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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 170
OREGON STATE TREASURY

FILED

05/12/2021 5:38 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Elections and contributions under the OregonSaves Program - Amended Notice

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/22/2021 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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16290 SW Boones Ferry Rd
Tigard, OR 97224

Filed By:
Kevin Willingham
Rules Coordinator

HEARING(S)

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

DATE: 06/17/2021

TIME: 10:00 AM

OFFICER: Sabra Purifoy

ADDRESS: Oregon State Treasury
16290 SW Upper Boones Ferry Rd
Tigard, OR 97224-7220

SPECIAL INSTRUCTIONS:

The hearing will be held in conjunction
with another hearing on rules related
to the OregonSaves Program via Cisco
Webex:

<https://ostevents.webex.com/ostevents/onstage/g.php?MTID=e3382df84de18fa8072b00c28cb3a36a8>

Event Number: 187 514 3558

Event Password: pyQ3jq6ypr3

Audio Conf. #: 408-418-9388

Due to precautions taken related to
the pandemic, the hearing will be
conducted via Cisco Webex. You may
provide written or oral testimony, or

both. All public comments and testimony will be considered.

Remote Oral Testimony

You must register by 5:00pm on Thursday, June 15, 2021, to testify at the hearing. To register, copy and paste the following link into your web browser's address bar:

<https://ostevents.webex.com/ostevents/onstage/g.php?MTID=e3382df84de18fa8072b00c28cb3a36a8> You must provide your name, email address, and the name of the organization or association you represent, if any. Prior to the hearing, you will receive instructions to join as a panelist at the hearing. The hearing will be recorded.

Written Testimony or Public Comment

You must submit written testimony or public comment by 5:00pm on June 22, 2021. Submit written testimony or public comment by emailing it to ost.rulemaking@ost.state.or.us. If you attach your testimony or public comment to the email, the attachment should be either a Microsoft Word (.doc or .docx) or a Portable Document Format (.pdf) formatted document. Your testimony or comments are public records subject to disclosure.

NEED FOR THE RULE(S):

Existing law (ORS 178.200 et. seq.) establishes the Oregon Retirement Savings Plan ("Program"). The Program requires employers that do not provide a Qualified Retirement plan facilitate payroll contributions so that employees may contribute to a retirement savings plan account in the Program. Employees may opt out of the Program at any time. Existing law grants the Oregon Retirement Savings Board the authority to adopt rules for the general administration of the Program, including the authority to direct the investment of funds. The proposed rule contained in this notice provides additional flexibility to the Board in structuring the initial investment fund.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

- 1) Oregon Retirement Savings Plan website: <http://www.oregon.gov/retire/Pages/index.aspx>
2) Oregon Retirement Savings Board website: <http://oregon.gov/treasury/ORSP/Pages/default.aspx>
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FISCAL AND ECONOMIC IMPACT:

The proposed rules are not projected to have a significant fiscal or economic impact.

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) Since the State of Oregon and Oregon's governments offer retirement benefits to its employees, they are not subject to the Program. Accordingly, there is no cost to state agencies or local governments. In relation to the public, participation in the program is completely voluntary for eligible employees. Participating employees pay an administrative fee taken from their contributions and investment interest. This rulemaking maintains the requirement for participating employees to pay an administrative fee, however, it changes the structure of how that fee may be assessed to Program accounts. This rulemaking does not change the fee.

(2)(a) There are approximately 53,000 small businesses (with less than 50 employees) in Oregon that will be affected by the program. Data by industry is not limited to small business only. There are approximately 64,000 firms (of all sizes) affected by the program. 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) For participating employers, the Program requires no direct costs or fees to participate. Although participating employers' role in facilitating the program requires minimal activities, employers will be required to perform some duties upon the initial registration and ongoing maintenance to facilitate payroll deductions and assist with the enrollment of new employees. The rules amendments included in this rulemaking do not materially change the existing duties of participating employers.

(c) There are no additional equipment or supplies anticipated to be necessary for businesses to comply with the amended rules. Most communication will be handled through a third-party Plan Administrator. Introductory materials for participants will be provided by the state via a link to the website.

