

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries  
Agency and Division

839  
Administrative Rules Chapter Number

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Amendment for Clarification of Eligibility of OMFLA and Clarification for Leave due to Harassment  
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

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In the Matter of:

Amendment for Clarification of Eligibility of OMFLA and Clarification for Leave due to Harassment

Statutory Authority: ORS 659A.805

Other Authority: ORS 659A.093(6)

Stats. Implemented: ORS 659A.270 - 659A.285, ORS 659A.090 - 659A.099

Need for the Rule(s):

Currently, OAR 839-009-0335 does not include harassment in the full title of the rule. This omission has caused confusion as to whether leave for harassment is protected under ORS 659A.270 to ORS 659A.285. The amendment would add harassment to the title of the rule to conform with ORS 659A.270 to ORS 659A.285.

Currently, OAR 839-009-0390 and 839-007-0410 are ambiguous on whether an employee eligible for protected leave under ORS 659A.090 to ORS 659A.099, the Oregon Military Family Leave Act ("OMFLA") needs to be also eligible for protected leave under ORS 659A.150 to ORS 659A.186, the Oregon Family Medical Leave Act (OFLA). The amendment would clarify that an eligible employee may qualify for protected leave under OMFLA without qualifying for protected leave under OFLA and conform with ORS 659A.090(1) and ORS 659A.093.

Documents Relied Upon, and where they are available:

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The newly amended laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

State agencies and units of local government will be subject to rules implementing ORS chapter 659A. No fiscal or economic impact is anticipated from the proposed rule amendments.

2. Cost of compliance effect on small business (ORS 183.336):

- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments.

- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated because the proposed changes implement provisions of existing law.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?:

No

If not, why?:

The proposed rule amendments and adoptions would implement statutory specifications over which BOLI has no discretion.

November 9, 2012 5:00 p.m..	Marcia Ohlemiller	Marcia.l.ohlemiller@state.or.us	9/14/12
Last Day and Time for Public Comment	Printed name	Email Address	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007