

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 85 - A

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Prohibits the Department of Environmental Quality and Department of Agriculture from issuing a permit to a new large confined animal feeding operation that is located in a ground water management area and applies manure, litter or processed wastewater to land within the ground water management area.

Government Unit(s) Affected:

Water Resources Department, Department of Environmental Quality, Department of Agriculture, Counties, Cities

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
Department of Agriculture		
General Fund		
Personal Services	\$384,520	\$439,454
Services and Supplies	\$142,492	\$34,296
Capital Outlay	\$35,000	
Total General Fund	\$562,012	\$473,750
<i>Total Funds</i>	\$562,012	\$473,750
<i>Positions</i>	2	2
<i>FTE</i>	1.76	2.00
Department of Environmental Quality		
General Fund		
Personal Services	\$184,012	\$58,108
Services and Supplies	\$30,479	\$9,625
Total General Fund	\$214,491	\$67,733
<i>Total Funds</i>	\$214,491	\$67,733
<i>Positions</i>	1	1
<i>FTE</i>	0.79	0.25
Total General Fund	\$776,503	\$541,483
Total Fiscal Impact	\$776,503	\$541,483
<i>Total Positions</i>	3	3
<i>Total FTE</i>	2.55	2.25

Analysis:

SB 85 - A prohibits the Department of Environmental Quality (DEQ) or Oregon Department of Agriculture (ODA) from issuing a general National Pollutant Discharge Elimination System (NPDES) or Water Pollution Control Facilities (WPCF) permit to a new large confined animal feeding operation (CAFO) that is located in a ground water management area, and applies manure, litter, or processed wastewater to land within the ground water management area.

Before applying for a permit under ORS 468B.050 for a new or expanding large CAFO, an applicant must request that DEQ or ODA schedule a preliminary consultation that includes these agencies and the Water Resources Department (WRD). Animals may not be brought to a new or expanded facility until after ODA inspects the operation and confirms that the construction or installation of the waste management system and relevant operational functions comply with the conditions of the water quality permit. Additionally, prior to applying for a permit, an applicant for a proposed CAFO must request a land use compatibility statement from the city or county the operation is proposed to be located in.

The measure requires that a person that applies for a CAFO operating permit under a NPDES or WPCF permit must submit a water supply plan that identifies the water that will be used. WRD is to review the plan to ensure that the water uses identified are legally authorized and allowable. WRD may recommend conditions for approval of a permit, including water metering by the CAFO, or maintaining water use data; or prohibiting increased use of water under certain circumstances. The requirement to submit a water supply plan and undergo inspection with ODA apply to new and expanding CAFOs as of the effective date of the measure; to large CAFO renewals starting July 1, 2024; and to small and medium CAFO permit renewals starting July 1, 2025.

The measure permits ODA to issue a nutrient application permit, and to establish certain permit requirements by rule. A person may not apply manure, litter, wastewater, or processed wastewater from a CAFO on lands in a groundwater management area unless the other person holds a nutrient application permit, or as otherwise authorized under an NPDES or WPCF permit.

DEQ is to report to the interim committees of the Legislative Assembly related to agriculture within 180 days after the United States Environmental Protection Agency's National Air Emissions Monitoring Study is finalized, on the findings of the study that relate to animal feeding operations. The measure declares an emergency and takes effect on passage.

Department of Agriculture

ODA costs are estimated at \$562,012 General Fund in the 2023-25 biennium, and \$473,750 General Fund in the 2025-27 biennium. Costs include two permanent, full-time positions (each 0.88 FTE in the 2023-25 biennium and 1.00 FTE in the 2025-27 biennium), which includes one Natural Resource Specialist 3 to serve as a field inspector, and one Natural Resource Specialist 4 to serve as a permit writer and work with other agencies.

Additional one-time costs in the 2023-25 biennium include purchase of a vehicle for the field inspector at an estimated cost of \$35,000 and rulemaking costs, estimated at \$100,000, due to the complexity of this work. In addition to personal services costs and these one-time expenses, there are position-related services and supplies costs in both biennia.

ODA will have additional Other Funds revenue from fees related to the Nutrient Application Permit. The measure would require rulemaking on the part of the agency that would include the creation and collection of fees. The amount of those fees would be set by rule and the fee amount would require subsequent approval by the legislature, in accordance with ORS 291.055. Fee revenue is indeterminate at this time.

ODA notes that while other fee revenue does partially support this program at present, fee revenue is insufficient to support costs beyond those currently supported with Other Funds in the current service level budget which is why costs are included here as General Fund.

Department of Environmental Quality

DEQ costs are estimated to total \$214,491 General Fund in the 2023-25 biennium and \$67,733 General Fund in the 2025-27 biennium. The agency would hire one full-time, limited duration Natural Resource Specialist 4 (0.79 FTE in the 2023-25 biennium) to develop rules and begin work on permitting. In the 2025-27 biennium, DEQ

would hire one permanent, part-time Natural Resource Specialist 4 (0.25 FTE in the 2025-27 biennium) to do ongoing permitting work.

Water Resources Department

The fiscal impact for WRD is indeterminate but anticipated to be minimal. WRD will need to review water supply plans for existing, new, and expanding operations. The agency anticipates that review of existing plans could result in findings of unpermitted water use and require compliance actions. However, this review and compliance work is assumed to be absorbable by existing staff. The agency estimates that it will take eight hours to review each plan, though time will vary based on complexity and information provided; and it is not clear when operations will renew or how many new operations apply.

Local Government

There is no fiscal impact for cities. Counties report an indeterminate impact, dependent on the number of new CAFOs. The measure requires a land use compatibility statement for proposed CAFOs, which will require processing by county planners. Some of these costs may be covered by fees charged for a land use compatibility statement. The Association of Oregon Counties notes that challenges to county decisions could incur additional legal costs.