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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 839

BUREAU OF LABOR AND INDUSTRIES

FILED

11/06/2025 10:35 AM

ARCHIVES DIVISION

SECRETARY OF STATE

FILING CAPTION: Amends rules relating to servicemember preference in public employment, including changes needed to implement legislation.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/26/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

These rule amendments are necessary to implement legislation and to reduce duplication with state statutes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Senate Bill 808 (2025) is available here: <https://olis.oregonlegislature.gov/liz/2025R1/Measures/Overview/SB808>.

House Bill 2559 (2025) is available here: <https://olis.oregonlegislature.gov/liz/2025R1/Measures/Overview/HB2559>.

Chapter 195, Oregon Laws 2021, is available here:

https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2021orlaw0195.pdf.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

These rule amendments are unlikely to affect racial equity in this state. The vast majority of these rule amendments are either required by Senate Bill 808 (2025) or eliminate duplication with state statute. These rule amendments do expand the documentation that can be used to certify status as a state servicemember, former state servicemember, veteran or disabled veteran. To the extent that these changes increase the availability of the servicemember preference for racial minorities, these rule amendments are likely to have a positive effect on racial equity.

FISCAL AND ECONOMIC IMPACT:

For similar reasons, these rule amendments are unlikely to create a meaningful fiscal or economic impact. These rules regulate public employers. To the extent that providing applicants with the ability to submit alternative documentation requires additional time for staff to assess the validity of that documentation, it is possible that these rule amendments will impose marginal fiscal costs on a public body.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

These rule amendments apply to public employers and to individuals who apply for employment with a public employer. The Bureau therefore estimates that these rule amendments do not apply to any small businesses. These rule amendments do not impose any additional recordkeeping or administrative activities or costs. However, these rule amendments do allow applicants to submit alternative documentation to demonstrate servicemember status. These rule amendments may therefore impose marginal increases in existing recordkeeping and administrative activities and costs to account for this alternative documentation. For similar reasons, these rule amendments may also result in marginal increases in labor and administration associated with accepting a broader class of documentation.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses, as well as all members of the public, are invited to comment on these rules. In addition, the Bureau will post notice of this rulemaking on its webpage and in the Oregon bulletin, while also disseminating this notice to the Bureau's mailing list.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Given the scope of these changes and the available resources, the Bureau believes that any issues related to these rule amendments are likely to be efficiently surfaced via this public rulemaking notice and request for public comment.

RULES PROPOSED:

839-006-0435, 839-006-0440, 839-006-0445, 839-006-0450, 839-006-0455, 839-006-0460, 839-006-0465, 839-006-0470

AMEND: 839-006-0435

RULE SUMMARY: Amends rule to implement chapter 137, Oregon Laws 2025 and to modify citations.

CHANGES TO RULE:

839-006-0435

Veterans Preference in Public Employment ¶

(1) It is the policy of the State of Oregon that a public employer grant a preference in hiring and promotion to state servicemembers, former state servicemembers, veterans, and disabled veterans, under the provisions of ORS 408.230~~25~~ to 408.237.¶

(2) The requirement to grant a preference in hiring and promotion to state servicemembers, former state servicemembers, veterans, and disabled veterans, under the provisions of ORS 408.230~~25~~ to 408.237, applies only to a public employer's civil service positions.¶

(3) That a private employer may give employment preference in the hiring or promotion of employees under OL Ch. 86, Sec. 2 2014RS 408.497 does not preclude the filing of a complaint under ORS chapter 659A.

Statutory/Other Authority: ORS 659A.805

Statutes/Other Implemented: ORS 408.230~~25~~ - 408.235~~7~~, OL Ch. 86, Sec. 2 2014RS 408.497

RULE SUMMARY: Amends rule to implement chapter 137, Oregon Laws 2025 and eliminate statutory duplication.

