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**Docket Item:**

Repeal of Oregon Administrative Rules - Chapter 151

- New Rule                       Temporary  
 Amend Existing Rule         Permanent  
 Repeal Rule

Prompted by:

- State law changes  
 Federal law changes  
 Other: The Workforce Investment Act of 1998 (P.L. 105-220) was superseded by the Workforce Innovation and Opportunity Act (P.L. 113-128).

These changes go into effect on adoption.

**Summary:**

These rules were originally established to identify/describe the procedures needed to administer the workforce investment activities, through statewide and local workforce investment systems, authorized under the Federal Workforce Investment Act (WIA) Title I Subtitle B.

The rules are no longer required. OAR Chapter 151 was originally implemented to support the Federal Workforce Investment Act (WIA), and before the Higher Education Coordinating Commission (HECC) agency and its Office of Workforce Investments (OWI) were in existence.

Subsequently, the HECC and OWI were formed, and the federal Workforce Innovation and Opportunity Act (WIOA) superseded the WIA. WIOA provided new federal guidance and requirements related to Oregon's workforce development system. The result is that this Division contains numerous outdated language, references, procedures, and authorities.

Oregon Revised Statutes (ORS) 660.300 through 660.354 were established to meet the needs of implementing the new federal workforce development system and aligning duties and roles. Oregon Revised Statutes 660.300 through 660.354, supplemented by policies of the HECC and Oregon's Workforce Talent and Development Board (WTDB), as authorized under ORS 660.321 and 660.324, contain the updated language, references, procedures, and authorities originally described in OAR Chapter 151, Division 10.

Therefore, the Chapter 151 administrative rules should be eliminated.

**Material:**

Rule Text

**Staff Recommendation:**

Staff recommends approving the permanent rules as drafted.

## Repeal All:

### ~~151-001-0005~~

#### ~~Model Rules of Procedure~~

~~Pursuant to ORS 183.341, the Education and Workforce Policy Advisor adopts the following Attorney General's Model Rules of Procedure under the Administrative Procedures Act as amended and effective January 1, 2006: OAR chapter 137, division 1; 137-003-0000 through 137-003-0092; OAR chapter 137, division 4; and chapter 137, division 5.~~

### ~~151-001-0010~~

#### ~~Notice of Proposed Rule~~

~~Before permanently adopting, amending, or repealing any rule, the Education and Workforce Policy Advisor shall give notice of the proposed adoption, amendment, or repeal:~~

~~(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;~~

~~(2) By mailing a copy of the Notice to persons on the Education and Workforce Policy Advisor's mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;~~

~~(3) By mailing a copy of the Notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and~~

~~(4) By mailing or furnishing a copy of the Notice to:~~

~~(a) The Associated Press; and~~

~~(b) The Capitol Press Room;~~

~~(c) Title IB Directors;~~

~~(d) Area and Regional Board Staff;~~

~~(e) Employment Department;~~

~~(f) Adult and Family Services Division, DHS;~~

~~(g) Vocational Rehabilitation Division, DHS;~~

~~(h) Community Colleges and Workforce Development Department;~~

~~(i) Rapid Response and Dislocated Worker Representatives;~~

~~(j) Department of Education.~~

### ~~151-001-0015~~

#### ~~Temporary Rulemaking Requirements~~

~~(1) If no notice has been provided before adoption of a temporary rule, the Education and Workforce Policy Advisor shall give notice of its temporary rulemaking to persons, entities, and media specified under ORS 183.335(1) by mailing or personally delivering to each of them a copy of the rule or rules as adopted and a copy of the statements required under 183.335(5). If a temporary rule or rules are over ten pages in length, the agency may provide a summary and state how and where a copy of the rule or rules may be obtained. Failure to give this notice shall not affect the validity of any rule.~~

### ~~151-010-0010~~

#### ~~Purpose~~

~~The purpose of these rules is to establish the procedures needed to administer the workforce investment activities, through statewide and local workforce investment systems, authorized under the Federal Workforce Investment Act Title I Subtitle B. The program is designed to increase the employment, retention, and earnings of youth, adults and dislocated workers and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the State. Authority and direction for the operation of Workforce Investment Act Title IB programs in Oregon shall be derived from the United States Department of Labor, the Oregon Revised Statutes and Oregon Administrative Rules.~~

