

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 4212 - 34

80th Oregon Legislative Assembly – 2020 1st Special Session
Legislative Fiscal Office

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

Prepared by: Michael Graham
Reviewed by: Steve Bender, John Borden, Meg Bushman-Reinhold, Laurie Byerly, Michelle Deister, Gregory Jolivet, Tom MacDonald, Haylee Morse-Miller, Ken Rocco, Paul Siebert, Matt Stayner, Kim To, Tim Walker, Doug Wilson
Date: June 25, 2020

Measure Description:

Relates to strategies to protect Oregonians from the effects of the COVID-19 pandemic.

Government Unit(s) Affected:

Board of Examiners for Speech-Language Pathology and Audiology (BSPA), Board of Licensed Professional Counselors and Therapists (BLPCT), Board of Licensed Social Workers (BLSW), Board of Massage Therapists, Board of Optometry, Cities, Counties, Department of Administrative Services (DAS), Department of Consumer and Business Services (DCBS), Department of Human Services (DHS), Department of Revenue (DOR), Health-Related Licensing Boards (HRLB), Housing and Community Services Department (HCSD), Mental Health Regulatory Agency (MHRA), Metro, Occupational Therapy Licensing Board (OTLB), Oregon Board of Chiropractic Examiners (OBCE), Oregon Board of Dentistry (OBD), Oregon Board of Medical Imaging (OBMI), Oregon Board of Naturopathic Medicine (OBNM), Oregon Board of Pharmacy (OBOP), Oregon Board of Psychology, Oregon Business Development Department (OBDD), Oregon Health Authority (OHA), Oregon Judicial Department (OJD), Oregon Medical Board (OMB), Oregon State Board of Nursing (OSBN), Physical Therapist Licensing Board, School Districts, Secretary of State (SOS), Special Districts, Department of Justice (DOJ)

Summary of Fiscal Impact:

Costs related to the measure are indeterminate at this time - See explanatory analysis.

Analysis:

The measure contains various statutory changes relating to the Governor's declared state of emergency to protect Oregonians from the effects of the COVID-19 pandemic. The measure includes changes to public meetings, quorum requirements, and operations of local government and special government bodies; temporary garnishment protection for CARES Act payments, with exceptions; time extensions and electronic appearances in judicial proceedings; providing emergency shelters; utility bill assistance for low-income families affected by COVID-19; immunity from civil liability for isolation shelters; allowing notarial acts to be performed using communication technology; extending enterprise zone termination dates; allowing individual development account for emergency savings; establishing emergency temporary Oregon OSHA infectious disease standards; and collecting and reporting race and ethnicity data by specified licensed health care providers during the COVID-19 pandemic.

Metro

The measure will have a minimal fiscal impact on Metro.

Cities

The measure will have a minimal fiscal impact on Cities.

Counties

The provisions in the measure relating to collection and reporting of race and ethnicity data will likely have fiscal impact to county operated programs, including Federally Qualified Health Centers, county operated mental

health, behavioral health, and addiction providers, and Intellectual and Development Disability providers, all of whom will be required to collect and report this new data. The cost of collecting and reporting this data is unclear; thus, the fiscal impact to counties is indeterminate. The measure may also constitute an unfunded mandate, according to the Association of Oregon Counties.

Special Districts

The provisions in the measure relating to the adoption of Oregon OSHA infectious disease standards will likely have a significant fiscal impact on special districts, including nearly 300 rural fire protection districts, as well as transit districts and hospital districts. The measure requires that the temporary rule have a “framework” for prioritizing use of control methods. The control methods are preferentially ranked with engineering controls (i.e., more permanent “fixes”) first, followed by administrative controls (i.e., policies and procedures), safe work practices, and lastly, personal protective equipment. It also requires an undefined “risk-based model” to help employers assess their individual risks, identify exposure sources, and adopt measures to address the risks identified, all of which must be prepared and published for implementation by August 1, 2020. The measure directs OR-OSHA to promulgate a “temporary” rule that will require employers to use “engineering controls” (i.e., permanent fixes) preferentially over all other potential control methods. For example, Oregon OSHA could require employers to meet increased ventilation requirements—costing employers potentially thousands or tens of thousands of dollars to install new equipment that would in effect be permanent. For that reason, the fiscal impact to Special Districts is indeterminate.