CHANGES TO RULE:

839-006-0440

Veterans Preference in Public Employment: Definitions ¶

(1) "Active duty" does not include attendance at a school under military orders, except schooling incident to an active enlistment or a regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or a National Guard unit.¶

(2) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, Space Force, and Coast Guard, including the reserve components thereof. (Title 38 USC Part I Chapter 1 Section 101). Reserve components mean:¶

(a) The Army Reserve;¶

(b) The Navy Reserve;¶

(c) The Marine Corps Reserve;¶

(d) The Air Force Reserve;¶

(e) The Coast Guard Reserve;¶

(f) The Army National Guard of the United States; and¶

(g) The Air National Guard of the United States.¶

(32) "Civil service position" means any position for which a hiring or promotion decision is made or required to be made based on the results of a merit based, competitive process that includes, but is not limited to, consideration of an applicant's or employee's relative ability, knowledge, experience and other skills.¶

(a) A "civil service" position need not be labeled a "civil service position."¶

(4) "Combat zone" means an area designated by the President of the United States by executive order in which, on the dates designated by executive order, the Armed Forces of the United States are or have engaged in combat.¶

(5) "Disabled veteran" means a person who has a disability rating from the United States Department of Veterans Affairs, a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty or a person who was awarded the Purple Heart for wounds received in combat. Disabled veteran" "former state servicemember," "state servicemember" and "veteran" have the meaning given those terms in ORS 408.225.¶

(63) "Eligibility list" means a list of ranked eligible candidates for a civil service position who have become eligible for the position through a test or series of tests and who will be considered for the civil service position in ranked order. Rankings of eligible candidates identified as tiers, bands or other names function as eligibility lists for purposes of these rules.¶

(74) "Military leave" means any period of time for which a person is absent from a permanent civil service position for the performance of active duty in the Armed Forces of the United States.¶

(85) "Promotion" means any position with a higher maximum salary rate.¶

(96) "Public employer" includes a public body as defined in ORS 174.109, and any person authorized to act on behalf of the public body, with respect to control, management or supervision of any employee. "Public employer" includes but is not limited to:¶

(a) Employers in local governments;¶

(b) Employers in a public corporation created under a statute of this state and specifically designated as a public corporation; and¶

(c) Employers in any public body that is created by statute, ordinance or resolution that is not part of state government or local government.¶

(107) "Special qualifications" means qualifications added to minimum qualifications necessary at the time of appointment based on specific duties of the position to be filled. Special qualifications may include, but are not limited to bilingual skills, or licenses, permits and certifications required by law and screenings otherwise permitted by law, such as reference, criminal background and credit checks and physical fitness and drug tests.¶

(11) "Transferable skill" means a skill that a veteran has obtained through military education or experience that substantially relates, directly or indirectly, to the civil service position for which the veteran is applying.¶

(12) "Veteran" means a person who:¶

(a) Served on active duty with the Armed Forces of the United States.¶

(b) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and was discharged or released under honorable conditions;¶

(c) For a period of more than 178 consecutive days beginning after January 31, 1955, and was discharged or released from active duty under honorable conditions;¶

- (D) For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability;¶
 - (E) For 178 days or less and was discharged or released from active duty under honorable conditions and has a disability rating from the United States Department of Veterans Affairs; or¶
 - (F) For at least one day in a combat zone and was discharged or released from active duty under honorable conditions;¶
- (b) Received a combat or campaign ribbon or an expeditionary medal for service in the Armed Forces of the United States and was discharged or released from active duty under honorable conditions; or¶
- (c) Is receiving a non-service-connected pension from the United States Department of Veterans Affairs.¶
- (d) For questions regarding military discharge, consult the Oregon Department of Veterans' Affairs website at http://www.oregon.gov/ODVA/docs/PDFs/Criminal_Justice_Portal/Military_discharge.pdf?ga=t
- Statutory/Other Authority: ORS 659A.805
- Statutes/Other Implemented: ORS 408.225, 408.230, - 408.2357

AMEND: 839-006-0445

RULE SUMMARY: Amends rule to eliminate statutory duplication and to modify citation.