### ~~151-010-0020~~

#### ~~Definitions~~

The definitions of terms used in OARs ~~151-010-0010 through 151-030-0110~~ the rules of this chapter, unless otherwise noted, are:

- (1) "Act" means the Workforce Investment Act of 1998 authorized by Public Law 105-220 and 20 CFR Part 652, et al. Workforce Investment Act; Interim Final Rule.
- (2) "Advisor" means the Governor's Education and Workforce Advisor
- (3) "Commissioner" means the Commissioner of the Department.
- (4) "Department" means the Department of Community Colleges and Workforce Development (CCWD).
- (5) "Eligible Services" means services that can be provided under the Act.
- (6) "Local Board" means local workforce investment board established under section 117 of the Act and approved by the Governor pursuant to 15-010-0040.
- (7) "Local Plan" means the comprehensive 5-year local plan authorized under §118 of the Act.
- (8) "Participant" means an individual who has been determined to be eligible to participate in and who is receiving services under a program authorized by Title IB of the Act.
- (9) "Local Workforce Areas (LWAs)" means Local Workforce Investment Areas designated under section 116 of the Act.
- (10) "Subrecipient" means an entity to which a subgrant is awarded and which is accountable to the recipient (or higher tier subrecipient) for the use of the funds provided.
- (11) "One-Stop partners" means entities authorized under 121 (1)(b) of the Act.
- (12) "Program Year" means July 1 through June 30 of the ensuing calendar year.
- (13) "State Board" means a State Workforce Investment Board established under section 111 of the Workforce Investment Act of 1998 (29 USC Section 2821, PL 105-220, 112 Stat. 939) and pursuant to Section 3, ORS 411.926, and Governor's Executive Order No. 99-04.
- (14) "State Plan" means the single plan that outlines a 5-year strategy for the statewide workforce investment system of the State and that meets the requirements of §111 and §112 of the Act.
- (15) "Title IB" means Title I Subtitle B of the Act: Statewide and Local Workforce Investment Systems.

#### **151-010-0030**

##### Designation of Department's Administrative Duties

The Education and Workforce Policy Advisor is designating the Department of Community Colleges and Workforce Development (DCCWD) to carry out the following administrative duties the Governor is required to perform to implement Title IB of the Act:

- (1) Receiving youth funds allotted to the state by the Secretary of Labor pursuant to Section 126 of the Act and allocating these funds to LWA subrecipients pursuant to OAR 151-020-0020;
- (2) Receiving adult funds allocated to the state by the Secretary of Labor pursuant to Section 132 of the Act and allocating these funds to LWA subrecipients pursuant to OAR 151-020-0020;
- (3) Receiving dislocated worker funds allotted to the state by the Secretary of Labor pursuant to Section 132 of the Act and allocating these funds to LWA subrecipients pursuant to OAR 151-020-0020.
- (4) Establishing a procedure for use by local boards in the state in determining the eligibility of a provider of training services pursuant to Section 122 of the Act and maintaining the list of providers determined to be eligible by the local boards in all workforce investment areas in the state;
- (5) Receiving the comprehensive 5-year local plan submitted by each local board pursuant to Section 118(d) of the Act and reviewing the plan, with input from representatives of state and local workforce programs, to determine if the plan meets the requirements of Section 118(c).
- (6) Approving local plans that are found to meet the requirements of Section 118(c) of the Act and reviewing and approving any amendments to these plans;
- (7) Carrying out the required and allowable activities described in Section 134 of the Act with the advice of the Advisor and representatives of state and local workforce programs;
- (8) Establishing procedures to maintain the confidentiality of records of a participant's name and record including the circumstances under which the names and records can be disclosed; and
- (9) Establishing a method to set performance standards for the Secretary of Labor as required under Section 186(b) of the Act.

#### **151-010-0035**

## Definitions

For purposes of OAR 151-010-0040 through 151-010-0060:

(1) "Chief elected official" means a county commissioner, a county judge or the Mayor of the City of Portland.

