anticipated at \$29,566 in 2019-21 and \$321,332 in 2021-23. Other Fund costs are anticipated at \$1,349,780 in 2019-21 and \$2,165,775 in 2021-23. Other Funds are derived from the agency's existing Utility Gross Operating Revenue Fee. General Fund is requested in cases where the work being done does not directly benefit utility sales customers or PUC's ratepayers.

While new positions are generally budgeted at Step 2, this fiscal impact statement includes the costs of hiring positions at Step 6, based on PUC's recent hiring needs.

### **Oregon Business Development Department**

OBDD is directed to set up a new revolving loan program. This measure includes a one-time General Fund appropriation of \$10 million, which is to be deposited in the newly-created Traded Sector Greenhouse Gas Reduction Revolving Loan Fund. The fund is separate and distinct from the General Fund, with interest earned credited to the fund, and moneys continuously appropriated to OBDD in order to issue loans and administer the program.

Revolving loan funds are to be disbursed as low- or zero-interest loans to trade-exposed natural gas users and emissions-intensive trade exposed facilities, to finance projects or upgrades that will lead to reductions in greenhouse gas emissions. OBDD anticipates that they will work with a third-party contractor with expertise in greenhouse gas emissions and mitigation technologies to develop rules and administer the fund. OBDD estimates contracting costs of \$500,000 in both 2019-21 and 2021-23, derived from the \$10 million appropriated for the Revolving Loan Fund. OBDD will need \$500,000 Other Funds limitation to expend appropriated General Fund as Other Funds.

OBDD is also directed to conduct a report on addressing barriers to capital investment by businesses in Oregon to reduce greenhouse gas emissions, in consultation with the Department of Revenue (DOR) and the Legislative Revenue Office (LRO). OBDD anticipates this will cost \$100,000 General Fund in 2019-21, with minimal fiscal impact to DOR and LRO.

### **Department of Land Conservation and Development**

The Department of Land Conservation and Development (DLCD) will be involved in development and review of metropolitan climate plans, which local governments must develop in order to receive TDIA funds. DLCD anticipates that they will need to hire two new permanent positions and increase FTE for an existing position (totaling 1.25 FTE in 2019-21 and 2.50 FTE in 2021-23) to assist with rulemaking, technical assistance to local governments, and plan review. This includes a part-time Planner 2, a full-time Planner 3, and a full-time Operations and Policy Analyst 1.

The total cost is estimated at \$327,162 General Fund in 2019-21 and \$604,416 General Fund in 2021-23, including position-related Services and Supplies, DOJ costs, and a contract for rulemaking facilitation and support. It is assumed the General Fund will be used to support these positions on an ongoing basis as the measure does not state that TDIA funds may be transferred to agencies besides ODOT for administrative costs, and this work is not included as an administrative expense that may be covered by funds from the Oregon Greenhouse Gas Initiative Operating Fund.

### **Housing and Community Services Department**

The Housing and Community Services Department (HCSD) is directed to develop a proposal, in consultation with OGGR and the Oregon Housing Stability Council, to assist households that use fuels other than natural gas for residential home heating. This is to be reported to the Legislature by September 15, 2021.

HCSD anticipates they will need two limited-duration, part-time positions to accomplish this work. This includes a Program Analyst 4 (0.44 FTE in 2019-21, 0.13 FTE in 2021-23) and an Administrative Specialist 2 (0.11 FTE in 2019-21 and 0.04 FTE in 2021-23), who will meet with stakeholders, design a program and proposal, and create a report. The total cost of these positions and associated Services and Supplies is estimated at \$158,091 General Fund in 2019-21 and \$57,808 General Fund in 2021-23.

### **Department of Administrative Services**

The Department of Administrative Services (DAS), in consultation with the Attorney General, is directed to adopt model rules that specify labor, workforce and contracting procedures for state agencies to use in administering funds for projects that receive a certain amount of funding from the TDIA or CIF. DAS is also directed to develop a model program for procurement of zero-emission vehicles by local governments and special government bodies,

and conduct a study of how to account for greenhouse gas emissions when awarding state procurement contracts.

To develop the model procurement program and the study relating to emissions in procurement, DAS would hire two limited duration, full-time Operations and Policy Analysts 4 (each 0.63 FTE for a total of 1.25 FTE in 2019-21; and one 1.00 FTE and one 0.25 FTE for a total 1.25 FTE in 2021-23). This is estimated to cost \$326,510 Other Funds in 2019-21.

