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ARCHIVES DIVISION

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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

08/31/2022 12:36 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: 2023 Workers' Compensation Premium Assessment Rates

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/22/2022 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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Salem, OR 97301

Filed By:
Kaitlyn McAllister
Rules Coordinator

HEARING(S)

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

DATE: 09/15/2022

TIME: 3:00 PM - 4:00 PM

OFFICER: Fred Bryuns

ADDRESS: Virtual - Video Conference or Telephone

350 Winter St Ne

Po Box 14480

Salem, OR 97301

SPECIAL INSTRUCTIONS:

The connection information for the hearing is located under "Need for rules" below.

NEED FOR THE RULE(S)

Microsoft Teams meeting

Join on your computer or mobile app

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+1 503-446-4951,,69352803# United States, Portland

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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 2023 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 2021-2023 and fiscal year end (6/30/2022) data.

These documents will be available by request. on or before September 15, 2022 in the Director's Office, 350 Winter Street NE, Salem, Oregon 97301-3879. Please call 503-947-7872 for information.

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

All Oregon employers that pay workers' compensation insurance premiums also pay the premium assessment. The department does not have data indicating that premium assessments have different effects based on race or ethnicity. However, the department invites input regarding any inequitable impacts.

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 (6/30/2022) financial data. Before recommending the 2023 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 2023." The 2023 pure premium rate, the proposed premium assessment rate for 2023, and the adjustment reserve rates for 2023 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).

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 2023. The proposed premium assessment rate for 2023 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 2022~~3~~ shall be ~~9.8~~ [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 the premium assessment rate to be levied against insurers, self-insured employers and self-insured employer groups for Calendar Year 2023. The proposed premium assessment rate for 2023 will be announced by the middle of September.

CHANGES TO RULE:

440-045-0025

Adjustment Reserve Rate ¶

In addition to the assessments established in OAR 440-045-0020~~5~~, self-insured employers for ~~the~~ Calendar Year 202~~2~~~~3~~ shall be assessed an additional ~~0.4~~ percent to fund the Self-Insured Employer Adjustment Reserve. Public self-insured employer groups for the Calendar Year 202~~2~~~~3~~ shall be assessed an additional ~~0.4~~ 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 202~~2~~~~3~~ shall be assessed an additional ~~0.5~~ 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