

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

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ARCHIVES DIVISION
SECRETARY OF STATE

Employment Department
Agency and Division

471
Administrative Rules Chapter Number

Update Rule to Incorporate 2013 Statutory Change and Clarify Unemployment Coverage for Certain Corporate Officers

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending OAR 471-031-0017

Statutory Authority:

ORS 657.610

Other Authority:

Statutes Implemented:

ORS 657.044

Need for the Rule(s):

The proposed rule is necessary to incorporate changes made to Oregon Revised Statute (ORS) 657.044 as a result of Senate Bill (SB) 849 in the 2013 Legislative Session.

SB 849 amended Oregon Revised Statute (ORS) 657.044 to enable corporations with sole corporate officers to elect not to provide unemployment insurance coverage for the officers. The bill specified that the exclusion applied when Oregon achieved Unemployment Insurance Tax Schedule IV or lower which occurred in 2016.

The proposed amendment also includes changes, not resulting from the passage of SB 849, to simplify the rule. Lastly, also not resulting from the passage of SB 849, the proposed amendment to the rule defines the term "substantial ownership" to mean that each corporate officer must own at least ten (10%) percent of the total corporation.

Documents Relied Upon, and where they are available:

The enrolled version of SB 849 passed in the 2013 Legislative Session. A copy of the bill is available at:

<https://olis.leg.state.or.us/liz/2013R1/Downloads/MeasureDocument/SB849/Enrolled>

Oregon Revised Statutes, available online at www.oregonlegislature.gov or from the agency; and Oregon Administrative Rules, available online at:

http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx or from the agency.

Fiscal and Economic Impact:

There is no fiscal or economic impact due to the rule change to sole corporate officers with "substantial ownership" interest in a corporation. There is no impact on corporations with corporate officers who currently meet the exclusion. Corporations with corporate officers who are not already excluded but elect to be excluded after February 1, 2017 will pay less in Unemployment Insurance (UI) taxes. The change in rule will not affect employers who currently already qualify for the exclusion. Only corporations with officers electing the exclusion after February 1, 2017 will be affected. Lastly, the Department anticipates a minimal positive impact to the UI Trust Fund resulting from corporations with corporate officers who do not meet the requirements for exclusion on or after February 1, 2017.

Statement of Cost of Compliance:

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

There is no cost for state agencies, units of local government or the public to comply with this rule.

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

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

Small businesses that are corporations with either sole or family corporate officers could be affected by this rule, but only if they choose to elect the exclusion. According to our analysis, 63,776 corporations in Oregon are small businesses. Of these corporations, 32,921 are owned by a sole corporate officer, and the Department estimates that 16,461 (50%) of these corporations may elect the exclusion. Of the small businesses, 29,222 are corporations with more than one corporate officer. The Department estimates that 4,383 (15%) are owned by family members, and of these family owned corporations, 2,192 (50%) of these corporations may elect the exclusion.

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

There is no increase in costs for projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services, as a result of the adoption of this rule.

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

There is no increase in costs for equipment, supplies, labor and increased administration required for compliance as a result of the adoption of this rule.

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

The Department is in the process of performing outreach to small business liaison groups such as the Oregon Association of Minority Entrepreneurs (OAME), Latino Business Alliance, Oregon Employer Council (OEC), and Oregon Chambers of Commerce. During the public comment and hearing process, the Department will continue to actively seek input from small businesses and small business groups.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The Department does not have an Administrative Rule Advisory Committee. However, as specified under ORS 657.695, the Department does have an Employment Department Advisory Council. We will continue to seek input from stakeholders during the public comment and public hearing stage, and seek input from the Employment Department Advisory Council.

01-27-2017 5:00 p.m.	Cristina Koreski	cristina.koreski@oregon.gov
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address