



Legislative Fiscal Office
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Bill Title: Relating to commuter rail; prescribing an effective date.

Government Unit(s) Affected: Cities, TriMet, Judicial Department, Office of the Governor, Department of Administrative Services, Secretary of State, Counties, Department of Justice, Department of Transportation, Legislative Fiscal Office

Summary of Fiscal Impact

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

Measure Description

The measure creates the Westside Express Service Authority (WESA), which will receive jurisdiction over the Westside Express Service (WES) from TriMet upon the effective date of the measure and establishes WESA as an independent public corporation with the intention of enhancing the frequency of service and studying the extension of service from Wilsonville to Salem, and eventually Eugene. With the ownership of the Westside Express Service, WESA is directed to repair, maintain, upgrade, and operate the service, associated property, and facilities. The measure exempts WESA from being subject to Oregon statutes regulating administrative agencies, declares WESA personnel are not “state employees”, specifies WESA’s power and responsibilities, and specifies initial members of WESA to be appointed by the Governor.

The measure requires WESA to submit funding requests each biennium to the Department of Administrative Services (DAS) by April 1 of each even-numbered year. WESA is required to conduct independent audits, file them with the Secretary of State, and file an annual report with the Governor and Joint Committee on Transportation. The measure appropriates an unspecified General Fund amount to DAS for distribution to WESA. Additionally, the measure establishes a Class D traffic violation for unauthorized use of the Westside Express Service.

Fiscal Analysis

The total fiscal impact of the measure is indeterminate. There is an anticipated, but unknown, cost to the General Fund, the Department of Administrative Services, the Department of Justice, and TriMet.

Department of Administrative Services, Legislative Fiscal Office

The measure includes an unspecified General Fund appropriation for the 2025-27 biennium to DAS for distribution to WESA to carry out requirements set by the measure. This appropriation amount for the 2025-27 biennium cannot be determined at this time due to timeline issues. The measure stipulates that WESA is to submit a funding request to DAS to be included in the Governor’s biennial budget no later than April 1st of each even numbered year for the biennium beginning on July 1st of the following year. Any such request approved by the Legislative Assembly would then be appropriated to DAS to provide a “direct grant” to WESA. The measure also requires that WESA’s budget be prepared in accordance with public meeting laws. The amount of the General Fund appropriation cannot be quantified until WESA is established and prepares its budget request as required by the measure.

The measure directs DAS to assist in the transfer of all right, title, and ownership of the Westside Express Service and related vehicles and facilities to WESA. DAS lacks the expertise and resources to carry out this work and will need to hire additional staff or contract with a third party to comply with the requirements of the measure. These expenses cannot be estimated until DAS can meet with all authorized stakeholders to ascertain the scope of work.

In addition, the measure specifies that the legislatively appropriated funds are subject to any restrictions or conditions imposed by the Legislative Assembly. Depending on the size and complexity of the biennial funding request, DAS and the Legislative Fiscal Office (LFO) may need additional staff and resources to evaluate and monitor the funding request as part of the state's biennial budget process.

Department of Justice, Oregon Department of Transportation

WESA is permitted to retain private legal counsel or contract for representation by the Attorney General. DOJ estimates that if WESA were to utilize DOJ for legal services, it would require two additional Assistant Attorney General positions (0.88 FTE each) assigned as counsel at an estimated cost of \$840,980 Other Funds in 2025-27 and \$958,807 Other Funds in the 2027-29 biennium as the positions are fully phased in. DOJ General Counsel support is billed at an hourly rate to agencies and entities that utilize legal services, so any DOJ costs would require Other Funds limitation with offsetting revenue paid by WESA to cover those costs. These costs could vary depending on how quickly WESA is established, becomes operational, and how many services it contracts with DOJ to provide. The estimate assumes positions starting October 1, 2025.

Alternatively, if WESA did not elect to use DOJ counsel, there is still an expected minimal fiscal impact to DOJ assuming other entities, namely the Oregon Department of Transportation (ODOT), would be impacted by WESA's work and may enter agreements with WESA, which would be negotiated by General Counsel within current service level. This fiscal impact statement assumes that if WESA enters into any agreements with ODOT, WESA would cover ODOT expenses. Therefore, the fiscal impact to ODOT is anticipated to be minimal.

Oregon Judicial Department

The measure could result in additional violation cases filed in circuit court, as well as cases related to the appeal or enforcement of WESA's powers and duties, including its exercise of eminent domain. The fiscal impact related to the additional work is anticipated to be minimal and can be absorbed within current resources.

TriMet

The fiscal impact to TriMet to transfer all right, title, and ownership of the Westside Express Service and related vehicles and facilities to WESA is indeterminate. WESA is required to pay all costs of carrying out and documenting the transfer. In the process of the Westside Express Service being built, TriMet entered into intergovernmental agreements with several entities, including ODOT, the Federal Transit Administration (FTA), the City of Wilsonville, and Washington County. These agreements will need to be reviewed to address contractual obligations around continued operation of the Westside Express Service and liability for transferring the Service to WESA. Discontinuing the Westside Express Service could subject TriMet to the following costs and damages:

- Federal Transit Administration for reimbursement of the federal portion of remaining useful life in equipment, fixtures, and real property. The liability can be limited if the FTA agrees that the property can be transferred to another public entity.
- Portland and Western Railroad, Inc. (P&W) for: (1) the cost of restoration to pre-WES conditions as TriMet has the option of removing improvements and fixtures or allowing P&W to do the work at TriMet's expense; (2) continual maintenance of capital improvements, equipment, and fixtures not removed. The P&W Shared Use Agreement has no explicit cutoff, and obligations may continue for the entire 50-year agreement, however the parties are responsible for negotiating in good faith to reduce TriMet's maintenance obligations.

- ODOT for the cost of removing TriMet’s property from the line and for the cost of removing the crossing at Canyon Road, at ODOT’s discretion.
- Washington County for ongoing maintenance of Train-activated Advanced Warning Devices (TAAWDs) at the Tonquin Road crossing and safety devices directing trucks away from the under-crossing of Ferry Bridge in Gresham, a responsibility that continues until 2058 in the event of no re-negotiation or buyout.

Other Entities

The measure has no fiscal impact to other state entities or local governments.

Relevant Dates

The measure takes effect on the 91st day after sine die.

The requirement to transfer Westside Express Service rights, title, ownership, related vehicles and facilities from TriMet to the Westside Express Service Authority is effective on the effective date of the measure.

By September 15, 2027, WESA shall report to the Joint Committee on Transportation on the implementation of WESA and progress of the transfer of jurisdiction to WESA.

By September 15, 2028, WESA shall report to the Joint Committee on Transportation on the feasibility of extending the commuter line from Wilsonville to Salem, and by September 15, 2029, Salem to Eugene.

The reporting requirements are repealed on January 2, 2030.

The initial membership requirements are repealed on January 2, 2031.