

Legislative Fiscal Office

Oregon State Capitol
900 Court Street NE, H-178
Salem, OR 97301
503-986-1828



Joint Committee on Ways and Means

Sen. Betsy Johnson, Senate Co-Chair
Sen. Elizabeth Steiner Hayward, Senate Co-Chair
Rep. Dan Rayfield, House Co-Chair

Sen. Fred Girod, Senate Co-Vice Chair
Rep. David Gomberg, House Co-Vice Chair
Rep. Greg Smith, House Co-Vice Chair

Laurie Byerly, Interim Legislative Fiscal Officer
Amanda Beitel, Deputy Legislative Fiscal Officer (Budget)
Paul Siebert, Deputy Legislative Fiscal Officer (Audit/IT)

To: Capital Construction Subcommittee

From: Tom MacDonald, Legislative Fiscal Office

Date: June 18, 2021

Subject: HB 2362 – Relating to health care providers
Work Session Recommendations

HB 2362 establishes new laws authorizing the Oregon Health Authority to review “material change transactions” initiated by health care providers and insurers. These transactions include mergers, acquisitions, or affiliations among health care entities that had \$25 million or more in revenue in the preceding three fiscal years or will result in one entity having an increase of \$10 million or more. The bill establishes rulemaking criteria OHA must follow for initial and comprehensive reviews of such transactions and allows the agency to convene a stakeholder review board to conduct comprehensive reviews, as applicable.

To pay for this work, the bill authorizes OHA to prescribe by rule a fee to be paid by the entities requesting approval for a material change transaction. The agency can also impose a civil penalty for certain violations defined in the bill. Every four years, OHA is required to commission a study of the impact of health care consolidation in the state.

The recommended -A19 amendment revises the revenue test required for a material change transaction. Transactions that meet the threshold occur when at least one party had average revenue of \$25 million or more in the preceding three fiscal years, and another party had an average revenue of at least \$10 million in the preceding three fiscal years. The amendment requires review board members to file and make public conflict of interests and restricts OHA’s ability to share information deemed confidential. The amendment also provides that a new contract would qualify as a material change transaction only if it meets the revenue test. The amendment also requires OHA to issue a proposed order and allow the parties and the public a reasonable opportunity to make written exceptions. The amendment establishes March 1, 2022 as the operative date for OHA’s authority to review material change transactions for approval.

The estimated fiscal impact of the measure with the -A19 amendment is \$780,457 in 2021-23 and \$1,083,012 in 2023-25. Costs are largely related to four new positions (2.84 FTE in

2021-23, as well as minimal costs to support review board meetings. For the 2021-23 biennium, it is assumed that all costs will need to be paid for using General Fund prior to OHA's ability to collect sufficient fee revenue to support the program. Because the bill with or without the -A19 amendment does not include an appropriation, this cost is intended to be funded in the end of session budget reconciliation bill.

Recommended Changes

The Legislative Fiscal Office (LFO) recommends approval of the -A19 amendment.

Final Subcommittee Action

LFO recommends that HB 2362 be amended by the -A19 amendment and be moved to the Ways and Means Full Committee.

Carriers

Full Committee: _____

House Floor: _____

Senate Floor: _____