Because writing model procurement rules is generally done by the Department of Justice (DOJ) and not generally a task that DAS undertakes, DAS anticipates they will need to hire two new limited-duration, full-time positions (both 1.00 FTE) in 2021-23. This includes a State Procurement Analyst and an Operations and Policy Analyst 4. The total cost of these positions is estimated at \$484,532 for Personal Services and \$36,154 for position-related Services and Supplies. In total the four new positions are anticipated to cost \$857,742 Other Funds in 2021-23.

All positions are paid for using Other Funds from DAS' assessment on state agencies, which means some of these funds are derived from the General Fund. It is assumed that DAS has sufficient existing funds to pay for positions required during the 2019-21 biennium but may return to the Emergency Board to request a General Fund appropriation in 2019-21 if needed.

### **Department of Forestry**

ODF will be responsible for assisting with the development of forestry carbon offset protocols and reporting on offsets and other projects related to this bill. ODF will receive 25 percent of funds available from the CIF to be used for wildfire mitigation efforts.

ODF will hire one permanent full-time Operations and Policy Analyst 4 (0.50 FTE in 2019-21, 1.00 FTE in 2021-23) to begin working on forestry offset protocols. The total cost of the new position, including associated Services and Supplies, is estimated at \$119,215 General Fund in 2019-21 and \$237,996 General Fund in 2021-23. ODF also anticipates there will be contracting costs in 2021-23 related to production of fiber supply impact reports required by this measure.

ODF will need to request additional staff and funding for future biennia based on when CIF moneys are anticipated to be available.

### **Oregon Department of Transportation**

ODOT will receive funds that flow to the TDIA. Of these funds, 10 percent will be used by ODOT and 90 percent will go to local governments. Local governments must report annually to ODOT on use of these funds, and ODOT will work jointly with the GGRB to hire a third-party auditor for funded projects. ODOT assumes that the State Highway Fund will be used to cover expenses until other revenue is generated from the sale of allowances, at which point the State Highway Fund will be reimbursed.

ODOT anticipates needing three permanent full-time Operations and Policy Analyst 4 (OPA 4) positions. One will be hired in 2019-21 (0.50 FTE in 2019-21, 1.00 FTE in 2021-23) to serve as the TDIA program manager. The other OPA 4 positions will be hired in 2021-23 (each 0.50 FTE in 2021-23) and will work on Project Labor Agreements. Total known expenditures related to the three OPA 4 positions are \$127,517 Other Funds in 2019-21 and \$510,074 Other Funds in 2021-23.

Additionally, ODOT is directed to work jointly with the Legislative Revenue Officer on a variety of studies that must be presented to the Legislative Assembly by September 15, 2022. This may require ODOT to hire outside consultants to supplement the work of existing ODOT economists, but the cost is indeterminate at this time.

ODOT will need to request additional staff and funding for future biennia based on when TDIA moneys are anticipated to be available.

ODOT has noted that some of the contracting requirements in the bill do not align with federal rules around preference in procurements. ODOT will not be able to follow these preference requirements for projects that receive federal funding.

### **Oregon Watershed Enhancement Board**

OWEB receives 25 percent of funds available from the CIF. Funds are to be used to support natural and working lands projects. To distribute CIF revenues, OWEB plans to set up a separate grant program for natural and working lands projects with mitigation, sequestration, and adaptation benefits.

If CIF moneys are not to be available to agencies until the 2023-25 biennium under the conservative scenario used in this fiscal, then OWEB would anticipate a minimal fiscal impact in 2019-21 and would plan to hire any grant management positions until the 2021-23 biennium. OWEB may need to return to Emergency Board or the 2021 Legislative Session to request additional staff to develop this grant program, should CIF moneys be projected to become available to agencies during the 2021-23 biennium.

### **Oregon Department of Agriculture**

The Oregon Department of Agriculture (ODA) would hire a new temporary full-time NRS 3 (0.50 FTE) in 2019-21 at a total cost of \$111,536 General Fund. This position will provide consultation and research about agricultural lands and industries for designation of energy intensive trade exposed entities and impacted communities, and research the viability of different offset projects. ODA also anticipates minimal Other Funds expenditures related to fuel standards.

