

**NOTICE OF PROPOSED RULEMAKING FILING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT**

Department of Human Services, Aging and People with Disabilities (APD)	411
Agency and Division Name	Administrative Rules Chapter Number

	ODHS, Aging and People with Disabilities 500 Summer Street NE, E-02 Salem, OR 97301	
Kristina Krause	apd.rules@dhsosha.state.or.us	503-339-6104
Rules Coordinator	Email	Telephone

	ODHS, Aging and People with Disabilities 500 Summer Street NE, E-12 Salem, OR 97301	
Debbie McCuin	Debbie.McCuin@dhsosha.state.or.us	541-301-1672
Filing Contact	Email	Telephone

FILING CAPTION
(Must be 15 words or fewer)

APD: Changes state board/commission member per diem rate to comply with HB 2992 (2021)

Last Date and Time for Public Comment: Written comments may be submitted via email to apd.rules@dhsosha.state.or.us or mailed to Kristina Krause at 500 Summer Street NE, E-02, Salem, OR 97301 until **February 17, 2022 at 5 p.m.**

HEARING WILL BE CONDUCTED VIRTUALLY

Hearing Date: **01/27/2022**
Hearing Time: **11 a.m. – 11:30 a.m.**

Join ZoomGov Meeting
<https://www.zoomgov.com/j/1605181507?pwd=SGxJeVpQQW5uQ3hMcjNtdEZhRitSUT09>

Meeting ID: 160 518 1507
Passcode: 308367

Join by Phone:
+1 669 254 5252 US (San Jose)
+1 646 828 7666 US (New York)

Meeting ID: 160 518 1507
Passcode: 308367

HEARING NOTES: If you wish to provide comment, please call in to the teleconference number no later than 15 minutes after the start time listed.

Everyone has a right to know about and use DHS|OHA programs and services. DHS|OHA provides free help. Some examples of the free help DHS|OHA can provide are: sign language and spoken language interpreters, written materials in other languages, braille, large print, audio or other formats. If you need help or have questions, please contact Kristina Krause at 503-339-6104, apd.rules@dhsaha.state.or.us or 711 TTY at least five business days before the hearing.

RULEMAKING ACTION

List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.

ADOPT:

411-063-0010; 411-063-0020; 411-063-0030; 411-063-0040

RULE SUMMARY:

Include a summary for each rule included in this filing.

The Oregon Department of Human Services (Department) is proposing to permanently adopt rules in chapter 411, division 063 to comply with House Bill 2992 (2021 Regular Session). HB 2992 amends ORS 292.495 regarding payment of per diem and travel and other expenses to members of state boards or commissions.

411-063-0010 – Created to establish definitions.

411-063-0020 – Created to establish per diem compensation for qualified members.

411-063-0030 - Created to establish reimbursement of travel and other expenses.

411-063-0040 – Created to establish reimbursement for hiring a substitute when a member of a commission or council cannot carry out duties.

Other changes may be made to chapter 411, division 063 to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and to improve the accuracy, structure and clarity of the rule.

STATEMENT OF NEED AND FISCAL IMPACT

Need for Rule(s):

The Oregon Department of Human Services (Department) is proposing to adopt permanent rules in chapter 411, division 063 to implement legislative bill HB 2992, passed during the 2021 legislative session. This rule is necessary to implement changes in the law, particularly to include implementation of a new per diem rate and definitions and requirements regarding “Qualified Members” of state boards and commissions.

Other changes may be made to chapter 411, division 063 to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and to improve the accuracy, structure and clarity of the rule.

Fiscal and Economic Impact:

The Fiscal and Economic Impact is stated below in the Department's statement of Cost of Compliance.

Statement of 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).

State Agencies: The Department estimates ODHS will have to make technical changes to the various commission websites, in order to post informational summaries, FAQs and/or forms. The Department will need to modify forms necessary for per diem compensation and reimbursement and distribute those to Commission members.

The per diem compensation costs to ODHS may be quite high, depending on the number of members who request compensation. The fiscal impact of this measure on ODHS is indeterminate but anticipated to be absorbable within existing budgetary resources. Some programs may not be able to

absorb all the increased costs and may need to seek a budget adjustment once they gain experience with the new compensation rates for members. Units of Local Government: The Department estimates there will be no additional costs to local government. However, it is possible that some local governments may wish to increase the per diem rates for their advisory boards to better match what the State is paying.

