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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 440
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIRECTOR'S OFFICE

FILED
08/28/2020 2:48 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: 2021 Workers' Compensation Premium Assessment Rates

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/24/2020 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.

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Filed By:
Amy Hilgemann
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 09/17/2020

TIME: 3:00 PM

OFFICER: Fred Bruyns

ADDRESS: Virtual Conference Only

350 Winter Street NE

Salem, OR 97301

SPECIAL INSTRUCTIONS:

GoToMeeting - see link under "Need
for Rules" below for access to virtual
hearing

NEED FOR THE RULE(S):

<https://global.gotomeeting.com/join/987091349>

You can also dial in using your phone.

United States: +1 (312) 757-3121

Access Code: 987-091-349

The proposed rules will adopt the workers' compensation premium assessment rate that is paid by all employers based on their workers' compensation premium and is collected by the insurer at the time the employer pays the premium. This assessment is used to fund workers' compensation related programs and workplace safety and health programs

that serve Oregon employers and workers. In addition, the rules adopt the rate for an additional assessment percentage amount that is collected from all self-insured employers as well as all self-insured employer groups to fund the Self-Insured Employers Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. These reserves are established to assure benefits are available in the event of a financial failure of a self-insured employer or self-insured employer group. The proposed premium assessment rate and adjustment reserve rates for 2021 will be announced by the middle of September.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Rates filings by National Council on Compensation Insurance, Department of Administrative Services' (DAS) second quarter "Oregon Economic and Revenue Forecast," Department of Consumer and Business Services Legislatively Adopted Budget 2019-2021 and fiscal year end (6/30/2020) data.

These documents will be available by request. on or before September 17, 2020 in the Director's Office, 350 Winter Street NE, Salem, Oregon 97301-3879. Please call 503-947-7872 for information.

FISCAL AND ECONOMIC IMPACT:

The fiscal impact of the proposed amendment cannot be estimated until it is determined whether or not there will be a change in the workers' compensation pure premium rate. Determining the proposed rates requires fiscal year-end (6/30/2020) financial data. Before recommending the 2021 rate, the department must analyze this financial data and review and authorize a proposed workers' compensation pure premium rate filing filed by the National Council on Compensation Insurance. The estimated fiscal impact will be provided at the rulemaking hearing – see the testimony, "Workers' Compensation Premium Assessment Rate Recommendation for CY 2021." The 2021 pure premium rate, the proposed premium assessment rate for 2021, and the adjustment reserve rates for 2021 will be announced by the middle of September.

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).

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

The estimated fiscal impact will be provided at the rulemaking hearing – see the testimony, "Workers' Compensation Premium Assessment Rate Recommendation for CY 2021." The proposed premium assessment rate and adjustment reserve rates for 2021 will be announced by the middle of September.

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:

All Oregon employers that pay workers' compensation insurance premiums also pay the premium assessment. Oregon Employment Department data shows that the great majority of Oregon employers are small businesses (as defined in ORS 183.310(10)), though large businesses may employ more than half of the workforce.

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

The proposed rule amendment will not increase reporting, recordkeeping, or other administrative activities required for compliance, nor will it increase the costs of professional services.

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

The proposed rule amendment will not require additional equipment, supplies, labor, or administration to achieve compliance.

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

Small businesses were not involved in the development of these rules because the proposed workers' compensation premium assessment and adjustment reserve rates are based on many and varied factors as outlined in the "Documents Relied Upon" section above, as well as complex mathematical calculations, data analysis, and forecasting. Therefore, small businesses would not benefit from involvement in the development of the rate recommendation, as these complex calculations are the essence of the rates to be adopted in this rule.

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

Because calculation of the rate is technical in nature as described above, consulting an advisory committee to assist the agency in drafting the rule would not be productive for participants of an advisory committee or for the department. The rulemaking hearing and comment period will allow all interested parties to provide input. Additionally, the timing of the development of the pure premium rates and the resulting assessment recommendation does not allow for earlier consultation.

RULES PROPOSED:

440-045-0020, 440-045-0025

AMEND: 440-045-0020

RULE SUMMARY: Rule 0020 will set the premium assessment rate to be levied against insurers, self-insured employers and self-insured employer groups for Calendar Year 2021. The proposed premium assessment rate for 2021 will be announced by the middle of September.

CHANGES TO RULE:

440-045-0020

Assessment Rate ¶

The assessment to be levied against insurers, self-insured employers and self-insured employer groups for Calendar Year 2020~~1~~ shall be ~~8.4~~8.4[proposed rate to be announced by mid-September] percent of direct earned premium and the direct earned premium self-insured employers and self-insured employer groups would have paid had they been insured employers.

Statutory/Other Authority: ORS 656.612, 656.726, 705.135

Statutes/Other Implemented: ORS 656.612, 656.614

AMEND: 440-045-0025

RULE SUMMARY: Rule 0025 will set additional assessments for Calendar Year 2021 against:

- Self-insured employers to fund the Self-Insured Employer Adjustment Reserve;*
- Public self-insured employer groups to fund the Self-Insured Employer Group Adjustment Reserve;*; and
- Private self-insured employer groups to fund the Self-Insured Employer Group Adjustment Reserve.*

CHANGES TO RULE:

440-045-0025

Adjustment Reserve Rate ¶

In addition to the assessments established in OAR 440-045-0020, self-insured employers for ~~the~~ Calendar Year 2020~~1~~ shall be assessed an additional 0.1~~1~~[proposed rate to be announced by mid-September] percent to fund the Self-Insured Employer Adjustment Reserve. Public self-insured employer groups for the Calendar Year 2020~~1~~ shall be assessed an additional 0.1~~1~~[proposed rate to be announced by mid-September] percent to fund the Self-Insured Employer Group Adjustment Reserve. Private self-insured employer groups for the Calendar Year 2020~~1~~ shall be assessed an additional 0.5~~5~~[proposed rate to be announced by mid-September] percent to fund the Self-Insured Employer Group Adjustment Reserve.

Statutory/Other Authority: ORS 656.612, 656.726, 705.135

Statutes/Other Implemented: ORS 656.612, 656.614