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

The rules amendments were drafted with the advice and assistance of a rule making advisory committee, which included small business owners.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 170-080-0030

RULE SUMMARY: This rules explains how elections and contributions are made to the program.

CHANGES TO RULE:

Standard and Alternate Elections for Contributions; Automatic Increases; Ceasing Contributions; Requesting Participation ¶

(1) Standard Elections ¶

~~(a)~~ An Employee who has not provided notice as specified in this section shall participate using the following Standard Elections: ¶

(Aa) Contribution to the Program at an initial rate of 5% of Compensation; ¶

(Bb) Auto-escalation at the rate of an additional 1% of Compensation each year until a maximum of 10% is reached; ¶

(Cc) Investments: ¶

~~(iA) The first \$1,000 in contributions to be invested in a capital preservation investment as selected by the Board. An employee's initial contributions will be held in an investment for a set period of time (hold period) as determined by the Board and outlined in the program disclosure booklet. On the last day of the hold period, or on the day following the hold period, all of the employee's contributions made during the hold period will be transferred to the appropriate Target Date Fund; ¶~~

~~(iiB) All subsequent contributions to will be invested in a Target Date Fund; and ¶~~

~~(Dd) The Program account will be a Roth IRA and contributions will occur on a post-tax basis. ¶~~

(2) Alternate Elections ¶

(a) An Employee who does not wish to participate using the Standard Elections shall notify the Program Administrator, in a form or format established by the Program, and within the 30 days prior to their Enrollment Date, that: ¶

(A) The Employee wishes to participate in the Program: ¶

(i) at an initial contribution rate different from the Standard Elections, which shall be a percentage of available Compensation expressed as any whole number (i.e. three (3) percent but not three and one-half (3.5) percent). The minimum contribution rate is 1% and the maximum contribution rate is 100% of available Compensation, up to the IRS annual contribution limits; or ¶

(ii) at an initial contribution rate different from the Standard Elections, expressed as a specific whole dollar amount. The Program Administrator will establish the minimum contribution. The maximum contribution rate is 100% of available Compensation, up to the IRS annual contribution limits; or ¶

(iii) at an initial contribution rate consistent with the Standard Elections but without auto-escalation; or ¶

(iv) at an initial contribution rate different from the Standard Elections and without auto-escalation. ¶

(B) The Employee is opting out of the Program. ¶

(b) A Participating Employee may change contribution elections by notifying the Program Administrator of the change request, in a form or format established by the Program. This change shall be effected on the Participating Employee's payroll as soon as administratively practicable, but within 30 days of receipt of a notice of change. ¶

(c) An Employee who wishes to select an investment option other than that provided by the Standard Elections shall notify the Program Administrator, in a form or format established by the Program, that the Employee wishes to participate in the Program by investing future contributions directly into another fund or funds offered by the Program, which selection shall be effected as soon as administratively practicable. ¶

(d) A Participating Employee may change investment elections for any portion of the balance of the Program by notifying the Program Administrator of a requested change in investment elections, either in writing, electronically, or in any other form permitted by the IRS, to be effected as soon as administratively possible. ¶

(e) An Employee who wishes to select a Traditional IRA shall notify the Program Administrator, in a form or format established by the Program, that the Employee wishes to participate using a Program Traditional IRA. ¶

(f) The Facilitating Employer will process Program Traditional IRA contributions on a post-tax basis. ¶

(3) Ceasing Contributions or Requesting Participation ¶

(a) A Participating Employee may cease contributions to the Program by notifying the Program Administrator of intent to cease making contributions and revoking the authorization of the Facilitating Employer to make

contributions on their behalf. The Participating Employee will give notice of this revocation, in a form or format established by the Program, to the Program Administrator.¶¶

(b) An Employee of a Facilitating Employer who initially opted out of participation in the Program may become a Participating Employee by completing and delivering, in a form or format established by the Program, instructions to initiate participation to the Facilitating Employer. The request shall be effective on the Employee's payroll following notification as soon as administratively practicable, not to exceed 30 days.

Statutory/Other Authority: ORS 178.200 to 178.245

Statutes/Other Implemented: ORS 178.200-to 178.245