

FISCAL IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

Measure: HB 2362 - A

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Measure Description:

Requires health care entities to obtain approval from Oregon Health Authority before any mergers, acquisitions or affiliations of entities that had \$25 million or more in net patient revenue in preceding three fiscal years or before mergers, acquisitions or affiliations that will result in one entity having increase in net patient revenue of \$1 million or more.

Government Unit(s) Affected:

Department of Justice (DOJ), Oregon Judicial Department (OJD), Department of Consumer and Business Services (DCBS), Oregon Health Authority (OHA)

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Analysis:

HB 2362 - A requires the Oregon Health Authority (OHA) to adopt by rule criteria approved by the Oregon Health Policy Board for consideration of requests by health care entities to engage in material change transactions. The measure defines “material change transaction” as a certain transaction or series of transactions within the course of a year that results in a health care entity having an increase in revenue of \$10 million or more; or in which two or more of the entities each had average revenue of \$25 million or more in the preceding three fiscal years.

Notices of material change transactions involving the sale, merger, or acquisition of a domestic health insurer must be filed with the Department of Consumer and Business Services (DCBS), which must then be shared with OHA in order for the agency to conduct a review according to certain timeliness and other provisions defined in the bill. Upon completion of OHA’s review, DCBS is required make the final determination in these cases. For other types of material change transactions, health care entities must submit notices to OHA for review and approval. If a transaction does not meet the criteria outlined in the measure and prescribed in rule, OHA may appoint a review board of stakeholders to conduct a comprehensive review and make recommendations. OHA or the Department of Justice may also retain independent actuaries, accountants, or other independent professionals to assist with analyzing a material change transaction.

OHA must analyze the outcomes of approved material change transactions after one, two, and five years. OHA is also directed to commission a study of health care consolidation in the state every four years, with the first study occurring no later than September 15, 2026.

The measure requires OHA to prescribe a fee by rule that is sufficient to reimburse the costs of administering this measure. The fee revenue will be deposited in the existing Oregon Health Authority Fund. OHA may also assess civil penalties under this measure, which are credited to the General Fund.

This measure takes effect on the 91st day after the Legislative Assembly adjourns sine die. This measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its budgetary impact.

Oregon Health Authority

The Oregon Health Authority (OHA) anticipates costs of \$817,367 in 2021-23 and \$1,083,012 in 2023-25. Costs are largely related to four new permanent, full-time positions (each 0.75 FTE in 2021-23, and 1.00 FTE in 2023-25), as well as minimal costs to support review board meetings. New positions include:

- One Operations and Policy Analyst 4 to oversee program policies, processes, and vendor contracts;
- One Operations and Policy Analyst 3 to assist with program startup and rulemaking, and the study of health care consolidation;
- One Research Analyst 4 to analyze data and assist with analysis of transactions; and,
- One Economist 3 to conduct market and cost analysis.

Other Funds revenue from the fee prescribed by OHA is the assumed funding source for costs related to this measure. However, General Fund may initially be needed to support implementation costs in advance of the establishment of the fee.

Other state agencies

There is minimal impact for the Department of Consumer and Business Services, Department of Justice, and Oregon Judicial Department.