

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3456 - 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:

Establishes Sexual Misconduct Survey Council.

Government Unit(s) Affected:

Higher Education Coordinating Commission, Department of Human Services, Department of Justice, Judicial Department, Legislative Assembly, Legislative Policy and Research Office, Counties, Cities

Summary of Fiscal Impact:

The measure is expected to have a total fiscal impact of \$884,713 General Fund for three positions (1.79 FTE) in 2023-25, and \$809,618 General Fund for two positions (2.00 FTE) in 2025-27, for the Higher Education Coordinating Commission and Legislative Policy and Research Office. The measure currently has an indeterminate fiscal impact on public universities and community colleges.

Analysis:

HB 3456 A-engrossed establishes the Sexual Misconduct Survey Council. The council will consist of 23 members, including four nonvoting legislative members appointed by the presiding officers in the Legislative Assembly, 17 voting members appointed by the executive director of the Higher Education Coordinating Commission (HECC), and two other voting members represented by the HECC executive director and the Oregon Attorney General, or designees thereof. The Legislative Policy and Research Office (LPRO) must provide staff support to the council. Although non-legislative members of the council are not entitled to compensation for their service on the council, the measure nevertheless states, to the extent moneys are available, non-legislative members of the council must be reimbursed for actual and necessary travel and other expenses incurred in performance of their official duties. Legislative council members are entitled to compensation and expense reimbursement from funds appropriated to the Legislative Assembly.

At least once every two years, the council must develop a base survey for distribution to institutions of higher education and provide recommendations to each institution of higher education regarding the use of the survey. In developing the base survey, the council must, among other things, utilize best practices from peer-reviewed research and consult subject-matter experts on the development and use of sexual misconduct climate surveys by post-secondary institutions of higher education. The base survey must gather data on various topics, including the number and type of incidents of sexual misconduct at institutions of higher education and demographic data to identify at-risk communities. In addition, at least once every two years, each institution of higher education must conduct a sexual misconduct climate survey of all students enrolled at the institution. Not later than 120 days after completing the survey, each institution of higher education must submit an aggregate summary of the results of the survey to HECC and post a summary of the results on its website. HECC must establish a data repository for all summaries of sexual misconduct climate surveys conducted by institutions of higher education. The council must submit the first base survey and related recommendations to each institution of higher education by no later than January 1, 2024.

With some exceptions, each institution of higher education must employ at least one certified advocate as part of an institution-based qualified victim services program. A certified advocate employed by an institution of higher education must be appointed based on the individual's experience and demonstrated ability to provide victim

services related to sexual misconduct. A certified advocate must provide confidential services to students and provide written notification to all institution staff involved in providing or enforcing supportive measures or accommodations. Each institution must enter and maintain a memorandum of understanding with a community-based domestic and sexual violence advocacy agency that is in the same county as the institution. The memorandum of understanding may include an agreement, including a fee structure, between the community-based domestic and sexual violence advocacy agency and the institution of higher education for the provision of confidential victim services; however, HECC may waive the requirements to enter a memorandum of understanding if HECC determines that, despite reasonable efforts, an institution of higher education was unable to enter such an agreement.

Each institution of higher education must receive guidance from a Title IX coordinator, local law enforcement, violence prevention specialists, public health specialists, or other individuals and use that guidance to establish a trauma-informed, gender-inclusive sexual misconduct primary prevention and awareness training that must report to the Secretary of the Senate and the Chief Clerk of the House of Representatives; interim committees of the Legislative Assembly relating to higher education; HECC; and the director of the Department of Human Services. No later than September 15 of each year, HECC must submit a report to the interim committees of the Legislative Assembly related to higher education that identifies each instance during the previous academic year in which an institution of higher education violated this measure or failed to carry out the provisions. The measure takes effect on passage.

Higher Education Coordinating Commission

The measure is anticipated to have a fiscal impact on HECC. The measure directs HECC to appoint members to the new Sexual Misconduct Survey Council and conduct rulemaking for the collection, analysis, and distribution of the sexual misconduct climate survey results. HECC has indicated an assumed need for two positions (0.91 FTE), including one limited duration, full-time Operations and Policy Analyst 4 position to develop the council membership, coordinate institutional and community-based partners, provide staff support to the LPRO director and the council, and develop rules around the collection, analysis, and distribution of survey results; and one permanent, full-time Operations and Policy Analyst 4 position to provide staff support to the LPRO director and the council, maintain engagement and coordination with institutional and community-based partners, and refine the survey's methodology as needed. Additionally, HECC anticipates contracting with a survey firm to make the council and institutional work in support of the council more efficient. Based on prior experience with similar contracts, HECC estimates the cost of this contract at a first-year cost of \$150,000 and \$50,000 per year thereafter.

The estimated fiscal impact to HECC, including personal services, services and supplies, and professional services contracts, is \$477,837 General Fund in 2023-25 and \$350,158 General Fund in 2025-27.

Public Universities and Community Colleges

The measure is anticipated to have a fiscal impact on public universities and community colleges; however, the impact is presently indeterminate. The measure includes several new requirements, including administering a new student climate survey each year; hiring at least one certified advocate for each institution of higher education; establishing and administering annual training for all part-time students and above and all staff; and adding new annual state data reporting related to sexual misconduct. The fiscal impact would likely vary from institution to institution as it would depend on whether the certified advocate is hired by the institution or whether the certified advocate position is contracted out to a third-party vendor; the costs of memoranda of understanding between institutions of higher education and community-based organizations; how often and to how many students and staff institutions provide annual trainings, including developing, providing, tracking and conducting outreach for the training; and the extent to which the measure changes how institutions provide annual surveys. For institutions that already provide student climate surveys or sexual misconduct trainings, or whose Title IX coordinators might serve as a certified advocate, the measure might have only a minimal fiscal impact.

Legislative Policy and Research Office

The measure is anticipated to have a fiscal impact on LPRO, as the measure directs LPRO to provide staff support to the Sexual Misconduct Survey Council. Although the measure does not prescribe a meeting schedule, task forces and related advisory bodies typically meet once or twice per month. LPRO anticipates the council will need to meet biweekly to complete the scope of work envisioned in the measure within the specified timeframe in 2023. This Council will need substantial expertise in trauma-informed practices, survey design and related research methodology, and student engagement to inform its work, including relying on members' expertise.

To fulfill these staffing needs, LPRO has indicated an assumed need for three positions (2.20 FTE) to support the work of the council. These positions include one permanent, full-time Senior Legislative Analyst, one limited duration, part-time Committee Assistant, and one limited duration, full-time Research Analyst 2 position. However, because LPRO would reassign the Senior Legislative Analyst and Committee Assistant positions to the council, LPRO would only need to hire the Research Analyst position, which would develop a comprehensive and robust survey instrument and methodology among Oregon's institutions of higher education. The estimated cost of this position (0.88 FTE), including related services and supplies, is \$406,876 biennium in the 2023-25 biennium and \$459,460 General Fund in the 2025-27 biennium.

Other Government Units

The measure is anticipated to have a minimal fiscal impact on the Judicial Department, Department of Justice, Department of Human Services, Legislative Assembly, Cities, and Counties.

The measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its impact to the State's General Fund and the biennial budgets of HECC and LPRO.