School Districts

The provisions in the measure relating to the adoption of Oregon OSHA infectious disease standards may have a significant fiscal impact on school districts. At a minimum, the emergency temporary infectious disease standards that the measure establishes must specify requirements for the selection, use, cleaning and disposal of personal protective equipment, based on the level of risk of occupational exposure in a specific workspace and the availability of equipment. It is unclear what the requirements for the selection, use, cleaning and disposal of personal protective equipment will be; whether school districts will have groups of employees that are considered high risk; and if such a risk-based model were established, whether it would include the adoption of specific measures to address exposure risks. The measure also will require health care providers to collect and report race and ethnicity data. It is unclear how school districts will collect and report that data and how much it will cost. The fiscal impact to school districts is thus indeterminate.

Department of Revenue

The measure will have no fiscal impact on the Department of Revenue.

Oregon Business Development Department

The measure will have no fiscal impact on the Oregon Business Development Department.

Secretary of State

The measure will have no fiscal impact on the Secretary of State.

Department of Justice

The measure likely will generate additional work in the General Counsel Division through requests for advice and contested cases, requests for advice from HCSD, and possibly from DOR regarding the new exemption from garnishment. However, since the additional workload can be handled with the division’s current resources, the fiscal impact to DOJ is minimal.

Oregon Health Authority

The measure requires OHA to adopt rules that establish the deadline by which a health care provider must begin collecting race and ethnicity data; provide guidance on the frequency of reporting; and establish the manner of reporting, which are applicable to reporting occurring on or after August 1, 2020. These provisions are repealed 270 days after the date of the declared state of emergency issued, or extension thereof, is no longer in effect.

OHA should be able to absorb the increased workload with its current legislatively adopted budget for the 2019-21 biennium. The fiscal impact to OHA is therefore minimal.

Health Professional Regulated Boards

The measure requires health care providers to collect and report data on their patients' race, ethnicity, preferred spoken and written languages, English proficiency, interpreter needs and disability status to a laboratory if COVID-19 testing is ordered or to the Oregon Health Authority and the Department of Human Services if the reporting is otherwise required by law. "Health care provider" includes any practitioner licensed by the State Board of Examiners for Speech-Language Pathology and Audiology, State Board of Chiropractic Examiners, State Board of Licensed Social Workers, Oregon Board of Licensed Professional Counselors and Therapists, Oregon Board of Dentistry, State Board of Massage Therapists, Oregon Board of Naturopathic Medicine, Oregon State Board of Nursing, Oregon Board of Optometry, State Board of Pharmacy, Oregon Medical Board, Occupational Therapy Licensing Board, Oregon Board of Physical Therapy, Oregon Board of Psychology, and Board of Medical Imaging.

The measure imposes a new requirement on licensees of health professional regulated boards and adds enforcement authority "by any means permitted under the law" to said boards. It is unclear the extent to which boards will be expected to enforce the measure, and it is difficult to predict the volume of complaints that boards may receive for alleged violations of this data collection and reporting requirement. Boards will need to communicate with licensees regarding the new requirement, investigate complaints received about licensees, and respond to inquiries from licensees and consumers, all of which will require additional staff time. However, the efforts required by boards are not likely to be significant enough to require additional FTE staffing or require additional budgetary resources, as the Oregon Health Authority will likely handle most of the communication and enforcement responsibilities. The measure will thus have a minimal fiscal impact on health professional regulated boards.

Department of Administrative Services

The measure establishes a grant program for emergency shelters and directs DAS to provide grants to organizations to plan, construct, and operate emergency shelters for the homeless. DAS will need to return to the Emergency Board or the Legislative Assembly to request funding for the program.