Consumers: The Department does not believe there will be additional costs to consumers based on these rules.

Board and Commission members: The Department estimates there will be some additional staff time involved in forwarding and collecting the Compensation Self-Attestation Form and/or other necessary forms.

Public: The Department estimates there will be no fiscal or economic impact on the public.

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s);

The Department estimates there will be no fiscal or economic impact on small businesses.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

The proposed changes are described above in the Department's statement of cost of compliance.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Any additional costs should be negligible.

Describe how small businesses were involved in the development of these rule(s)?

A small business, or representative of a small business, as defined in ORS 183.310 participated on the Administrative Rule Advisory Committee. Small businesses will also be included in the public review and comment period.

Documents Relied Upon, and where they are available:

For HB 2992 (2021):

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2992/Enrolled>

Was an Administrative Rule Advisory Committee consulted? Yes or No? Yes.

If not, why not?

/s/ Mike McCormick, Interim Director, Aging and People with Disabilities

Signature

12/7/2021

Date

**DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 63**

RATES FOR COMMISSIONER PER DIEM AND REIMBURSEMENT

411-063-0010 Definitions

(1) "Commission or Council" means those official bodies identified in ORS 410.070, 410.595 and 410.602.

(2) "Qualified member" means a member who is not in full-time public service and who had an adjusted gross income in the previous tax year:

(a) Of less than \$50,000, as reported on an income tax return other than a joint income tax return; or

(b) Of less than \$100,000, as reported on a joint income tax return.

Statutory/Other Authority: ORS 292.495, 410.070

Statutes/Other Implemented: ORS 292.495, 410.070

411-063-0020 Per Diem Compensation

(1) Subject to the availability of funds in the budget of the Commission or Council, and except as otherwise provided by law, the Oregon Department of Human Services Office of Aging and People with Disabilities shall pay any member of a Commission or Council, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official Commission or Council duties.

(2) The rate of compensation per day pursuant to ORS 292.495(5) is equal to the per diem paid to members of the Legislative Assembly under ORS 171.072.

(3) A member of a Commission or Council may decline to accept compensation related to the member's service on the Commission or Council.

(4) In order to receive compensation, a member must submit to the Oregon Department of Human Services Office of Aging and People with Disabilities a signed written request for compensation within 30 days of the meeting or work performed. The member must specify the date, name, type of meeting(s) or work, and the number of full or partial days the member spent performing official Commission or Council business.

Statutory/Other Authority: ORS 292.495, 410.070

Statutes/Other Implemented: ORS 171.072, 185.200, 292.495, 410.070, 410.320, 410.550, 410.602

411-063-0030 Reimbursement of Travel and Other Expenses

(1) Except as otherwise provided by law, the Oregon Department of Human Services Office of Aging and People with Disabilities may reimburse all members of Commissions and Councils, including those employed in full-time public service, for actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(2) Except as provided in subsection (5) of this section, and notwithstanding any other provision of law, the Oregon Department of Human Services Office of Aging and People with Disabilities shall provide reimbursement to a qualified member of the Commission or Council for actual and necessary travel or other expenses actually incurred in the performance of a member's official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(3) For the purposes of this rule, in order to be considered a qualified member, a member may attest by signature that they meet the conditions and income limits specified in 411-063-0010(2).

(4) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Department of

Human Services Office of Aging and People with Disabilities a travel expense claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses within 30 days following the day the member incurred the expense.

(5) A member of a Commission or Council may decline to accept reimbursement of expenses related to the member's service on the Commission or Council.

Statutory/Other Authority: ORS 292.495, 410.070

Statutes/Other Implemented: ORS 185.200, 292.210 - 292.250, 292.495, 410.070, 410.320, 410.550, 410.602

411-063-0040 Reimbursement for Hiring a Substitute

(1) As used in OAR 411-063-0030, "other expenses" includes expenses incurred by a member of the Commission or Council in employing a substitute to carry out duties, including personal duties, normally performed by the member, which the member is unable to carry out because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed \$25 per day, pursuant to ORS 292.495(3).

Statutory/Other Authority: ORS 292.495, 410.070

Statutes/Other Implemented: ORS 185.200, 292.210 - 292.250, 292.495, 410.070, 410.320, 410.550