

Measure Number: IP 17

Subject: Reduction of Gun Violence Act

Government Unit Affected: State of Oregon, local governments

Prepared by: Dustin Ball, Department of Administrative Services

Reviewed by: George Naughton, Department of Administrative Services

Date: July 18, 2022

Comments

Initiative Petition 17 (IP 17) would enact a law requiring a completed background check, firearm training and a permit prior to an individual purchasing a firearm. Current law only requires a background check at the time of purchasing a firearm. This second background check at the time of firearm purchase is unaffected by the measure, and will continue if the measure is passed.

The initiative would also criminalize the manufacture, importation, purchase, sale, or otherwise transferring of ammunition magazines capable of holding more than 10 rounds and regulate the use of such magazines if they are already owned.

Permit to Purchase a Firearm:

Under the measure, a person may apply for a permit to purchase a firearm from the local police chief or county sheriff, or their designees (permit agent), with jurisdiction over their residence. A person is qualified to be issued a permit if:

- they are not prohibited from acquiring a firearm under state or federal law;
- they are not the subject of an extreme risk protection order;
- they provide no reasonable grounds for a permit agent to conclude the applicant will be a danger to self or others;
- the person has completed the firearm training as defined by the measure; and
- the applicant pays a fee not to exceed \$65 for an initial permit and \$50 for renewal.

Approved permits shall be issued within 30 days of application and remain valid for a period of five years, unless revoked. A permit to purchase a firearm as described in the measure does not create any right to receive a firearm, nor does it limit the number of firearms the permit holder may purchase during the five-year permit period. Denial of the permit application may be appealed through the courts.

Whether a seller is a licensed firearms dealer or a seller at a gun show, they must verify a purchaser has a valid permit and the dealer may not transfer the firearm unless they receive a unique approval number from the Department of State Police (OSP). The seller must notify the state of a completed transfer to the permit holder within 48 hours. In addition to the

existing provisions on private transfer, the gun dealer required for specified private transfers must verify a valid permit to purchase and may not make the transfer if the dealer receives notification from OSP that they are unable to determine qualification of the transferee. Knowingly transferring a firearm to a person who does not have a valid permit, or prior to receiving a unique approval number from OSP would be a Class A misdemeanor, and would elevate to a Class C felony if the offender has two or more previous convictions of a similar offense.

OSP would be required to build and maintain a searchable electronic database containing all permits issued, renewed, expired, or revoked, as well as each firearm purchased by a permit holder from a gun dealer. Permits would be assigned expiration dates which would be updated upon renewal. Expired or revoked permits will need to be clearly differentiated in the data base.

Prohibits Large-Capacity Magazines

Initiative Petition 17 prohibits the importation, possession, use, manufacture, purchase, sale or other transfer of magazines with a capacity of more than 10 rounds. The measure includes exceptions to this prohibition for law enforcement, the armed forces, and manufacturers who provide such magazines to law enforcement or the armed forces. The measure also includes restrictions for such magazines that are already owned on the effective date of the measure. Any sale or transfer of the described magazines is prohibited, except within 180 days of the effective date of the measure, within which time they may be sold or transferred to a licensed dealer or permanently altered to only hold 10 rounds, or at any time, turned in to law enforcement for destruction.

Fiscal Impact Summary (State Government)

Executive Branch Assumptions:

- The projected staffing impact, and the supporting services and supplies expenses were provided by OSP.
- Currently, the fee for a fingerprint based background check from OSP is \$33 per instance.
- In addition to a background check from OSP, an FBI background check would be needed to review federal databases. OSP currently charges \$13.25 for a FBI background check. Of this amount OSP retains \$2.00 per instance for administrative costs and the remaining \$11.25 is paid by OSP to the FBI.
- OSP estimates initial applications for a permit to purchase firearms under the measure and the resulting fee generation will start around January 2024.
- Over the past four years, OSP processed an annual average of about 300,000 background checks related to initiated firearm purchases, with a high of 418,061 background checks requested in 2020 and a low of 276,912 background checks requested in 2019. With the passage of the measure, OSP anticipates the annual volume of requested background checks could double during the 2023-25 biennium. This assumption includes continuation of the current roughly 300,000 background

checks for firearm sales that occur each year plus the new requirement under the measure that each purchaser must also obtain a background check to complete their initial permit to purchase a firearm.

