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BEV CLARNO  
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A. RICHARD VIAL  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
STEPHANIE CLARK  
DIRECTOR  
  
800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

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

CHAPTER 736  
PARKS AND RECREATION DEPARTMENT

**FILED**  
09/27/2019 9:30 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Bicycle and Pedestrian Grant Process

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/04/2019 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.*

CONTACT: Katie Gauthier  
503-559-7764  
katie.gauthier@gmail.com

725 Summer St. NE  
Salem, OR 97303

Filed By:  
Katie Gauthier  
Rules Coordinator

HEARING(S)

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

DATE: 10/29/2019

TIME: 6:00 PM - 8:00 PM

OFFICER: Katie Gauthier

ADDRESS: North Mall Office Building

725 Summer St. NE

Salem, OR 97303

SPECIAL INSTRUCTIONS:

Anyone wishing to testify must sign up  
by 6:30 PM.

NEED FOR THE RULE(S):

HB 2592 passed during the 2019 legislative session. These rules will implement the new statute by providing additional guidance on the application process and selection criteria for local government grants and prioritization of department spending on signature, scenic or recreational trail projects until the statute sunsets on January 2, 2025.

In the most recent Statewide Comprehensive Outdoor Recreation Plan (SCORP) a number of serious challenges facing the wellbeing of our state, our local communities, and our parks and natural resources are identified. These challenges are associated with shifting demographics and lifestyle changes which are resulting in a clientele base with needs different from those served by recreation providers in the past. Oregon Parks and Recreation Department embraces expanded roles for outdoor recreation and blurring lines of when a park or trail is for recreation or transportation purposes.

The proposed rules represent a collaborative approach that will allow grant operations to remain within Oregon Parks and Recreation Department while including cooperation with Oregon Department of Transportation through the

participation of an Oregon Bicycle and Pedestrian Advisory Committee member in the grant process. Local governments will continue to apply for grants through the process outlined in current administrative rules with the addition of criteria to clarify bicycle and transportation projects.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

HB 2592 Enrolled; [www.olis.leg.state.or.us](http://www.olis.leg.state.or.us)

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FISCAL AND ECONOMIC IMPACT:

The proposed rules will not change the economic impact for local governments. Receiving funding for bicycle and pedestrian projects or other outdoor recreation projects can have a positive impact on local economies. The local government grant program has awarded more than \$60 million in grants across Oregon since 1999.

The proposed rules will have a fiscal impact on Oregon Parks and Recreation Department. As required by statute, up to \$1 million each year from the department budget will be allocated to signature, scenic or recreation trails. While funding for trail projects is a department priority, the proposed rules will result in less funding for competing priorities such as repair, upgrade and maintenance of campgrounds and other facilities.

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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) All local governments in Oregon are eligible to apply for the Local Government Grant Program. The proposed rules will not change their eligibility to apply, but could impact the types of projects that receive grant funding. Oregon Parks and Recreation Department and Oregon Transportation Department may change administrative procedures based on the proposed rules, but costs are expected to be minimal. Members of the public will not be economically affected by the proposed rules.

(2) The proposed rules will not have an effect on small businesses.

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

The proposed rules do not have an impact on small businesses.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

736-006-0121, 736-009-0021

ADOPT: 736-006-0121

RULE SUMMARY: Includes criteria to implement statute requiring bicycle and pedestrian grant funding allocated to meet recreation and transportation needs.

CHANGES TO RULE:

736-006-0121

Bicycle and Pedestrian Projects

Until January 2, 2025, the Committee shall:¶

(1) Dedicate up to \$1 million per year to be awarded for bicycle and pedestrian projects that meet recreation and transportation needs, notwithstanding OAR 736-006-0125(3)(a). Bicycle and pedestrian transportation project needs may include improving walking and bicycling access in areas where no connection exists, transportation options are limited or significant safety concerns are addressed by the improvement.¶

(2) Include one representative from the Oregon Bicycle and Pedestrian Advisory Committee created in ORS 362.112. ¶

(3) May consider adopted transportation system plans in application scoring in addition to criteria identified in 736-006-0145(5)(b).

Statutory/Other Authority: ORS 390.180

Statutes/Other Implemented: 2019 HB 2592, ORS 390.180

AMEND: 736-009-0021

RULE SUMMARY: Adds role for Oregon Recreational Trails Advisory Council to review department bicycle and pedestrian funding priorities.

