Secretary of State

# STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing accompanies this form.

**FILED**
1-12-17 4:56 PM
ARCHIVES DIVISION
SECRETARY OF STATE

Oregon State Treasury — 170

Agency and Division — Administrative Rules Chapter Number

Create new rules for the Oregon Retirement Savings Plan

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

In the Matter of:

New rules for the Oregon Retirement Savings Plan (the "Plan"), pursuant to ORS 178.215

**Statutory Authority:**
ORS 178.200 - 178.245

**Other Authority:**

**Statutes Implemented:**
ORS 178.215

**Need for the Rule(s):**

An estimated 1 million workers in Oregon currently do not have access to a retirement plan through their employment. The Oregon legislature addressed this issue through a new program entitled the Oregon Retirement Savings Plan, created by 2015 HB 2960, codified at ORS 178.200. ORS 178.215 requires the Oregon Retirement Savings Board to adopt rules to establish the processes for: 1) voluntary enrollment in the Plan, including procedures for automatic enrollment of employees and for employees to opt out; 2) participants to make the default contributions and adjust contribution levels; 3) employers to withhold employee contributions to plan accounts and send the contributions to the investment administrator for the plan; 4) allowing employees to opt out of the Plan; 5) participants to make non-payroll contributions to plan accounts; 6) setting minimum, maximum and default contribution levels; 7) withdrawals from plan accounts; 8) qualified employers to obtain exemptions from offering the Plan; and 9) mandating the contents and frequency of required disclosures to interested parties.

**Documents Relied Upon, and where they are available:**

1) Oregon Market Research Report, Center for Retirement Research at Boston College, July 2016. Available here: http://www.oregon.gov/treasury/ORSP/Documents/ORSP%20Market%20Analysis%2013JULY2016.pdf
2) Oregon Retirement Savings Plan website: http://www.oregon.gov/retire/Pages/index.aspx
3) Oregon Retirement Savings Board website: http://www.oregon.gov/treasury/ORSP/Pages/default.aspx

**Fiscal and Economic Impact:**

The Plan imposes requirements on businesses in Oregon that do not offer retirement plans to their employees. By definition, the Plan will impose an economic impact on business. Therefore, the requirements of the Plan are designed to be simple, to minimize the economic impact to small businesses. On a rolling basis from startup, employers not subject to the Plan are required to file a Certificate of Exemption confirming that the Employer offers a Qualified Plan to its Employees.

**Statement of Cost of Compliance:**

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

The Plan will have no impact on most state agencies; however, there will be financial impact to OST to administer the Plan. These costs have been addressed through a legislative appropriation in 2015, as well as a second appropriation in 2017. The Plan is authorized to collect a fee on Plan assets to pay for administrative costs.

**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:**

There are approximately 53,000 small businesses (less than 50 employees) in Oregon that will be affected by the Plan.

Data by industry is not limited to small business only. There are approximately 64,000 firms (of all sizes) affected by the Plan. Of that total, 45% are in professional services and 19% are in non-professional services. Retail/wholesale comprises 15%, construction comprises 12%, and raw materials, manufacturing, and transport/utilities make up the remaining 9%.

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

Every Oregon employer will either register and enroll its employees or file a Certificate of Exemption. In most cases, this process will occur on line, and will take 15 to 30 minutes. Participating employers will: 1) introduce the plan to employees; 2) provide data to automatically enroll employees; 3) collect opt-out and other individualized decisions; 4) process payroll deductions; 5) retain records to show compliance; and 6) resolve errors. Oregon employers are estimated to spend an aggregate 4-5 hours on these activities at the outset, plus a small number of minutes per employee. On an ongoing basis it was estimated that employers would spend about 30 minutes per pay period including the ORSP deduction in their payroll activity, and about an hour per month on records retention and any other potential activities related to the Plan. For Employers using payroll services, these activities will be carried out by the payroll service provider and not the Employer.

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

There are no additional equipment or supplies anticipated to be necessary for businesses to comply with this statute. Most communication will be handled through a third party Plan Administrator. Introductory materials for participants will be provided by the state, either in hard copy or via a link to a website. Employers will be phased in to the program over time, and the impact on small businesses will be further minimized by placing them in later phases of the rollout.

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

The rules were drafted with the advice and assistance of a rule making advisory committee comprised of small business owners, as well as representatives of business groups. OST also solicited further comment from worker groups such as the agricultural community. Additionally, OST involved business owners, including small business, in a series of working group sessions on Plan and Program design in the spring of 2016, and actively surveyed small businesses for input as part of the Market Analysis report and work.

**Administrative Rule Advisory Committee consulted?:** Yes

**If not, why?:**

These rules were drafted with the advice and assistance of a Rule Advisory Committee.

| 02-22-2017 Close of Business | Kimberly Olson | kim.olson@ost.state.or.us |
|---|---|---|
| Last Day (m/d/yyyy) and Time for public comment | Printed Name | Email Address |