

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 1534**80th Oregon Legislative Assembly – 2020 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

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Measure Description:

Makes operative date earlier for provisions requiring Commissioner of the Bureau of Labor and Industries to prepare formal charges and pursue matters in court on behalf of complainants who allege discrimination in real property transactions.

Government Unit(s) Affected:

Bureau of Labor and Industries (BOLI), Department of Justice (DOJ), Oregon Judicial Department (OJD)

Summary of Fiscal Impact:

The fiscal impact of the measure is indeterminate and may require budgetary action - See analysis.

Analysis:

The measure changes the operative date of prior legislation (chapter 609, Oregon Laws 2015) requiring the Commissioner of the Bureau of Labor and Industries to prepare formal charges and pursue housing discrimination matters in court on behalf of complainants who elect to have the matter heard in circuit court. Under current law, the Commissioner has discretion as to whether to prepare formal charges and pursue these matters in court on behalf of complainants; however, as of October 1, 2021, the Commissioner will be required to prepare formal charges and pursue these matters in court on behalf of complainants electing to have the matters heard in circuit court. The measure changes the operative date of the prior legislation from October 1, 2021 to January 1, 2021, in effect shortening the period in which the Commissioner may exercise discretion in such matters by nine months.

Bureau of Labor and Industries

The Bureau of Labor and Industries (BOLI) enforces laws that prohibit unlawful discrimination in housing. Prior to 2015, Oregon law was substantially equivalent to the federal Fair Housing Act, thus enabling BOLI to contract with the U.S. Department of Housing and Urban Development (HUD) to enforce federal housing discrimination claims. BOLI was required to prepare formal charges whenever it was unable to resolve a substantiated claim, and it was required to proceed in court whenever either party elected to do so. Because the 2015 legislation allowed the BOLI Commissioner to exercise discretion in such matters, BOLI's contract with HUD was not renewed. The measure would reestablish the "substantial equivalency," and thus enable BOLI, as of January 1, 2021, to reestablish its contract with HUD.

BOLI anticipates increased workload and costs to process, investigate and adjudicate housing discrimination complaints. The volume of such complaints is unknown, but BOLI has reported an anticipated 130 complaints a year, only a small percentage of which (less than 5%) will be moved to circuit court. BOLI anticipates a need for General Fund to support four additional staff (1.5 FTE) for the final nine months of the 2019-21 biennium. Once BOLI starts processing cases in the 2021-23 biennium, HUD will begin to compensate BOLI on a per case basis of \$2,900 per case. It is unknown whether HUD compensation will be timely enough to be realized in the 2019-21 biennium. Further, given that the number of court cases is unknown, it is unclear how much BOLI would need to pay the Department of Justice to cover legal costs associated with those cases that go to trial. General Fund supplementation may be required in 2021-23. BOLI will need an increase in Federal Funds expenditure limitation

in 2021-23 to reflect use of HUD dollars in administering the program. The Legislative Fiscal Office notes that under its previous contract with HUD -- when BOLI was last considered "substantially equivalent" -- the per case amount reimbursed by HUD was variable and unpredictable.

Department of Justice

The fiscal impact is indeterminate. Statute requires state agencies to use DOJ for legal services, which are billed on an hourly basis. Based on the changes in the measure, and the anticipated administrative actions BOLI will undertake, DOJ believes that the agency will see few cases proceeding to circuit court. The possible exception is if a complainant elects to take their case directly to circuit court, which requires DOJ legal representation. With the ramp-up of the BOLI program, and actual circuit court caseload information becoming available next biennium, DOJ may possibly need to request additional legal staff resources. Until then, DOJ will be able to absorb the cost the measure with existing legal staff.

Oregon Judicial Department

The measure, by shortening the period in which the Commissioner may exercise discretion, may increase the number of circuit court filings. However, any increase in circuit court filings is expected to be absorbed by the Oregon Judicial Department's (OJD) existing budgetary resources. The measure would thus have a minimal fiscal impact on OJD.

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.