

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: HB 2697 - A4**

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

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

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 Date: 5/31/2023

**Measure Description:**

Requires hospitals to establish professional and technical staff and service staff staffing committees, meeting specified criteria, to develop staffing plans, in addition to nurse staffing committee.

**Government Unit(s) Affected:**

Bureau of Labor and Industries, Department of Justice, Oregon Health Authority, Employment Relations Board, Oregon Medical Board, Board of Nursing, Judicial Department

**Summary of Fiscal Impact:**

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

**Summary of Expenditure Impact:**

	2023-25 Biennium	2025-27 Biennium
<b>Oregon Health Authority</b>		
<b>General Fund</b>		
Personal Services	\$1,451,668	\$2,671,778
Services and Supplies	\$528,903	\$555,194
<b>Total General Fund</b>	<b>\$1,980,571</b>	<b>\$3,226,972</b>
<i>Positions</i>	13	13
<i>FTE</i>	7.15	13.00
<b>Bureau of Labor and Industries</b>		
<b>General Fund</b>		
Personal Services	\$161,377	\$1,215,959
Services and Supplies	\$27,200	\$73,600
<b>Total General Fund</b>	<b>\$188,577</b>	<b>\$1,289,559</b>
<i>Positions</i>	8	8
<i>FTE</i>	1.00	7.50
<b>Total General Fund</b>	<b>\$2,169,148</b>	<b>\$4,516,531</b>
<b>Total Fiscal Impact</b>	<b>\$2,169,148</b>	<b>\$4,516,531</b>
<i>Total Positions</i>	21	21
<i>Total FTE</i>	8.15	20.50

**Analysis:**

HB 2697-A4 requires hospitals to establish professional and technical committees and hospital service committees. These committees are directed to establish hospital-wide staffing plans subject to the criteria listed in the measure. Staffing plans must be submitted to the Oregon Health Authority (OHA) within 30 days of their adoption. Should all committees agree, the measure permits committees to combine, subject to the provisions of the measure. The measure also requires that psychiatric units form a multidisciplinary subcommittee from staff in the unit who are charged with developing a staffing plan to meet the unit’s needs. Committees must be established by December 31, 2024.

The measure defines nurse-to-patient and certified nursing assistant-to-patient ratios and lists exceptions to these ratios. Ratios must be implemented by hospitals on or before September 1, 2023.

OHA is directed to develop a website for employees or their exclusive representatives to submit complaints and rules for processing complaints by January 1, 2024. Complaints for meal or break violations may be submitted to the Bureau of Labor and Industries or OHA on June 1, 2025; OHA will forward any meal and break violations to BOLI. Both BOLI and OHA are permitted to impose civil penalties for violations beginning June 1, 2025.

The measure repeals the current statute that requires OHA to audit nurse staffing committees and compliance with nurse staffing plans.

The measure declares an emergency and is effective September 1, 2023.

### Oregon Health Authority

The fiscal impact of the measure on OHA is \$1,980,571 General Fund and 13 positions (7.15 FTE) for the 2023-25 biennium and \$3,226,972 General Fund and 13 positions (13.00 FTE) for the 2025-27 biennium. The majority of costs are associated with the 13 permanent full-time positions (7.15 FTE) and associated services and supplies costs that will process and investigate complaints and support the Oregon State Hospital staffing committees.

The measure requires OHA to transition from its current regulatory framework and auditing schedule. As a result, OHA will need to resolve existing complaint investigations and revise or eliminate existing Oregon Administrative Rules that regulate current work. Under the current triennial survey complaint process, OHA finds approximately 85% of complaints are valid. With the new process, OHA anticipates that the volume of complaints will increase significantly. Previous OHA surveys found that all hospitals (65 hospitals) violated the terms of the nurse staffing plan, and all hospitals received citations. As each hospital can define their committee differently and create a unique staffing plan, staff will not have a standard rubric to evaluate complaints, increasing the complexity of investigations. Additionally, OHA will triage meal and break violation complaints and forward those to BOLI. Current projections anticipate roughly 6,000 meal and break violations reported annually, the triage of these complaints could represent a significant, if not difficult, caseload.

Positions related to the processing and investigation of complaints are projected to cost \$1,240,372 General Fund for the 2023-25 biennium, increasing to \$2,426,458 General Fund in 2025-27 as positions increase to 1.00 FTE each. These positions include the following full-time permanent positions:

- One Compliance and Regulatory Manager 2 position to oversee the staff and the implementation of the program.
- Two Operations and Policy Analyst 3 positions are needed to develop the complaint investigation process and survey tool development, conduct trainings for hospital staff, develop enforcement and tracking systems, and provide ongoing guidance.
- Three Compliance Specialist 3 positions are needed to enforce civil penalties, communicate with hospitals during an investigation, track hearing request deadlines and prepare cases for DOJ attorneys to present.
- Three Client Care Surveyors for each committee type to investigate complaints relating to staffing plans or committees.
- One Administrative Specialist 1 to provide administrative support to the manager and team.

The development of the website for employees to report complaints can be completed within existing resources.

To assist with the administrative tasks of its subcommittees and track requirements and potential complaints, the Oregon State Hospital (OSH) requires two permanent full-time Administrative Specialist 1 positions and one Operations and Policy Analyst 1. These positions are anticipated to cost \$404,529 General Fund for the 2023-25 biennium, increasing to \$533,044 General Fund for the 2025-27 biennium as positions increase to 1.00 FTE each.

However, it is important to note that staffing plans may require positions outside of OSH's current budget and/or position authority, and OSH may not be able to resolve budget or position demands in an expedient matter as it is subject to the legislative budget process.

OHA is directed to convene a subcommittee of the Nurse Staffing Advisory Board to advise on the adoption of rules required by the measure. One-time costs to conduct meeting facilitation, provide translation and interpretation services, and compensate the board are projected to be \$85,200 General Fund.

OHA is directed to begin investigating complaints for nurse staffing committees on September 1, 2023 and investigate complaints for hospital services and professional and technical committee complaints on December 31, 2024; however, civil penalties may not be imposed until June 1, 2025. Work with the Department of Justice (DOJ) will be required to determine the appropriate enforcement mechanisms prior to and after civil penalties may be imposed. Due to this increased legal guidance for not only enforcement but also investigation and rulemaking the biennial costs for OHA's work with DOJ are projected to be \$250,470 General Fund.

Additionally, ongoing translation services will be required in 2025-27 with a projected cost of \$20,000 General Fund (2023-25 amount included in board costs).

#### Bureau of Labor and Industry

The fiscal impact of the measure on BOLI is \$188,577 General Fund and eight positions (1.00 FTE) for the 2023-25 biennium, increasing to \$1,289,559 General Fund and eight positions (7.50 FTE) for the 2025-27 biennium as seven of the positions increase to 1.00 FTE each.

The measure directs BOLI to resolve complaints received from employees, the exclusive representatives of employees, or forwarded from OHA regarding meal or break period violations beginning on June 1, 2025. BOLI is projected to receive 6,000 meal and rest period complaints annually. To account for this increased caseload, BOLI is anticipated to need six permanent full-time Compliance Specialist 1 positions to investigate complaints, one permanent full-time Administrative Specialist 1 position to enter complaints into the case management system, process proof of payments, and track complaints, and one part-time permanent Legal Secretary to file, schedule, prepare, and send form letters and final orders, and coordinate with the Wage and Hour Division.