ODA may need to request additional staff or funding during the 2021-23 budget development cycle based on the outcome of rulemaking done around this bill.

### **Legislative Revenue Office**

LRO assumes a fiscal impact of \$150,000 General Fund in both the 2019-21 and 2021-23 biennia. These funds would be used to contract with a third party to complete reports required by the bill. This is an initial estimate based on previous costs of contracting for studies.

### **Department of Justice**

DOJ anticipates that two new permanent, full-time positions (1.08 FTE in 2019-21, 2.00 FTE in 2021-23) will be needed to address various legal aspects of this measure. Total expenses related to these positions and related Services and Supplies are estimated at \$455,597 Other Funds in 2019-21, and \$829,427 Other Funds in 2021-23. DOJ revenues are derived from charges to agencies, so some of these funds could originate as General Fund, as DOJ will charge legal services costs to DAS and DEQ, as well as ODOT and PUC.

DOJ anticipates that DEQ will require the services of one new permanent full-time Senior Assistant Attorney General in DOJ's General Counsel - Natural Resources Section (0.54 FTE in 2019-21, 1.00 FTE in 2021-23) to advise on the OGGI. DEQ will be billed for these services.

DOJ anticipates that the PUC will require the services of one additional permanent full-time Assistant Attorney General (0.54 FTE in 2019-21, 1.00 FTE in 2021-23) in DOJ's General Counsel - Business Activities Section to consult with PUC on new requirements for utilities under this measure. PUC will be billed for these services.

There is minimal fiscal impact for DOJ to provide DAS and ODOT with legal services related to development of labor, workforce, and contracting procedures that will be used for projects funded by the TDIA and CIF.

### **Oregon Judicial Department**

The Oregon Judicial Department (OJD) anticipates that the Court of Appeals will see a small number of additional cases related to administrative rulemaking, contested case hearings, and civil penalties, with minimal fiscal

impact; and that circuit courts will also see an increase in civil cases related to enforcement of the measure, as well as an increase in some felony cases, with minimal fiscal impact. This measure allows for direct review by the Supreme Court of four potential constitutional questions related to whether the revenue raised in relation to this bill can be considered a tax or excise. Because the costs and number of potential cases are unknown, OJD currently foresees a minimal fiscal impact, but would need to return to the Emergency Board or a later legislative session if costs exceed currently allotted funding.

### **Other state agencies**

The Higher Education Coordinating Commission (HECC), Department of Consumer and Business Services (DCBS), and Oregon Department of Energy (ODOE) have indeterminate fiscal impacts as a result of this bill.

HECC is directed to consult with OGGR on the Just Transition Plan and Program. HECC anticipates this will have a fiscal impact, but the impact is unknown until more details about the Just Transition Plan are formulated.

DCBS is likely to have a minimal fiscal impact, but the fiscal impact will ultimately be determined based on rulemaking that needs to be done around what constitutes material compliance with Worker's Compensation Division coverage for contractors and who is authorized to do the rulemaking.

ODOE anticipates a minimal fiscal impact, with existing staff involved in rulemaking and research/analysis. ODOE anticipates there could be potential legal costs related to the implementation of light bulb energy efficiency standards.

There is a minimal fiscal impact anticipated for the Oregon Parks and Recreation Department (OPRD) related to the tree planting day program included in this measure. Should costs of implementing this program be more than anticipated, OPRD may need to return to a future Emergency Board or Legislative Session to request additional Other Funds expenditure limitation or a Lottery Funds allocation.

### **Cities and Counties**

Cities and Counties anticipate a fiscal impact, but the full impact is indeterminate.

Cities and Counties will have the opportunity to receive state funding from the TDIA and CIF if they develop/adopt metropolitan climate plans. Creating these plans would require many cities and counties to hire additional staff or consultants. There will likely be additional costs related to development and administration of projects funded by these moneys.

Cities also report that there could be a fiscal impact as the increase in gas prices increases costs for use of city fleet vehicles. The League of Oregon Cities estimates that costs for fuel for fleet vehicles in certain impacted cities could increase by a combined \$2.3 million annually. Cities also anticipate potential but indeterminate cost increases related to use of natural gas.

Of note, numerous state agencies could also see fuel cost increases, including DAS, ODOT, ODF, OSP, and other state agencies with fleet vehicles. Costs to state agencies as a result of fuel price increases are indeterminate.