- OSP assumes initial start-up costs of the new work under the measure will be solely paid with General Fund until fee revenues begin to materialize under the measure.
- Standard inflationary factors are assumed for the 2023-25 biennium, and all new positions are priced at step 3 of the appropriate compensation range.
- There is no anticipated cost to the state for firearms training courses. The Department of Public Safety Standards and Training (DPSST) would not directly provide the necessary training under the measure for the general public.

The Department of State Police has estimated the 2021-23 total cost to implement the provisions of IP 17 at \$89,934 to cover the costs of two positions and associated services and supplies. The cost of implementation increases in 2023-25 to a total of \$13.3 million for 31 positions and services and supplies (including the cost of obtaining FBI background checks). Based on the time needed to develop the database and stand up the program, no new revenue is anticipated in the 2021-23 biennium. OSP projects up to \$20.8 million Other Funds fee revenues will be generated in 2023-25 under the measure from the fee for criminal history record checks (\$33 attributable to the OSP fingerprint background check and \$13.25 for a FBI background check).

Assumptions:

Upon passage, OSP shall:

- Report the results of criminal background checks to permit agents;
- Provide verification for licensed dealers indicating the purchaser has a valid permit to purchase a firearm along with a criminal history record check;
- Report to the appropriate parties, as specified, if a purchaser prohibited from possessing a firearm attempts an application for permit.
- Develop a standardized form containing the specified applicant information;
- Develop and maintain an electronic searchable database;
- Maintain copies of issued permits;
- Beginning January 2024, OSP shall annually publish a report indicating the number of applications by county, including those issued and denied with reason for the denial.

Upon passage, OSP may:

- Develop rules to include any additional information the department determines would be helpful to ensure the process of permitting is being administered in a consistent and equitable manner; and
- Develop rules to carry out the provisions of the permit to purchase process.

Personal Services: OSP background check units do not currently have capacity to absorb additional workload. They are working towards reducing an existing backlog from an increase in transactions during 2020. The units are capable of completing 10,782 background checks

per each processor, per year. Based on OSP's estimate of 300,000 additional transactions per year with passage of IP 17, about 28 additional processors would be needed. However, OSP asserts doubling the current staff with 26 additional positions will be sufficient to meet the demand. Additionally, OSP will need to add capacity for fingerprinting and hire analysts to develop and maintain a searchable database of permit and firearm records, as specified under the measure. OSP staff will provide for the organization and storage of permit copies, annual reporting, and development of the application form..

OSP estimates the following staff are necessary to carry out the provisions of IP 17:

- 26 Public Service Representative 4 (PSR 4) positions to process the background investigations and report results;
- 3 Fingerprint Technicians (FP Tech); and
- 2 Operations and Policy Analyst 3 positions to develop and maintain the database, produce annual reports, and manage the permit program. These positions would be hired within the current biennium, assumed March 1, 2023.

Services and Supplies: OSP has estimated the cost of services and supplies to support the new positions, to develop, print and distribute the form to apply for a permit, and to create and maintain the electronic searchable database. The cost of database development is assumed to be a one-time expenditure. Database maintenance is estimated at \$600,000 but will not likely be necessary until the 2025-27 biennium. Ongoing costs of permit application printing and distribution will likely decline in out biennia, to approximately \$146,000 based on a normalized volume of permit applications and current pricing for a similar form (\$487 per thousand).

