

Agenda Item Summary

BACKGROUND

The proposed rules are to implement Section (1)(a) of House Bill 3315, passed in the 2015 Legislative Session. For fiscal years beginning on or after July 1, 2015, and before July 1, 2019, the proposed rules direct the department to track and prepare statements reporting the number of hours spent by department personnel performing recompensable assistance for any executive department agency, including an hourly rate that would be charged, based on the class of department personnel performing the services. The department shall send statements to the state agency receiving services, but may not charge for services. "Recompensable assistance" means assistance rendered by the department as part of advancing fee-funded programs administered by another state agency. Recompensable assistance charges include, but are not limited to, costs of providing professional, investigatory, administrative and clerical services and capital outlay.

The effort to track the variety of services provided to other executive department agencies by the Department will be spread across the Department and the costs are difficult to estimate. Field and headquarters staff will need to keep close track of their work with other state agencies and this tracking could mean something on the order of 15-30 minutes per week per staff member, multiplied by hundreds of staff members. Administrative Services Division staff have developed an online tracking tool for tracking staff hours and collecting the tracking data, which will then be aggregated at the agency level to produce the required statements. It is possible that this bill may lead to less need for interagency agreements and thus less contract work associated with those agreements, which would potentially save staff time. Overall, the work associated with these rules will be absorbed with existing agency resources.

PUBLIC INVOLVEMENT

Two public hearings regarding House Bill 3315 were held during the 2015 Legislative Session. On March 31, 2015, the House Committee On Consumer Protection and Government Effectiveness heard public testimony regarding HB3315. In addition, on May 27th, 2015, the Senate Committee On Environment and Natural Resources heard public testimony for the bill.

ISSUE 1

ADOPTION OF OREGON ADMINISTRATIVE RULES THAT IMPLEMENT SECTION (1)(A) OF HOUSE BILL 3315; RECOMPENSABLE ASSISTANCE TO OTHER EXECUTIVE DEPARTMENT AGENCIES.

ANALYSIS

House Bill 3315 is intended to help address long-term considerations over the Department's budget stability, including the question of what the most appropriate funding sources are for the services ODFW provides. First, beginning in the 2015-17 biennium, HB 3315 directs ODFW to track hours spent by its employees in performing certain services for other state agencies, and communicate such hours with those agencies.

Subsequently, starting July 1, 2019, ODFW will continue to track and prepare statements reporting on work performed for other state agencies, and pursuant to HB 3315's direction, will also provide invoices to those agencies based on advance estimates of their share of ODFW services provided during the biennium.

HB 3315 recognizes that ODFW currently incurs costs when called upon by other state agencies—often through their statutes and rules—to provide biological consultation on projects or efforts undertaken, permitted or authorized by those agencies. These costs are often significant, and while some exceptions exist, they are generally not covered or reimbursed by the permit applicants, authorizing agencies, or general fund dollars. Instead, these costs are typically covered by hunting and fishing license dollars, which fund the salaries of staff who become engaged in performing these services. ODFW field staff currently spend an estimated 10-25% of their time responding to either required or requested input from other state agencies.

The services ODFW provides other agencies generally include technical comments, recommendations, advice, review / analysis, and mitigation options for a broad array of permitting and development efforts that potentially impact Oregon's fish, wildlife and their habitat. Additionally, ODFW staff participates in a wide array of planning efforts at the municipal, county, state and federal levels, providing science-based information on proposed actions and input on appropriate mitigation. Planning efforts include land use, water development or use, forest management and harvest operations, wetlands and unique habitats.

Upon receiving a request, ODFW responds in a manner driven by timelines associated with the requesting agency's regulatory process. This often requires prioritization of review requests that draws time away from ODFW's other core work that may be more directly related to the management of fish and wildlife. HB 3315's recognition is that the Department provides a valuable set of services to other state agencies and are often tied to advancing the permits or authorizations of private or public interests that are distinct from the interests that generally pay for the staff time associated with providing the services (i.e., fishing and hunting licenses payers).

OPTIONS

1. Approve ODFW staff recommended rules.
2. Reject or modify ODFW staff recommended rules.

STAFF RECOMMENDATION

Staff will ask the Commission to adopt Oregon Administrative Rules to implement Section (1)(a) of House Bill 3315, passed in the 2015 Legislative Session.

DRAFT MOTION

I move to amend OAR Chapter 635, Division 001 as proposed by staff relating to reporting on rendering recompensable assistance to other state agencies.

EFFECTIVE DATE

Upon filing