(2) "Oregon workforce region" means those regions recognized by the Governor pursuant to ORS 285A.458 as follows:

(a) Region 1 — Columbia and Clatsop Counties;

(b) Region 2 — Multnomah, Washington and Tillamook Counties, City of Portland;

(c) Region 3 — Marion, Polk and Yamhill Counties;

(d) Region 4 — Linn, Benton and Lincoln Counties;

(e) Region 5 — Lane County;

(f) Region 6 — Douglas County;

(g) Region 7 — Coos and Curry Counties;

(h) Region 8 — Jackson and Josephine Counties;

(i) Region 9 — Hood River, Gilliam, Wasco, Wheeler and Sherman Counties;

(j) Region 10 — Deschutes, Crook and Jefferson Counties;

(k) Region 11 — Klamath and Lake Counties;

(l) Region 12 — Morrow and Umatilla Counties;

(m) Region 13 — Union, Wallowa and Baker Counties;

(n) Region 14 — Grant, Harney and Malheur Counties;

(o) Region 15 — Clackamas County.

(3) "Regional board" means a regional workforce committee established under ORS 285A.458 or 151-010-0050(6).

(4) "Unit of local government" means a county or the City of Portland.

## 151-010-0040

### Designation of Workforce Investment Areas (Designation/ Redesignation)

(1) A chief elected official of a unit of local government, or chief elected officials from a combination of such units, may request designation as a local workforce area by filing a designation request with the Education and Workforce Policy Advisor in the Governor's Office of Education and Workforce Policy. The Advisor shall develop a designation request form and make it available to any chief elected official.

(2) The Governor may approve a designation request submitted pursuant to this section if the state board determines, taking into consideration the criteria in subsection (3)(a), that such local workforce area should be so designated.

(3) There are two sets of criteria to be reviewed prior to a designation:

(a) The criteria to be reviewed by the state board are:

(A) Geographic areas served by local education agencies and intermediate educational agencies;

(B) Geographic areas served by post-secondary educational institutions and area vocational education schools;

(C) The extent to which local areas are consistent with labor market areas;

(D) The distance that individuals will need to travel to receive services provided in such local areas;

(E) The resources of such local areas that are available to effectively administer the activities carried out under subtitle IB of the Act

(b) The Governor shall, before forwarding a designation request to the state board for consideration, evaluate the request to assure that it meets the following criteria:

(A) Includes a combination of one or more Oregon Workforce Regions;

(B) Is consistent with local labor markets and the service areas of local educational and other workforce partners; and

(C) Reflects regional and labor market economies of scale.

(4) In implementing the Act, the Governor designated local workforce areas as transitional local areas from July 1, 1999 through June 30, 2000 as follows:

(a) City of Portland, Multnomah, Washington and Tillamook Counties;

(b) Marion, Polk and Yamhill Counties;

(c) Linn, Benton and Lincoln Counties;

(d) Lane County;

(e) Jackson and Josephine Counties;

(f) Clackamas County; and

(g) Columbia, Clatsop, Douglas, Coos, Curry, Hood River, Gilliam, Wasco, Wheeler, Sherman, Deschutes, Crook, Jefferson, Klamath, Lake, Morrow, Umatilla, Union, Wallowa, Baker, Grant, Harney and Malheur Counties.

(5) The Governor designates the local areas listed in subsection (4) for five years beginning July 1, 2000 unless the Governor receives and approves a redesignation request pursuant to this section.

(6) A chief elected official of a unit of local government, or chief elected officials from a combination of such units, may request redesignation for the local area for the Program Year beginning July 1, 2001 by filing a redesignation request with the Advisor on an approved form. The Advisor must receive the redesignation request form no later than October 1, 2000 to be considered for the Program Year beginning July 1, 2001. Thereafter, a redesignation request may only be made every two years and shall be filed with the Advisor no later than October 1 of the preceding year.

(7) A redesignation request will be reviewed by the Governor to determine if it meets the criteria in subsection (3)(b). If the request meets the subsection (3)(b) criteria, it shall be forwarded to the state board to determine if the request meets the criteria in subsection (3)(a) and subsection (8).

(8) The state board shall determine whether there is compelling evidence that a redesignation would:

(a) Better meet the criteria established by the state board;

(b) Be more effective or efficient; and

(c) Produce better performance results for customers.

(9) If the state board determines the request meets the applicable criteria and there is compelling evidence that a local area(s) should be redesignated, the Governor may approve the redesignation request and recognize the resulting new configuration of local area(s).

(10) If the Act is re-authorized by Congress, an area designated by the Governor will remain a designated area for a five-year period beginning on July 1, 2005 unless a redesignation request is received and approved according to subsection (7) through (9).

