MEASURE NUMBER:SB 704STATUS: A-EngrossedSUBJECT:Requirement that dental offices in select counties to have an amalgam dental filling
wastewater separatorGOVERNMENT UNIT AFFECTED:Board of DentistryPREPARED BY:John F. BordenREVIEWED BY:Deborah MantheDATE:April 26, 2007

<u>2007-2009</u>

<u>2009-2011</u>

EXPENDITURES: See Comments

EFFECTIVE DATE: January 1, 2008

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: This measure requires that a dentist who removes human oral cavity materials containing mercury to install an amalgam separator on wastewater drain(s). This measure applies only to dentists in the following six counties: Multnomah, Washington, Clackamas, Lane, Linn, and Polk. Dentists who follow the guidelines for the best management practices of dental wastes recommended by the Oregon Dental Association (ODA) are exempt from the requirements of this measure until July 1, 2013. The Board of Dentistry (BOD) is to adopt a variety of administrative rules and reporting forms related to this measure. The measure allows the BOD to impose civil penalties of \$100 per day of violation if a dentist violates the provisions of this measure or BOD related administrative rules. Civil penalty revenue is to be paid to the Board of Dentistry Account and used for the administration and enforcement of this measure. The BOD may also increase licensing fees in an amount necessary to pay for the implementation and enforcement of this measure. Lastly, the BOD may take action prior to the operative date of this measure, which is July 1, 2008.

The BOD reports that there are approximately 1,600 dental office in the six counties specified in this measure. The Board does not have an estimate of the number of dentists in each office, however, statewide there are approximately 3,500 licensed dentists in Oregon. The number of dentists following the ODA best practices for dental waste is unknown.

The estimated fiscal impact of this measure is \$74,646 Other Funds (i.e., dental license renewal fees) for 12-months of the 2007-09 biennium and \$104,858 for 24-months of the 2009-11 biennium. This amount includes Personal Services costs of \$45,646 (1.00 FTE) for the 2007-09 biennium and \$91,292 for the 2009-11 biennium. Personal services are based on the Board hiring two permanent part-time positions: an Office Specialist (0.50 FTE) and a Investigator (0.50 FTE). The Office Specialist would create, distribute, and collect *biannually* (occurring twice a year) compliance forms. The Investigator position would investigate issues of compliance.

Services and supplies costs would be \$29,000 and \$17,000 respectfully. One-time costs totaling \$20,500 include the purchase of office equipment, office supplies, development of administrative rules, postage and remodeling of the Board's office space. On-going services and supplies total \$17,000 and include rent, office supplies, and postage.

The Board made no estimate of the number of civil penalties assessed, contested, or collected.

The Legislative Fiscal Office notes that the fiscal impact of this measure is uncertain in absence of key fiscal determinates such as: (a) the number of ODA exclusions granted; (b) the number and frequency of inspections, the level of compliance and number of investigations to be conducted; and (c) the amount of civil penalties collected.

An understanding of the cost estimates behind the aforementioned determinates will help inform the Board on whether it can absorb costs within its existing fee revenues (or ending balance) or whether a fee increase would become necessary.

LFO believes that this measure does not warrant a subsequent referral to the Joint Committee on Ways and Means Committee at this time. LFO notes, however, that the Board may need to appear before the Legislative Emergency Board or future Legislative session if the Board requires limitation and position authority related to this measure.