CHANGES TO RULE:

839-006-0445

Eligibility for Employment Preference I

(1) A veteran is eligible to use the preference provided for in OAR 839-006-0450 and 839-006-0455 for a civil service position for which application is made at any time after discharge or release from service in the Armed Forces of the United States.~~¶~~

(2) Except as provided in (1) of this rule there are no limitations to There are no limitations on the number of times a person can claim the preference described in ORS 408.225 to 408.237.

Statutory/Other Authority: ORS 659A.805

Statutes/Other Implemented: ORS 408.230~~,25~~ - 408.2357

RULE SUMMARY: Amends rule to implement chapter 137, Oregon Laws 2025 and eliminate statutory duplication.

CHANGES TO RULE:

839-006-0450

Veterans Preference in Public Employment: Applying the Employment Preference ¶

- (1) A public employer shall grant a preference to a veteran or disabled veteran who applies for a vacant civil service position or who seeks promotion to a civil service position with a higher maximum salary rate and who:
(a) Successfully completes an initial application screening or an application examination for the position; or
(b) Successfully completes a civil service test the employer administers to establish eligibility for the position; and
(c) Meets the minimum qualifications and any special qualifications for the position.¶
- (2) At each stage of the application process a public employer will grant a preference to a veteran or disabled veteran who successfully completes an initial application screening or an application examination or a civil service test the public employer administers to establish eligibility for a vacant civil service position.¶
- (3) For an initial application screening used to develop a list of persons for interviews, the public employer will add five preference points to a veteran's score and ten preference points to a disabled veteran's score.¶
- (4) For an application examination, given after the initial application screening, that results in a score, the public employer will add five preference points to a veteran's and ten preference points to a disabled veteran's total combined examint each stage of the application process a public employer must grant a preference, in accordance with ORS 408.225 to 408.237, to a state servicemember, former state servicemember, veteran, or disabled veteran, who successfully completes an initial application score without allocating the points to any single feature or part of the examination.¶
- (5) If a public employer uses an application examination that consists of an evaluation method of ranking an applicant that does not result in a score, the public employer will devise and apply methods by which the public employer gives special consideration in the public employer's hiring decision to veterans and disabled veterans.¶
- (6) When an interview is a component of the selection process for a civil service position or for an eligibility list for a civil service position, a public employer shall interview each veteran:
(a) Whom the public employer determines meets the minimum qualifications and special qualifications for the civil service position or eligibility list; and
(b) Who submits application materials that the public employer determines show sufficient evidence that the veteran has the transferable skills required and requested by the public employer for the civil service position or eligibility list.¶
- (7) A public employer is not required to comply with subsection (6) of this rule if the employer's practice is to generate an eligibility list without conducting interviews of possible candidates.¶
- (8) After an initial application examination or a civil service test the public employer administers to establish eligibility for a vacant civil service position.¶
- (2) A public employer may consult with the Oregon Military Department and the Department of Veterans' Affairs to determine whether certain military education or experience produces a transferable skill. To evaluate a veteran's transferable skills from a transcript of military training, a public employer may consult the American Council on Education's website, "A Guide to the Evaluation of Educational Experiences in the Armed Services," at <http://www.acenet.edu/news-room/Pages/Military-Guide-Online.aspx>
- Statutory/Other Authority: ORS 659A.805
- Statutes/Other Implemented: ORS 408.230, 408.235, 408.237

AMEND: 839-006-0455

RULE SUMMARY: Amends rule to add statutory citation.

CHANGES TO RULE:

839-006-0455

Veterans Preference in Public Employment: Employment Preference for Promotions ¶

A public employer ~~will~~must grant a preference to a person seeking promotion in the manner described at OAR 839-006-0450 in ORS 408.225 to 408.237.

Statutory/Other Authority: ORS 659A.805

Statutes/Other Implemented: ORS 408.225, ~~408.230, - 408.235~~ /

REPEAL: 839-006-0460

RULE SUMMARY: Repeals rule to eliminate statutory duplication.

