

## **SB 755 STAFF MEASURE SUMMARY**

### **Senate Committee On Judiciary and Ballot Measure 110 Implementation**

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**Meeting Dates:** 3/1

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#### **WHAT THE MEASURE DOES:**

Implements language of Ballot Measure 110 and makes style and form changes to language.

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

No amendment.

#### **BACKGROUND:**

Ballot Measure 110 was passed by Oregon voters in 2020 with 58.26% of the vote in favor and 41.54% of the vote opposed. Also referred to as the Drug Addiction Treatment and Recovery Act (the "Act"), Ballot Measure 110 decriminalizes possession of small amounts of controlled substances. It classifies those offenses as Class E violations that are subject to a \$100 fine. If a cited person completes an assessment through an Addiction Recovery Center ("ARC") or by calling the temporary phone line run by the Oregon Health Authority ("OHA"), the fine is waived. The Act also creates the Treatment and Recovery Services Fund (the "Fund") which is financed in large part with marijuana revenues. The Fund money will be distributed through a grants process with grant money flowing both to ARCs as well as other organizations, including government and non-governmental entities that apply for grant money, in order to increase access to behavioral healthcare. The Act creates an Oversight and Accountability Council ("OAC") that acts as the rulemaking and grant disbursement body under the wing of OHA. Efficacy of the grants, ARCs, and outcomes of the Act is assessed by audit to be conducted by the Secretary of State. The substance of the sections of Ballot Measure 110 are discussed more fully below.

#### **Section 1: Findings and Policy**

Section 1 of the Act states that Oregonians have found that drug addiction is a serious public health problem that should be dealt with through a health-based approach rather than through a criminal justice approach. It explains that the purpose of the Act is to make health assessment, treatment, and recovery services for drug addiction available to all, and to remove criminal penalties for low level drug possession.

#### **Sections 2-4: Expanding Treatment and Services**

Sections 2-4 of the Act define ARCs, detail a grant funding mechanism for ARCs and for other entities that apply for grants, create the OAC, and specify OHA's powers and obligations in administering the Act.

Section 2 specifies that the OAC, under the wing of the OHA, must oversee and approve grants to implement ARCs and increase access to care. To receive grant funding as an ARC, the entity must prove the ability to provide 24/7 triaging, health assessments, individualized intervention plans, peer support, and mobile outreach. The entity must also be nonjudgmental and centered on harm reduction principles, without employing shame or mandating abstinence in order to be funded as an ARC. Finally, ARCs must be staffed as determined by the OAC but with at least one certified counselor or treatment professional, one intensive case manager, and one peer support specialist.

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This section of the Act also specifies a grant system for funding entities other than ARCs. The OAC is empowered to provide grants to existing agencies or organizations, whether government or community based, so long as the entity increases access to any of the following: low barrier substance use treatment, peer support and recovery services, housing for persons with substance use disorder, or harm reduction interventions. All services provided by grantees must be free of charge to the person receiving the services.

Sections 3 and 4 of the Act describe the rules surrounding the OAC. They detail the OAC’s membership requirements and operational rules like quorum, terms, and compensation. They vest in the OAC the power to adopt and establish rules and requirements pertaining to grantees. These sections also empower the OHA to enter into interagency agreements to distribute grants and requires the OHA to provide implementation support.

**Sections 5-10: Funding**

Sections 5-10 create the Fund and describe funding sources. The major source of funding is money allocated from the Oregon Marijuana Account. The Act requires that the first \$11.25 million dollars in the Marijuana Fund be distributed to its traditional recipients. Any amount in excess of that amount is required to be transferred to the Fund under this Act. In the first year, the Act requires that the amount transferred to the Fund is not less than \$57 million. Savings as a result of implementation of the Act must also be transferred into the Fund. Fund monies must be distributed first to pay for administration costs not to exceed 4% of the Fund moneys deposited per biennium, and then to the grants program administered by the OAC.

**Sections 11-22: Drug Penalties**

Sections 11-22 of the Act amend Oregon’s drug code to create Class E violations. The Act describes that the unlawful possession of each controlled substance qualifies as a Class E violation, Class A misdemeanor, or felony depending on the quantity and presence of Commercial Drug Offense (“CDO”) factors. The Act does not change crime designations for drug offenses involving delivery or manufacturing. The designations for each drug are listed in the below chart.

<b>Substance</b>	<b>Designation under the Act</b>
Methadone	<40 user units= Class E violation >40 user units= Class A misdemeanor CDO= Class C Felony
Oxycodone	<40 pills, tablets, or capsules= Class E violation >40 pills, tablets, or capsules= Class A misdemeanor CDO= Class C Felony
Heroin	<1 gram= Class E violation >1 gram= Class A misdemeanor CDO= Class C Felony
3,4-methylenedioxymethamphetamine	<1 gram or 5 pills, tablets, capsules= Class E violation >1 gram or 5 pills, tablets, capsules= Class A misdemeanor CDO= Class B felony

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Cocaine	<2 grams= Class E violation >2 grams= Class A misdemeanor CDO= Class C felony
Methamphetamine	<2 grams= Class E violation >2 grams= Class A misdemeanor CDO= Class C felony
Remaining Schedule I Substances	Class E violation unless: 40+ units of lysergic acid diethylamide= Class A misdemeanor 12 grams+ psilocybin or psilocin= Class A misdemeanor CDO=Class B Felony
Remaining Schedule II Substances	Class E violation unless: CDO=Class C Felony
Remaining Schedule III Substances	Class E violation
Remaining Schedule IV Substances	Class E violation
Remaining Schedule V Substances	Class E violation

Sections 11-22 also state that the penalty for a Class E violation is a fine no greater than \$100. If an individual completes a health assessment through the temporary phone line ARC run by the OHA or through another ARC within 45 days of receiving a ticket, the fine is waived. The Act specifies that failure to pay the fine cannot be a basis for incarceration or further penalties.

**Sections 23-24: Oversight and Administration**

Section 23 requires OHA to establish a temporary 24/7 ARC phone line to exist until not later than October 1, 2021. Section 24 requires the Oregon Secretary of State to conduct performance audits. The audits must include data on the grants program including a list of entities receiving grants, number of applicants for grants, money remaining in the Fund, and effectiveness of grants. Audits must also be conducted on the ARCs, assessing the outcomes of each center on client participation, treatment completion, ability to obtain housing and employment, in addition to average wait times at centers, and amount of money disbursed to centers. Finally, audits are required on the number of Class E violation citations issued broken down by race.

SB 755 implements the language of Ballot Measure 110, the Drug Addiction Treatment and Recovery Act, and will act as the vehicle for legislative amendments to the Measure.