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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 471
EMPLOYMENT DEPARTMENT

FILED
10/14/2019 10:47 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Updates To Unemployment Eligibility Requirements for School Employees Performing Work in Facilities or Janitorial Services

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/29/2019 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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875 Union St NE
Salem, OR 97311

Filed By:
Cristina Koreski
Rules Coordinator

HEARING(S)

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

DATE: 11/22/2019

TIME: 2:00 PM - 4:00 PM

OFFICER: David Genz

ADDRESS: Employment Department
Auditorium

875 Union St NE
Salem, OR 97311

SPECIAL INSTRUCTIONS:

888-850-4523 (Passcode # 440528)

NEED FOR THE RULE(S):

The Oregon Employment Department is proposing to amend the rule to define which school employees are impacted by the reasonable assurance requirements in order to qualify for Unemployment Insurance (UI) benefits. The department is performing this action as a result of the passage of House Bill (HB) 2660 in the 2019 Legislative Session. HB 2660 modified Oregon Revised Statute (ORS) 657.221 to enable individuals only working for an educational institution in facilities or janitorial services to be eligible for UI benefits during any break period.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

House Bill (HB) 2660: <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2660/Enrolled>. Oregon Revised Statutes (ORS), 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:

The Employment Department does not anticipate any external fiscal or economic impact due to the change in rule.

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) There are no state agencies, units of local government, or members of the public likely to be economically affected by the rule.

(2)(a) It does not appear to the department that there are any small businesses currently subject to this rule.

(b) The department does not anticipate any change in expected reporting, record keeping and administrative activities and cost required to comply with the rule.

(c) The department does not anticipate any increase in costs of professional services, equipment supplies, labor and increased administration required to comply with the rule.

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

While the department did not consult with any specific small businesses on the proposed amendment to this rule, the department will seek input from small businesses during the public comment and public hearing process.

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

The department did not consult with an administrative rule advisory committee. The department opted not to conduct one because, as specified under Oregon Revised Statute (ORS) 657.695, the department has an Employment Department Advisory Council. By law, this council serves to assist in the effective development of policies and programs with respect to unemployment insurance and employment service and is composed of men and women representing employers and employees in equal numbers, and representatives of the public who shall elect their chairperson. The department will consult with the council prior to the filing of this proposed rulemaking and will continue to seek input from stakeholders during the public comment period and at the public hearing.

AMEND: 471-030-0074

RULE SUMMARY: The intent of the proposed amendment to the rule is to clarify how the department will decide which occupations meet the definition for performing services consisting of the operation or maintenance of facilities or janitorial services. As stated in the proposed rule, these services shall only include work considered by the department to be classified in an occupation in which the majority of the duties include janitorial or facilities services while working in the industry classified as educational services.

CHANGES TO RULE:

471-030-0074

School Employees ¶

(1) An "academic year" is the time frame within 12 months and separated by break periods in which an educational institution, program(s) within an educational institution, or location(s) of an educational institution ordinarily operates to provide courses of study.¶

(2) For the purposes of ORS 657.221(5), services consisting of the operation or maintenance of facilities or janitorial services shall only include work considered by the department to be classified in an occupation in which the majority of the duties include janitorial or facilities services while working in the industry classified as educational services.¶

(3) ORS 657.167 and 657.221 apply when the individual claiming benefits was not unemployed, as defined by ORS 657.100, during the relevant period in the preceding academic year or term. The relevant period is:¶

(a) The week prior to the holiday or vacation period when the week(s) claimed commenced during a holiday or vacation period.¶

(b) The prior academic year or term when the week(s) claimed commenced during a customary recess period between academic terms or years, unless there is a specific agreement providing for services between regular, but not successive terms.¶

(c) The last academic year or term when the week(s) claimed commenced during a recess between non-consecutive academic terms or years when there is a specific agreement providing for services between regular, but not successive terms.¶

(34) The provisions of ORS 657.167 and 657.221 apply regardless of whether or not the individual performed services only during an academic year or in a year-round position.¶

(45) When an individual performs services for more than one educational institution, any wages earned by the individual working for an institution for which there is a contract or reasonable assurance are excluded from the determination of the individual's weekly and maximum benefit amount during the period between academic year, term or remainder of a term.¶

(56) In accordance with ORS 657.660, each educational institution shall provide the Employment Department, annually, the time frames for their break, vacation, or holiday periods. Failure to do so will result in a determination based on the shortest established time frames for similar institutions.

Statutory/Other Authority: ORS 657.610

Statutes/Other Implemented: ORS 657.167, 657.221