

FISCAL IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly – 2022 Regular Session
Legislative Fiscal Office

Measure: SB 1549

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

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Measure Description:

Requires Oregon Health Authority to issue temporary staffing agency license to qualified applicant.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Oregon Judicial Department (OJD)

Summary of Fiscal Impact:

Costs related to the measure are indeterminate at this time - See explanatory analysis.

Analysis:

Senate Bill 1549 directs the Oregon Health Authority (OHA) to issue a temporary staffing agency license to an applicant that submits an application and a licensure fee. A temporary staffing agency license is valid for one year and may be renewed. To renew the license, a temporary staffing agency must submit a renewal application, including a renewal fee; however, every two years as a condition for renewal, OHA shall require a temporary staffing agency to provide the applicant's fingerprints. OHA must publish and maintain a list of temporary staffing agencies licensed in the state on a publicly available website. The measure directs OHA to adopt rules to establish maximum rates that a licensed temporary staffing agency may charge or receive from an entity that engages the temporary staffing agency; however, OHA may establish more than one rate based on a variety of factors. OHA must establish criteria under which a temporary staffing agency may apply to use a higher rate, and OHA must adopt rules that specify the provisions that an agreement between a temporary staffing agency and a person that engages the temporary staffing agency must include and may not include. OHA may impose on a temporary staffing agency a civil penalty not to exceed \$500 per day for violating the measure or related administrative rules. Moneys collected from civil penalties will be credited to an account designated by OHA and will be continuously appropriated to OHA for administration of this program. The measure takes effect on passage and its substantive provisions become operative on January 1, 2023.

Oregon Health Authority

The measure is anticipated to have an indeterminate fiscal impact on OHA's Public Health Division (PHD) and the Oregon State Hospital (OSH).

The measure requires OHA to establish rates that a licensed temporary staffing agency may charge. Rate setting is outside the scope of PHD's responsibilities, as PHD has no subject matter expertise in setting these rates. Two PHD sections, the Health Licensing Office (HLO) and Health Care Regulation and Quality Improvement (HCRQI), regulate health care services and health-related professions. It is not clear which program would issue the temporary staffing agency licenses as neither section currently has the organization nor the capacity to regulate health care costs. HLO works with 17 boards and councils to license and regulate individuals practicing health-related professions; it does not regulate business entities. Licensing a temporary staffing agency would be an entirely new mandate to HLO. HCRQI regulates health care facilities and entities to ensure patient safety and health care quality. Neither section has the expertise to set rates for staffing agencies.

Aside from the lack of subject matter expertise, PHD does not have enough information to determine licensing fees. Because the measure does not allocate any funding to issue temporary staffing agency licenses, PHD would

have to utilize other funds (i.e., licensing-related fee revenue) to implement this new licensing program. However, because it is unclear what is required and the amount of work that is required to set rates, PHD is not able to determine the cost of administering such a program. This uncertainty is further compounded by the fact the number of temporary staffing agencies that would be required to obtain a license is unknown, not to mention that the measure defines “healthcare provider” rather broadly. Enforcement for compliance centers on checking rate setting seems more aligned with a financial audit function rather than a health and safety function. The measure’s regulatory focus on managing the staffing costs that health professional staffing agencies charge in health care facilities seems not to align with PHD’s duties and responsibilities.

OSH uses various temporary staffing agencies to fill hospital staffing needs, usually because of staffing vacancies. As rate setting is a component of this measure, there is no way to determine the impact to OSH outside of the completion of that component. While it is possible that the measure could produce savings to OSH, it is also possible that the licensure requirement and the temporary cap on expenses may result in less available resources for the hospital, which could lead to higher rates if agencies increase rates to maintain higher profits. OSH must have licensed registered nurses to operate as a hospital and to maintain certification with the Center for Medicaid and Medicare Services. If similar legislation is not enacted or already in place in surrounding states, the measure could exacerbate OSH’s staffing vacancies, assuming resources are diverted elsewhere.

Despite the indeterminate fiscal impact to OHA, the measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its impact OHA’s budget.

Oregon Judicial Department

The measure is anticipated to have a minimal fiscal impact on the Oregon Judicial Department.