CHANGES TO RULE:

736-009-0021

### Establishing Oregon Scenic Trails ¶¶

Pursuant to ORS 390.962(1), the department prescribes the criteria for the designation of Oregon Scenic Trails in this rule in addition to those provided in the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2).¶¶

(1) Oregon Scenic Trails will be comprised of routes that provide access to national, state, or regional resources of superlative quality and scenic splendor.¶¶

(2) Oregon Scenic Trails may be linear, loop, or a combination of linear and loop routes and shall generally meet these criteria:¶¶

(a) Scenic Trails will connect to other trails to the extent possible.¶¶

(b) Scenic Trails should be a minimum of one (1) mile in length.¶¶

(3) Pursuant to ORS 390.962(1), an Oregon Scenic Trail may be located:¶¶

(a) Over public land with the consent of each governmental entity having jurisdiction over the lands designated; or¶¶

(b) Over privately-owned lands in the manner of and subject to the limitations provided in ORS 390.950 to 390.989 and 390.995(2).¶¶

(4) Until January 2, 2025, the council will annually review and provide input on investment priorities for department bicycle and pedestrian projects on signature, scenic or recreation trails proposed under requirements of ORS 491.XXX.¶¶

(a) Bicycle and pedestrian transportation projects may include improving walking and bicycling access in areas where no connection exists, transportation options are limited or significant safety concerns are addressed by the improvement.¶¶

(b) One member of the council shall be a member of the Oregon Bicycle and Pedestrian Advisory Committee created in ORS 362.112.¶¶

(5) Evaluation of Applications¶¶

(a) To be considered as an Oregon Scenic Trail, a proponent must submit to the department a complete Oregon Scenic Trail Application form in the format specified by the department, including a detailed Trail Management Plan.¶¶

(b) The department will review each Oregon Scenic Trail application for completeness and eligibility, including whether the application adequately addresses the considerations provided in ORS 390.965(2). The department will provide all complete, eligible applications to the council. Incomplete or ineligible applications will be returned to the proponents with an explanation of the deficiencies.¶¶

(c) The council will consider trails for designation based on the criteria provided in sections (1) to (3) of this rule and the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2).¶¶

(d) The council or designee shall conduct a field review of the proposed trail.¶¶

(e) The council shall score the trail against criteria established in the Oregon Recreation Trails System Act, ORS 390.950 through 390.989 and 390.995, and in this rule, including but not limited to:¶¶

(A) Emphasis on use of public lands,¶¶

(B) Minimizing adverse effects on adjacent landowners,¶¶

(C) Harmony with and complement to established forest, agricultural, or other use plans, and¶¶

(D) Any natural features, agriculture, forest, unusual or unique landforms, vegetation, water components, scenic beauty and interest, as well as amenities available to the route.¶¶

(f) Based on the application, field review, and scoring, the council shall determine if the trail qualifies to be

recommended for designation as an Oregon Scenic Trail.¶

(g) If the council does not recommend designating the route as an Oregon Scenic Trail, it shall provide comments and recommendations to the proponent. The proponent may reapply to the council only after fully addressing the recommendations of the council.¶

(56) Designation Process:¶

(a) The council shall provide each recommendation for designation as an Oregon Scenic Trail to the director.¶

(b) The department shall hold public meetings on the recommended designation as provided in ORS 390.965(1).¶

(c) After the public meetings required in subsection (b), the director shall either:¶

(A) Submit the council's recommendation to the commission for approval or denial of the proposed Oregon Scenic Trail; or¶

(B) Request that the council provide further consideration of issues presented in the public meeting.¶

(6) Trail Management:¶

(a) The department will enter into written cooperative agreements with landowners, federal agencies, other state agencies, local governments, private organizations and individuals as necessary to ensure that the development, signing, operation, maintenance, location or relocation of the trail meet the Oregon Scenic Trail standards.¶

(b) The department shall evaluate each Oregon Scenic Trail at least once every five years. The department will provide the council an evaluation and inventory of the trail features. Upon review, the council may recommend:¶

(A) The trail be improved to meet the standards of state designation; or¶

(B) Removal of Oregon Scenic Trails designation when or if the trail no longer meets the criteria.¶

(c) Signing and Publication of Oregon Scenic Trails.¶

(A) Consistent with the requirements of ORS 390.959, the department will establish sign standards and coordinate sign placement for each trail the commission designates as an Oregon Scenic Trail.¶

(B) The department will publish on its web page and make available standardized route maps for all Oregon Scenic Trails.

Statutory/Other Authority: ORS 390.971(8)

Statutes/Other Implemented: ORS 390.956, 390.959, 390.962, 390.968, 390.971, 2019 HB 2592