Personal Services						
	2021-23			2023-25		
Staffing	Positions	FTE	PS Cost	Positions	FTE	PS Cost
FICS (PSR4)	0	0.00		26	26.00	4,248,608
ABIS (FP Tech)	0	0.00		3	3.00	445,260
Admin (OPA 3)	2	0.33	79,934	2	2.00	512,162
TOTAL	2	0.33	79,934	31	31.00	5,206,030

Services and Supplies		
Description	2021-23	2023-25
Personnel related S&S costs	10,000	465,000
Print and distribute forms		292,234
Database development		2,250,000
FBI background check fee		5,062,500
TOTAL	10,000	8,069,734

Judicial Branch Assumptions:

- The fiscal impact to the court system has been estimated by the Oregon Judicial Department (OJD).
- OJD anticipates additional cases will be filed in circuit court related to appeals for denied permits under the measure. OJD used the current number of firearm transactions, including denials, currently published by OSP as the basis for the number of cases potentially filed in the circuit courts.
- OJD estimates the per case costs would likely be consistent with the per case cost for a civil case (\$517). Circuit courts already have cases where a person appeals an administrative action or decision of an Executive Branch agency, including denial of concealed carry permits, and those cases are filed in circuit courts as a civil case.
- Some individuals currently denied a concealed carry permit may not qualify for the permit created by IP 17. This may result in a shift in workload for circuit courts from appeals of concealed carry permits to appeals of firearm purchase permits.
- IP 17 requires the appeals filed in circuit courts be heard within 15 judicial days or as soon as practicable. Without additional resources, this would require the court to prioritize these cases over other matters, which would delay the processing and resolution of those cases. At this time, OJD is unable to estimate the extent of this delay or costs associated with the delay.
- IP 17 provides that any party to the circuit court cases may file an appeal with the Court of Appeals, increasing the number of cases filed in the Court of Appeals. OJD states the cost of a Court of Appeals case is at least three times the cost of a circuit court civil case ($\$517 \times 3 = \$1,551$) as Court of Appeals cases are heard by a three-judge panel.
- There would be a state revenue impact from filing fees related to additional cases filed in circuit courts and the Court of Appeals. The standard filing fee for a civil case in circuit court is \$281, and the filing fee for a case in the Court of Appeals is \$391.
- The majority of revenue collected by the court is deposited in the General Fund, except for 8.9% transferred to the State Court Technology Fund, per statute.
- It is unknown to what degree the passage of IP 17 will increase the criminal caseload for OJD and the criminal justice system. The measure creates new misdemeanors and a Class C felony, which would result in additional circuit courts cases. However, the department anticipates the impact can be absorbed within existing resources.
- IP 17 may require some changes to the court's case management system in order to process and track these cases, as well as the development of court business processes. This work could be absorbed within the Department's existing resources.

The Oregon Judicial Department has an estimated fiscal impact of up to \$7.8 million General Fund in the 2023-25 biennium. The revenue impact of the measure in the 2023-25 biennium is projected at an increase of up to \$2.7 million in filing fees. To calculate this estimate, OJD assumed 100% of the denials by the permit agent are appealed to the circuit

court, and 70% of circuit court denials are appealed to the Court of Appeals. However, the actual appeal rate and resulting fiscal impact will likely be much lower.

OJD's analysis assumes the number of permit to purchase firearm denials under the measure will be similar to the current average number of OSP background check denials that occur under existing law. The average number of OSP background check denials between 2018 and 2022 has been 2,431 denials per year, or 4,862 per biennium. Using the current rate of firearm background checks as a proxy for the potential number of background checks that may fail for permits to purchase firearms under the measure, there are potentially an additional 4,862 appeals being filed with the circuit courts and an additional 3,403 appeals being filed with the Court of Appeals.

Using the cost per civil case assumptions listed above, OJD anticipates the maximum fiscal impact could be \$2.5 million for the circuit courts and \$5.3 million for the Court of Appeals. Based on standard filing fees mentioned above, these cases could generate up to \$2.7 million in filing fees related to these appeals. Again, this analysis by OJD considers the possibility of all potential denied applicants filing an appeal with the circuit courts and 70% of those circuit court decisions being further appealed to the Court of Appeals. The actual number of appeals with the judicial system is indeterminate at this time.