CHANGES TO RULE:

839-006-0460

Veterans Preference in Public Employment: Appointment to a Position

- (1) A public employer will appoint an otherwise qualified veteran or disabled veteran to a vacant civil service position if the results of a veteran's or disabled veteran's application examination, when combined with the veteran's or disabled veteran's preference, are equal to or higher than the results of an application examination for an applicant who is not a veteran or disabled veteran.~~¶~~
- (2) Preferences of the type described in OAR 839-006-0450 and 839-006-0455 are not a requirement that a public employer appoint a veteran or disabled veteran to a civil service position.~~¶~~
- (3) A public employer may base a decision not to appoint the veteran or disabled veteran solely on the veteran's or disabled veteran's merits or qualifications with respect to the vacant civil service position.~~¶~~
- (4) If a public employer does not appoint a veteran or disabled veteran to a vacant civil service position, upon written request of the veteran or disabled veteran, the public employer, will provide the public employer's reasons for the decision not to appoint the veteran or disabled veteran to the position.

Statutory/Other Authority: ORS 659A.805

Statutes/Other Implemented: ORS 408.230, 408.235

AMEND: 839-006-0465

RULE SUMMARY: Amends rule to implement legislation and to modify documentation that may be used to demonstrate servicemember status.

CHANGES TO RULE:

839-006-0465

Veterans Preference in Public Employment: Certification ¶

- (1) A public employer may require an applicant to provide certification that the person is an state servicemember, former state servicemember, eligible veteran, or disabled veteran under OAR 839-006-0440(5) and (9).¶
- (2) An applicant for a position with a public employer claiming veteran's or disabled veteran's prefercenetage points may submit as certification of eligibility under OAR 839-006-0440(5) and (9) a copy of the Certificate of Release or Discharge from Active Duty (a federal DD Form 214 or 215) with the application for employment.¶
- (3) Disabled veterans may also submit a copy of their veteran's disability preference letter from the U.S. Department of Veterans Affairs, unlessbut need not do so if the information is included in the federal DD Form 214/215.¶
- (4) An applicant for a position with a public employer claiming state servicemember percentage points may submit as certification of eligibility a copy of the Retirement Accounting Statement (federal DA Form 5016) with the application for employment.¶
- (5) An applicant for a position with a public employer claiming former state servicemember percentage points may submit as certification of eligibility, with the application for employment, a copy of:¶
- (a) The Certificate of Release or Discharge from Active Duty (a federal DD form 214 or 214-1); or¶
- (b) The National Guard Report of Separation and Record of Service (a federal NGB Form 22).¶
- (6) An applicant for a position with a public employer claiming state servicemember, former state servicemember, veteran or disabled veteran percentage points may submit a summary of benefits letter from the United States Department of Veterans Affairs or any other official document, provided that the letter or other official document demonstrates that the applicant is a state servicemember, former state servicemember, veteran or disabled veteran, with the application for employment.¶
- (7) If a person's record appears to show service qualifying for the preference the public employer may provisionally designate an applicant as an eligible veteran or, disabled veteran, state servicemember or former state servicemember. However, before the person can be appointed, the person must submit proof of the entitlement to the preference.

Statutory/Other Authority: ORS 659A.805

Statutes/Other Implemented: ORS 408.225, 408.230, - 408.235 /

REPEAL: 839-006-0470

RULE SUMMARY: Repeals rule to eliminate statutory duplication.

CHANGES TO RULE:

~~839-006-0470~~

~~Veterans Preference in Public Employment: Enforcement~~

~~The Civil Rights Division of the Bureau of Labor and Industries enforces the provisions of ORS 408.230. A person claiming a violation of ORS 408.230 may file a verified written complaint with the Civil Rights Division in accordance with ORS 659A.820.~~

~~Statutory/Other Authority: ORS 659A.805~~

~~Statutes/Other Implemented: ORS 408.230, 408.235, 659A.820~~