(11) Any unit of local government, or combination of such units, whose request for redesignation was denied may appeal the decision to the state board by filing an appeal in writing with the Advisor within 30 days of the denial which states the basis for the appeal.

(12) The state board will have 90 days to act on the appeal filed pursuant to subsection (11).

(13) If a decision on the appeal is not rendered in a timely manner or if the appeal does not result in redesignation, the entity may request review by the Secretary of Labor, under the procedures set forth in the Act and applicable federal regulations.

#### **151-010-0050**

##### Criteria for Establishing Boards

(1) The chief elected officials in a local area shall appoint a local board to serve pursuant to Section 117 of the Act. The membership of the local board shall be consistent with Section 117(b) of the Act.

(2) Chief elected officials shall consider members of regional boards from Oregon workforce regions and former members of boards under the Job Training Partnership Act for membership in the local board.

(3) Unless the Governor certifies an alternative entity pursuant to subsection (7), the local board shall, at a minimum, include:

(a) Two or more representatives listed in Section 117(b)(2) (A)(i)-(v) of the Act;

(b) One representative of each mandatory One-Stop program required under the Act; and

(c) One representative of the following:

(A) TANF programs authorized under part A of title IV of the Social Security Act; and

(B) Employment and training and work programs authorized under section 6(d)(4) and section 6(e) of the Food Stamp Act of 1977.

(4) A person on the board can represent more than one of the membership categories including more than one of the One-Stop programs.

(5) The Act provides that other entities that carry out a human resource program, including federal, state and local programs and programs in the private sector may serve as additional partners if the local board and Chief Elected Official(s) so approve.

(6) The Governor may certify an alternative entity as a local board, at the request of the chief elected official(s) pursuant to Section 117(i) of the Act.

- (7) In a local area comprised of more than one Oregon workforce region, the chief elected officials in the region shall appoint a regional board. The membership of each regional board may:
- (a) Have the same composition of a local board under the Act;
  - (b) Be composed as an alternative entity described in ORS 285A.458(5) if approved by the Governor; or
  - (c) Be composed of the following:
    - (A) Representatives of business in the local area who are appointed by the Chief Elected Official from among individuals nominated by local business organizations and business trade associations (the Chair shall be elected from this category);
    - (B) Representatives of labor organizations (for an area in which employees are represented by labor organizations), nominated by local labor federations; and
    - (C) Representatives from the local mandatory one stop partners who are actively participating in the one stop system and desire a place on the board.
- (8) In partnership with the chief elected official where applicable, a local board shall have all the responsibilities specified in Section 117(d) of the Act.
- (9) A local area with more than one Oregon workforce region will assure that significant decisions will be made with applicable concurrence from chief elected officials from the region and the regional board(s).
- (10) The Advisor shall adopt policies, with recommendations from the State Board, relating to boards applying for a waiver to provide training services consistent with Section 117(f)(1) of the Act.

#### **151-010-0060**

##### Certification of Local Boards

- (1) The Governor, as required under the Act, shall certify a local board every two years with the initial certification period beginning July 1, 2000. The Advisor shall develop certification and recertification request forms as set forth in subsection (7).
- (2) A chief elected official(s) in each local area shall submit a certification form prior to July 1, 2000.
- (3) The Governor shall certify one local board for each local area for a two year period commencing July 1, 2000 if, after a review of the request form, the Advisor finds the board's membership meets the criteria required in OAR 151-010-0050.
- (4) A chief elected official shall submit a re-certification request form to the Advisor 90 days prior to the Program Year beginning July 1, 2002.
- (5) The Governor shall recertify a local board for a period of two years if the Advisor, after a review of the request form, finds the board satisfies OAR 151-010-0050 and the local area the board represents has met the local performance measures pursuant to Section 136(h) of the Act.
- (6) The Governor does not certify regional boards but requires the local board to present documentation that the regional boards meet the criteria in 151-010-0050(6).
- (7) The Advisor shall issue a schedule, form and instructions for submission of materials needed for certification and recertification that shall, at a minimum, require submission of a written statement of the composition of the local board. The statement shall demonstrate how the composition of the board is consistent with Section 117(b) or 117(i) of the Act and with ORS 285A.458 or OAR 151-010-0050(6). This statement shall also include the names of individual appointed and their qualifications, and a description of the nominating process.