

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2327 - A

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office*Only Impacts on Original or Engrossed
Versions are Considered Official*Prepared by: Haylee Morse-Miller
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Date: April 14, 2021**Measure Description:**

Requires Department of Human Services and Oregon Health Authority to adopt rules to ensure that long-term care providers have the appropriate resources to prepare for and respond to public health emergencies.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Oregon Military Department (OMD), Department of Human Services (DHS), Long Term Care Ombudsman (LTCO), Oregon Department of Veterans' Affairs (ODVA)

Summary of Fiscal Impact:

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

Summary of Expenditure Impact:

	2021-23 Biennium	2023-25 Biennium
General Fund	\$16,116,443	\$1,123,592
Federal Funds	855,684	1,123,511
Total Funds	\$16,972,127	\$2,247,103
Positions	9	9
FTE	6.75	9.00

Analysis:

HB 2327 - A requires the Department of Human Services (DHS) and Oregon Health Authority (OHA) to adopt rules to ensure that long-term care providers have the appropriate resources to prepare for and respond to public health emergencies. This includes requirements for use, availability, and cleaning of personal protective equipment (PPE); screening residents for infectious diseases; evacuation plans; staff training in preparation for a public health emergency; and emergency response plans. DHS and OHA must also study and distribute best practices for systems that reduce air pollutants and infectious disease spread, and develop a long-term care rapid response plan to be implemented in the event of a public health emergency.

The agencies must also adopt requirements for long-term care providers to develop an isolation prevention plan to ensure that residents of a facility are able to engage in in-person contact and communication with other residents, family, friends, and other support systems during a public health emergency. If in-person contact is not possible, residents must be able to engage through electronic or virtual methods. Facilities must provide access to assistive or supportive technology for residents with disabilities that impede their ability to communicate.

DHS and OHA must adopt by rule requirements for facilities to acquire and maintain a backup power source; PPE; and technological equipment to ensure that residents will be able to communicate with others in the event of a public health emergency. DHS is to provide financial assistance to long term care providers to purchase this equipment. The agencies must collaborate with state and local agencies to provide sufficient PPE to meet the anticipated needs of long-term care providers during a public health emergency.

This measure further creates the 16-member Long Term Care Emergency Preparedness and Response Team within DHS, to advise on coordination and planning for long-term care providers during an emergency. DHS is to develop a training, or approve a third-party training, to be made available to local public health authorities to help communicate the responsibilities of long-term care facilities, and the emergency and unique needs of residents in different facilities.

Finally, this measure directs DHS and OHA to conduct a virtual facility inspection if on-site inspections are not possible due to a public health emergency.

This measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its budgetary impact.

Department of Human Services

The Department of Human Services anticipates a total funds impact of \$16,711,449 in 2021-23, and \$2,247,103 in 2023-25.

A majority of the costs under this measure are related to the requirement that OHA and DHS must “Provide financial assistance to long term care providers that are preparing for, responding to or recovering from a public health emergency to purchase equipment required... from available funds that are continuously appropriated to the department for expenditure on each type of long-term care provider.” The Legislative Fiscal Office notes that there is no revenue source identified for this purpose, and that General Fund monies cannot be continuously appropriated so cannot qualify as “available funds” for purchase of equipment under this measure. DHS may be able to use existing revenue from the Quality Care Fund to purchase equipment for long-term care providers, but the balance of the Quality Care Fund is insufficient to cover all anticipated equipment costs; additionally, it is unclear if equipment purchases under this measure would be an allowable use of the Quality Care Fund. This fiscal assumes that General Fund monies will be used to pay for the costs of equipment for long-term care providers, unless another source of revenue is identified.

Equipment costs for long-term care providers are estimated at up to \$15.0 million. This includes the following expenses for approximately 550 facilities:

- \$25,000 per facility for an emergency generator;
- \$500 per facility for electronic communications equipment; and,
- \$1,500 per facility for emergency PPE.

The \$15.0 million figure is likely the high end of the estimated need, as this figure assumes that all facilities require a generator, communications equipment, and PPE, though it is likely that some facilities already have this equipment and will not require DHS funding. This number also assumes that DHS will provide the funding to completely cover the costs of this equipment for all facilities, and not just pay for a portion of these costs. This fiscal also assumes that these costs are concentrated in the 2021-23 biennium, though there are likely to be additional costs for equipment purchase into the 2023-25 biennium.

Any costs beyond the 2023-25 biennium are outside of the scope of this fiscal, but it is assumed that there will be ongoing costs to DHS to provide updated supplies to eligible facilities. Also, of note, the 2021-23 DHS Governor’s Budget already includes \$2.5 million General Fund for purchase of communications equipment, which could be used toward the costs of implementation of this measure.

In addition to these costs, DHS anticipates hiring nine new positions (6.75 FTE in 2021-23, 9.00 FTE in 2023-25):

- One Principal Executive Manager E for program oversight;
- One Epidemiologist 3 to provide technical assistance and program consultation;
- One Operations and Policy Analyst 3 to develop training for local public health authorities;
- Two Operations and Policy Analyst 3s to oversee the Long Term Care Emergency Preparedness and Response Team;

- Two Operations and Policy Analyst 3s to adopt rules and provide technical assistance to facilities;
- One Program Analyst 3 to coordinate funding for supplies; and,
- One Administrative Specialist 2 to provide program administrative support.

The total costs of these positions are estimated at \$1,711,449 total funds in 2021-23 and \$2,247,103 total funds in 2023-25, including position-related Services and Supplies. Half of the position funding is anticipated to come from Federal Medicaid Administrative funds.

Oregon Health Authority

OHA anticipates a one-time cost of approximately \$260,678 General Fund in the 2021-23 biennium, to contract for a required study of systems that reduce air pollutants and infectious disease spread.

Oregon Department of Veterans' Affairs

The total cost of this measure for the Oregon Department of Veterans' Affairs (ODVA) is indeterminate. There are two skilled nursing facilities operated by the Department. There may be additional costs to operate these facilities if ODVA must, for example, purchase additional equipment in preparation for a public health emergency. Any additional costs will be dependent on rulemaking conducted by DHS and OHA under this measure.

Any costs related to this measure would be passed on to residents as an increase in rates for care at ODVA's facilities.

Other state agencies

There is not fiscal impact for the Long Term Care Ombudsman or the Oregon Military Department.