Oregon Judicial Department

The measure authorizes the Chief Justice of the Oregon Supreme Court to extend or suspend any time specified court proceedings and to direct or permit electronic court appearances. It authorizes the presiding judge of a circuit court to extend custody and postpone trials, within specified time limits. It also extends the time to commence a civil action or give notice of civil claim. Although the measure may slightly increase the workload of court staff, it may also result in time saving to offset additional case filings. The measure will have a minimal fiscal impact on OJD.

Housing and Community Services Department

The measure suspends land use and zoning regulations to allow for siting of emergency shelters under certain conditions. It also amends a statutory provision relating to transitional housing to include parking lots or facilities. While the department has experienced increased demand for its shelter and emergency housing assistance funds, these changes do not have a fiscal impact on HCSD. The measure adds savings for "emergency expenses" as an eligible purpose for the Individual Development Account (IDA) program. HCSD contracts with a nonprofit organization, Neighborhood Partnerships (NP), for administration of the IDA program. NP provides funds to a network of fiduciary organizations that assist IDA savers with attaining their goals. Adding another class of savings account and making modifications so account holders have emergency access to their money will not have a fiscal impact on HCSD.

The measure also establishes the Low-Income Utility Payment Fund and directs HCSD to deposit funds, including federal funds, received for low income energy bill payment assistance into the fund. The account interest is to

remain in the account, and funds are continuously appropriated to HCSD. It further directs that these funds will be allocated to subgrantees through the formula established for distribution of federal Low-Income Energy Assistance funds. The subgrantees will be allowed to determine eligibility standards and shall report on the use of moneys to HCSD. If the measure is intended to apply to a single, unspecified source of funding without a stipulated amount, the only quantifiable cost to HCSD would be Treasury fees associated with the account. However, if it does require all state and federal low-income energy bill payment assistance funds be deposited into this account, it will likely cause confusion, additional work for tracking funds, and difficulty in program monitoring. These costs are difficult to quantify but could be significant. For that reason, the fiscal impact to HCSD is indeterminate.

Department of Consumer and Business Services

The measure requires emergency shelters and isolation shelters to comply with applicable state building codes. These provisions do not require the creation of new codes or modification of existing code standards and thus have no fiscal impact to the Building Codes Division. It contains provisions relating to filing workers' compensation claims; however, these provisions do not impact the regulatory functions of the Workers' Compensation Division and thus have no fiscal impact. The measure provides that deposits made into a debtor's financial institution under the federal CARES Act (P.L. 116-136) is not subject to garnishment. This provision will likely result in lost revenue to DCBS Shared Services, though the amount is indeterminate. The measure also directs Oregon OSHA to adopt temporary and permanent infectious disease standards. Due to the short timeframe to implement these rules, Oregon OSHA will need to engage in immediate rulemaking. However, the additional rulemaking workload is anticipated to be absorbable with existing staff resources. Overall, the measure is anticipated to have a minimal fiscal impact on DCBS.

Department of Human Services

The measure extends or suspends specified court proceedings, including custody trials, which may impact Child Welfare services, though it would depend on the length and duration of the underlying emergency declarations, as well as determinations yet to be made on the allowable duration of exceptions made at the federal level. Annual full judicial reviews are a requirement for federal title IV-E compliance and certain cases are now noncompliant, which could result in federal dollars being withheld. Additionally, dependent on the duration, cases now entering the system could be impacted if they are unable to comply with title IV-E. If this trend continues, which depends on the extent to which the courts choose to do so, any permanency hearing could be impacted. It is unclear if permanency hearings will be prioritized, but each time permanency is delayed, there is a fiscal impact. If it is reunification, on the other hand, then it is the cost of keeping the child in care. Because the fiscal impact will increase and scale up based on the duration of the emergency declarations and future entries into care, the fiscal impact to DHS indeterminate.