Fiscal Impact Summary (Local Government)

Local Government Assumptions:

- The Oregon State Sheriffs' Association (OSSA or Association) assumes there are potentially 300,000 individuals that may present themselves at a local police chief's or county sheriff's office seeking a permit to purchase a firearm based on the current volume of background checks filed with the Oregon State Police. Each of these individuals may need to complete a form created by the Oregon State Police, and that form will need to be sent to the Oregon State Police for evaluation.
- As permit agents, local police chiefs and county sheriffs may charge a reasonable fee to reflect the actual cost of the process, but not exceed \$65 for the initial permit and \$50 for the permit renewal.
- The association assumes the workload to process each initial permit will require one new employee for every 1,200 applications annually. In addition to staff to process the permit applications, supervisory employees will be required at a ratio of 10:1. The estimated cost for new staff is projected at \$100,000 for each employee to process applications and \$120,000 for supervisory position.
- Initial hiring, training, and equipment costs are projected by the association at \$15,000 per new employee. Turnover is projected at roughly 50 employees per year.
- Permit agents will obtain an OSP fingerprint background check as well as a FBI background check for each initial application.
- The annual number of denials is assumed by OSSA to be 2,431, which is the average number of OSP background check denials between 2018 and 2022. The association

anticipates each denial will result in an appeal. Legal costs are projected at an average of 10 hours for a municipal attorney at the average hourly rate of \$200 per hour.

Based on information received from the Oregon State Sheriffs' Association, the financial impact to local government is estimated at up to \$51.2 million in the first year of implementation and up to \$47.5 million in subsequent years. The largest component of this estimate includes the hiring of 250 employees to process applications and 50 supervisory employees at the cost of \$28.0 million annually. Initial hiring, training, and equipment costs for new employees is projected at \$3.8 million in the first year of implementation and \$0.8 million in each subsequent year.

If local permit agents pay the current fees for obtaining OSP fingerprint background checks and FBI background checks from OSP, the annual cost for 300,000 permits would be roughly \$13.9 million per year. OSSA estimates legal expense to defend 2,731 application denials annually is roughly \$4.9 million per year.

A county sheriff or police chief with jurisdiction of the resident of the person making application for a permit-to-purchase will serve as the permit agent. Permit agents may charge a fee of up to \$65 for an initial permit, including the cost of fingerprinting, photographing and obtaining a criminal background check. Based on the estimated 300,000 applications per year, OSSA projects local government entities to receive up to \$19.5 million annually in initial permit application fees.

Estimate of Financial Impact

This measure requires all firearm purchasers obtain a permit to purchase a firearm. Before issuance, the permit applicant must successfully complete a background check and pass firearm training classes. The initiative also criminalizes the manufacture, importation, purchase, sale, or otherwise transferring of ammunition magazines capable of holding more than 10 rounds, and restricts the use of such magazines currently owned.

The financial impact of the initiative is anticipated to result in an expenditure increase of up to \$21.1 million for state government during the 2023-25 biennium. This increase is based on two primary factors: 1) the Department of State Police (OSP) will require additional staffing and resources to support background checks for individuals seeking permits to purchase firearms under the measure; and 2) the Oregon Judicial Department may realize additional cases in circuit courts and the Court of Appeals related to appeals of permit denials and new crimes established by the measure. Approximately \$2.3 million is anticipated as one-time expense.

The measure is anticipated to generate up to \$23.5 million in additional revenues for state government entities. These revenues would be generated from OSP fingerprint background check fees, FBI background check fees, and judicial filing fees.

For local government, the financial impact of the initiative is anticipated to result in expenditures of up to \$51.2 million in the first year of implementation and up to \$47.5 million in subsequent years to process initial permit-to-purchase applications. The anticipated

DRAFT

revenue to local government is projected at up to \$19.5 million annually based on an estimated 300,000 applications per year.