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

CHAPTER 436  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION

**FILED**  
08/28/2018 9:00 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: 2019 Workers' Benefit Fund Assessment Rate

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/27/2018 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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PO Box 14480  
Salem, OR 97309

Filed By:  
FREDERICK BRUYNS  
Rules Coordinator

HEARING(S)

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

DATE: 09/20/2018

TIME: 4:00 PM

OFFICER: Fred Bruyns

ADDRESS: Labor & Industries Building

350 Winter Street NE

PO Box 14480

Salem, OR 97309

SPECIAL INSTRUCTIONS:

The public may also listen to the hearing or testify by telephone: Dial-in number is 1-213-787-0529; Access code is 9221262#.

NEED FOR THE RULE(S):

The Workers' Benefit Fund (WBF) assessment rate has been established through rulemaking, and this rulemaking is needed to adjust the rate applied to hours worked in 2019. The WBF supports several important programs, including return-to-work incentive programs and a program that provides cost-of-living increases for some worker benefits. ORS 656.506(5) states in part, "It is the intent of the Legislative Assembly that the department set rates for the collection of assessments \* \* \* in a manner so that at the end of the period for which the rates shall be effective, the cash balance shall be an amount of not less than six months of projected expenditures from the Workers' Benefit Fund in regard to its functions and duties \* \* \*." The agency will propose an assessment rate it projects will continue to fund the WBF to a level exceeding six months of projected expenditures.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The "Workers' Benefit Fund Assessment Rate Recommendation for CY 2019" and the Department of Administrative

Services' third quarter 2018 "Oregon Economic and Revenue Forecast." These documents will be available by mid-September upon request and at the public rulemaking hearing. Please contact Fred Bruyns, 503-947-7717, fred.h.bruyns@oregon.gov.

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#### FISCAL AND ECONOMIC IMPACT:

The agency director is required to maintain sufficient funds in the WBF for not less than six months of projected expenditures. The agency will propose a rate it estimates will be sufficient to maintain at least a six-month fund balance. The proposed Workers' Benefit Fund assessment rate will be announced by mid-September.

Refer to additional economic impacts under "Statement of Cost of Compliance" below.

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

The fiscal impact of an assessment rate amendment cannot be determined until the agency reviews and analyzes the Department of Administrative Services' third quarter 2018 "Oregon Economic and Revenue Forecast," which cannot be completed before this filing. The proposed Workers' Benefit

Fund assessment rate will be announced by mid-September.

##### 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:

All subject employers are required to pay the WBF assessment. Oregon employers subject to the WBF assessment number approximately 116,000. At least 90 percent of employers are small businesses (50 or fewer employees).

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

The agency projects a small cost for employers to adjust payroll systems to reflect any increase or decrease in the Workers' Benefit Fund assessment rate. The agency does not have data it can use to estimate the specific dollar impact of this adjustment.

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

The agency projects that there will be no impact on equipment, supplies, labor, or increased administration required for compliance, with or without any adjustment in the Workers' Benefit Fund assessment rate.

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

Small businesses have not been involved in determining whether to revise the assessment rate. Any proposed revision

will be based on an actuarial analysis of income to the Workers' Benefit Fund relative to outflows and the statutory requirement under ORS 656.506 to maintain funds sufficient for no less than six months of projected expenditures.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The agency did not consult an advisory committee because any proposed change will be based on an actuarial analysis of income to the Workers' Benefit Fund relative to outflows and the statutory requirement under ORS 656.506 to maintain funds for no less than six-months of projected expenditures.

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AMEND: 436-070-0010

RULE SUMMARY: Rule 0010 will set the 2019 Workers' Benefit Fund assessment rate. The proposed assessment rate will be announced by mid-September.

CHANGES TO RULE:

436-070-0010

Assessment Rate: Method and Manner of Determining ¶¶

(1) All subject employers and any employer electing to provide workers' compensation coverage for its employees must pay an assessment rate of ~~2.8~~proposed rate to be announced by mid-September cents per hour to the Department of Consumer and Business Services, under this rule division and ORS 656.506.¶¶

(2) Factors considered in developing the rate include, but are not limited to:¶¶

(a) The estimated annual fund expenditures and revenues;¶¶

(b) The fund balance requirements;¶¶

(c) The estimated annual hours worked per employee;¶¶

(d) The estimated number of employees covered by workers' compensation insurance; and¶¶

(e) Other records relating to fund expenditures and revenues.

Statutory/Other Authority: ORS 656.506, 656.726(4)

Statutes/Other Implemented: ORS 656.506