FISCAL IMPACT OF PROPOSED LEGISLATION **Measure: SB 555 - 4**

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:
Requires qualified nonprofit agency for individuals with disabilities to pay at least minimum wage or prevailing rate of wage set forth in state or federal law to individuals with disabilities.

Government Unit(s) Affected:
Department of Administrative Services (DAS), Oregon Department of Transportation (ODOT), Oregon Health Authority (OHA), Department of Human Services (DHS), Department of Consumer and Business Services (DCBS), Department of Forestry, Department of Corrections, Department of Energy, Department of State Lands, Department of Fish and Wildlife, Oregon Liquor Control Commission, Oregon Youth Authority, Oregon Commission for the Blind, Department of Aviation, Oregon Parks and Recreation Department, Oregon State Police, Oregon State University, Employment Department, Oregon Travel Experience [Semi-Independent], Department of Justice, Bureau of Labor and Industries (BOLI), cities, counties

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.

Analysis:
Senate Bill 555 with the – 4 amendment requires Qualified Rehabilitation Facilities (QRF), who contract with a local, state or federal agency, to pay individuals with disabilities at least the prevailing wage rate (PWR). The bill is operative January 1, 2016. The bill contains an emergency clause, and is effective on passage.

Approximately $45 million of state spending on QRF contracts for fiscal years 2013 and 2014 are with QRF contracts that compensate workers at minimum wage or higher. Section 14(c) of the Fair Labor Standards Act authorizes QRF employers, after receiving a certificate from the Wage and Hour Division, to pay wages less than the Federal minimum wage to workers who have disabilities for the work being performed. The fact that a worker may have a disability is not in and of itself sufficient to warrant the payment of a subminimum wage (SMW). Section 14(c) only applies when the disability actually impairs the worker's earning or productive capacity for the work being performed. SMW must commensurate with the workers' productivity as compared to the wage and productivity of experience workers who are not disabled for the work. Currently, roughly 500 of the 4,500 QRF employees with disabilities are currently paid using the 14(c) certificate.

<u>Department of Administrative Services (DAS)</u>
DAS administers the state QRF program. The fiscal impact of this bill on the Department of Administrative Services is anticipated to be $161,669 General Fund and 1.00 FTE for the 2015-17 biennium. This amount reflects $50,000 for Attorney General expenses, as well as Personal Services and related Services supplies for one Limited Duration Operations and Policy Analyst 2 position assist in transitioning QRF contracts in order to comply with the provisions of this bill, including rewriting administrative rules, modifying costing tools to allow for calculation of QRF pricing, developing and

implementing a plan to educate and train QRF providers and state agencies, and negotiating price and contract changes for public agencies.

State Agencies with QRF Contracts

Based on actual spending from fiscal years 2013 and 2014, and data provided by the Oregon Rehabilitation Association, DAS estimates of the potential fiscal impact of this bill on the 21 state agencies (listed above) that use QRF providers to be roughly $2.7 million per biennium statewide. Of this $2.7 million amount, approximately $500,000 would be incurred by the Department of Transportation (ODOT), the state agency with the most QRF spending. The remaining $2.2 million would be spread out among 20 state agencies.

Note that these numbers are rough projections based on historical data. Due to time constraints, DAS is unable to provide more detailed distribution of this expense among the 20 state agencies. Although the QRF program is administered by DAS, public agencies directly negotiate contracts with QRF providers. The 21 state agencies listed above use QRF providers via over 200 state agency contracts that could be affected by this increase in wages. Each of these contracts are tailored specifically to the facility served in the contract, so the actual impact of the wage requirement of this bill will be different for each contract, depending on whether any 14(c) employees are assigned work under the contract and to what extent, as well as whether or not these contracts are renewed by January 1, 2018.

This bill requires budgetary action for the appropriation of General Fund and position authority.