

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 871 - 3

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Requires Department of Consumer and Business Services to study how to build efficiency and resiliency into buildings.

Government Unit(s) Affected:

Department of Administrative Services, Department of Environmental Quality, Department of Energy, Statewide

Summary of Fiscal Impact:

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

Analysis:

SB 871 - 3 outlines requirements for state agencies entering into energy savings performance contracts. These contracts must permit a contracting agency to purchase or finance the costs of an energy conservation measure with any combination of financing that a qualified energy service company provides; tax-exempt lease purchase agreements; municipal lease financing; financing from financial institutions or other parties; or other financing approved by the Oregon State Treasury. The contracting agency may purchase or finance an energy conservation measure if the utility cost savings that will result from the energy conservation measure is sufficient to pay, within the useful life of the energy conservation measure, the cost of the energy conservation measure and the costs of financing the energy conservation measure; or may finance the costs of all energy conservation measures for a public improvement if the aggregated utility cost savings that will result from all energy conservation measures is sufficient to pay, within the useful life of the energy conservation measures, the cost of the energy conservation measures and the costs of financing the energy conservation measures.

Contracting agencies must also be permitted to pay the costs of an energy conservation measure and any costs of financing the energy conservation measure from energy cost savings, reductions in utility costs, or savings in operating or maintaining the public improvement; proceeds from grants or gifts, incentives from utilities, refinancing, or other financing; or other funding sources, including appropriations, the contracting agency's capital budget, or other funds that the contracting agency may lawfully use for this purpose.

The Department of Administrative Services (DAS), in cooperation with the Oregon Department of Energy (ODOE), is to develop a methodology and work plan for state agencies to implement a comprehensive assessment of energy use and greenhouse gas emissions of state-owned buildings. The assessments must examine and quantify each building's greenhouse gas emissions, using existing data when possible such as energy use reporting for existing state-owned buildings that state agencies submitted to ODOE and data from other existing programs and contracts; identify equipment or usage that contributes to greenhouse gas emissions from each building; and determine and quantify the useful life of equipment in each building that contributes to greenhouse gas emissions. DAS may direct state agencies to conduct the assessments in phases or stages and may specify a minimum building size that is subject to an assessment. DAS may also procure and make available to state agencies services from a private contractor to conduct the assessments. DAS is directed to create a searchable and modifiable database with the data collected from assessments, which is to be used by state agencies as baseline data for planning energy use reduction and greenhouse gas emissions reduction targets in capital projects.

DAS, in collaboration with ODOE and the Department of Environmental Quality (DEQ) is to oversee all capital projects with a contract price of over \$1 million in which a state agency constructs or performs a major renovation on a state building. DAS is to develop and implement guidelines for sustainable design for these projects, and provide guidance and technical expertise to each state agency with respect to construction methods, materials, energy conservation measures, greenhouse gas emissions reduction methods, green building construction and renovation, and other techniques to aid in achieving the state's green building, energy efficiency and greenhouse gas emissions reduction goals. State agencies are to report to DAS regularly regarding progress on a capital project described. DAS and ODOE are to participate on behalf of the state in the National Building Performance Standards Coalition.

The measure also directs the Department of Justice (DOJ) to modify model rules regarding energy savings performance contracts to be consistent with this measure; removes requirements regarding right of first refusal for local utilities; and requires agencies to retain 100% of the net savings after any project debt service, instead of 50%, with all savings deposited in a revolving fund administered by the agency instead of half going to the General Fund.

The measure is operative January 1, 2024 and takes effect on the 91st day after the Legislature adjourns sine die.

Department of Administrative Services

DAS anticipates costs totaling \$731,565 Other Funds in the 2023-25 biennium, and \$251,789 Other Funds in the 2025-27 biennium. Other Funds are derived from an assessment on state agencies, so some funds originate as General Fund.

DAS estimates the cost of conducting a full facility condition assessment of its portfolio is \$750,000, with the sustainability portions making up approximately \$225,000 of this amount. The state currently owns over 1,500 buildings, with buildings over 25,000 square feet making up 75 percent of the state building portfolio square footage. DAS anticipates that energy and greenhouse gas assessments could be completed as part of overall building facility condition assessments, which are periodically conducted for state buildings using a contractor. However, DAS notes that there is not currently sufficient funding to conduct full facility condition assessments in the agency budget.

DAS also anticipates one-time costs of an estimated \$250,000 to develop sustainable design guidelines.

To perform work related to this measure, DAS would also hire one Operations and Policy Analyst 4 (0.88 FTE in the 2023-25 biennium, 1.00 FTE in the 2025-27 biennium) to manage an assessment contract, coordinate data entry, and provide design and construction assistance to agencies. DAS anticipates no costs related to creation of a database for assessment data, since similar work is already in progress.

Other agencies

Depending on the scope and timeline of the assessment and reporting process developed by DAS, state agencies which own their own buildings may require additional staff resources, or funding if a private contractor is used to complete assessments. This could particularly impact agencies such as Oregon Parks and Recreation Department, Department of Corrections, and others with substantial building portfolios.

Additionally, some agencies note that DAS and ODOE oversight of construction and renovation projects would add time to project design, management, and construction; as well as increasing costs for energy efficiency and sustainable design improvements. The overall fiscal impact of these activities is indeterminate at this time.

ODOE anticipates that the work directed by this measure would require the equivalent of 0.40 FTE using existing staff resources within the agency's State Energy Efficient Design Program.

DEQ anticipates that the collaboration work directed by this measure can be absorbed with existing resources.

DOJ anticipates a minimal impact, but notes that modification of model rules regarding energy savings performance contracts will result in non-billable costs.

This measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its budgetary impact.