

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Dept. of Consumer and Business Services,
Workers' Compensation Board

OAR Chapter 438

Agency and Division

Administrative Rules Chapter Number

Kayleen Swift

2601 25th St. SE, Ste. 150, Salem, OR 97302-1280

(503) 934-0123

Rules Coordinator

Address

Telephone

RULE CAPTION

Amending OAR 438-015 regarding procedures concerning the determination of a reasonable assessed attorney fee.

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

July 31, 2020

10 a.m.

2601 25th St. SE, Ste. 150, Salem, OR 97302-1280

Ian Brown

Hearing Date

Time

Location

Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: OAR 438-015-0125

AMEND: OAR 438-015-0010

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 656.307; ORS 656.388(4),(5); ORS 656.726(5).

Other Auth.:

Stats. Implemented: ORS 656.307; ORS 656.308; ORS 656.382; ORS 656.383; ORS 656.386; ORS 656.388(4),(5).

RULE SUMMARY

In conducting its biennial review of attorney fees pursuant to ORS 656.388(4), the Board Members convened an advisory committee of stakeholders. After review of the advisory committee report and the comments received at numerous public meetings and a previous January 31, 2020, rulemaking hearing, the Members propose to adopt a new administrative rule regarding the voluntary bifurcation of attorney fees from the merits of a claim for certain cases on Board review. (OAR 438-015-0125). The Members also propose a rule amendment that would allow the consideration of a "contingent hourly rate and the basis for its calculation" in determining a reasonable assessed attorney fee, if such information was submitted by claimant's counsel. (OAR 438-015-0010(6)).

Request for public comment: The Board requests public comment on whether other options should be considered for achieving the rules' substantive goals while reducing the negative economic impact of the rule on business.

Pending the hearing, written comments regarding these rules may be submitted for admission into the record by directing such comments by mail, FAX (503-373-1684), e-mail (rulecomments.wcb@oregon.gov), or by means of hand delivery to any permanently staffed Board office. The comments may be addressed to the attention of Ian Brown, Rulemaking Hearing Officer, Workers' Compensation Board, 2601 25th St. SE, Ste. 150, Salem, OR 97302-1280. Due to the Governor's ongoing mandates regarding the coronavirus pandemic, the hearing will be conducted via telephone conference. Instructions for attending the hearing and providing testimony will be posted on the Board's website.

July 31, 2020

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Constance L. Wold

Constance L. Wold

06/25/2020

Signature

Printed name

Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005