

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
OF THE STATE OF OREGON**

PUBLIC RULEMAKING HEARING

In the Matter of the Amendment of OAR: 436-070, Workers’ Benefit Fund Assessment))))	TRANSCRIPT OF TESTIMONY
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The proposed amendment to the rules was announced in the Secretary of State’s Oregon Bulletin dated September 3, 2024. On September 19, 2024, a public rulemaking hearing was held as announced at 3 p.m. via teleconference from the Labor & Industries Building, 350 Winter Street NE, Salem, Oregon. Marie Rogers, from the Workers’ Compensation Division, was the hearing officer. The record will be held open for written comment through September 26, 2024.

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TRANSCRIPT OF PROCEEDINGS

Marie Rogers:

Hello, everyone. Can everyone hear me OK?

Great. OK. Good afternoon and welcome. This is a public rulemaking hearing.

My name is Marie Rogers, and I’ll be the presiding officer for the hearing.

The time is 4 p.m. on Thursday, September 19, 2024.

We are streaming this virtual meeting from the Labor & Industries Building, at 350 Winter St. NE, in Salem, Oregon.

We are making an audio recording of today’s hearing and will make a transcript.

If you wish to present oral testimony today, I will add your name to the roster.

The Department of Consumer and Business Services, Workers’ Compensation Division addresses today chapter 436 of the Oregon Administrative Rules, specifically: Division 070, the Workers’ Benefit Fund Assessment.

In a notice sent on Aug. 27, 2024, the Division announced a rulemaking hearing on the Workers’ Benefit Fund assessment rate and explained that the specific, proposed rate change would be announced by the middle of September. The proposed rate is 2.0 cents per hour worked, the same as it is for 2024.

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The department has summarized the proposed rule language—which is to remain the same—and prepared an estimate of the fiscal and economic impacts in the notice of proposed rulemaking.

This notice and the proposed language are posted to the Division’s website: wcd.oregon.gov under “Laws and Rules,” and then “Proposed Rules and testimony.”

The Workers’ Compensation Division:

- Filed the notice of proposed rulemaking with the Oregon Secretary of State on August 27, 2024.
- Mailed the notice to its postal and electronic mailing lists;
- Notified Oregon legislators as required by ORS chapter 183; and
- Posted public notice and the proposed rules to its website.

The Oregon Secretary of State published the hearing notice in its Oregon Bulletin dated September 3, 2024.

This hearing gives the public the opportunity to provide comment about the proposed rules. In addition, the division will accept written comment through and including September 26, 2024 and will make no decisions until all of the testimony is considered.

Andrew Stolfi, the Director of the Department of Consumer and Business Services, was unable to attend the hearing today. However, I will read an extract of the Director’s written testimony into the record, which is the majority of a memo dated today, September 19, 2024:

The Workers’ Benefit Fund (WBF) assessment provides benefit increases to permanently disabled workers and to families of workers who died from a workplace injury or disease. These cost-of-living adjustments are made to reflect improvements to benefits and changes in average wages.

The WBF also supports Oregon’s highly successful programs to help injured workers return to work sooner and earn their pre-injury wages. These programs offer financial assistance to employers that hire injured workers, such as wage subsidies, premium exemptions, and reimbursements for worksite modifications and equipment. These programs help keep Oregon’s workers’ compensation costs low.

The fund’s revenue comes from a cents-per-hour-worked assessment. Employers and workers each pay half of the assessment. The assessment is paid directly to Oregon’s Employment and Revenue departments through quarterly payroll tax reports, and the revenue is transferred to DCBS.

For 2025, our analysts recommend keeping the assessment at 2.0 cents per hour worked, the same as it is for 2024.

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That was from the Director's testimony. The staff memo referenced in that testimony has been posted to the Workers' Compensation Division website as Exhibit 1. The Director's testimony will be posted to the website after this hearing as Exhibit 2.

We are ready to receive public testimony.

Is there anyone on the connection who would like to testify at this time?

For the record, no one is coming forward to provide testimony.

In a moment I will recess the hearing, and we will resume for additional testimony if anyone arrives and wishes to testify before 4:30 p.m. today.

We will close the hearing at 4:30 p.m. today.

Again, the record remains open for written testimony through and including September 26, 2024.

You may submit testimony in any written form. I encourage you to submit your testimony by email or as attachments to email. However, you may also use fax or US mail. My contact information is listed on the Notice of Proposed Rulemaking which is published on our website.

I will acknowledge all testimony received.

Mark Hopkins:

Marie. Mark Hopkins here.

Marie Rogers:

Yes, Mark.

Mark Hopkins:

I would like some clarification though I don't want to testify necessarily. But on agenda two on the agenda that was sent out under "other items" it discusses return to work modification rules. I guess I'm trying to understand what that second agenda item is. Is there someone that can clarify that for me?

Marie Rogers:

I think we can happily clarify that for you. When you speak about an agenda, are you referring to a GovDelivery notice? Are you referring to an email?

Mark Hopkins:

Yeah. Yeah. It was a GovDelivery notice that I received in my email. It discusses three ORS items, but underneath it it said other items and the second one there was a discussion or at least a bullet point regarding return to work and some sort of modification to that. Or something along

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those lines. I don't have it right in front of me here, but I'm just seeking some clarification on what that item was.

Marie Rogers:

Sure, I would need to refer back to the agenda and I am likely not the best suited person to offer that clarification. So, if you would like to reach out to me or provide your email, I can follow up with you after the hearing if that works for you.

Mark Hopkins:

That works. Yeah, that's fine.

Marie Rogers:

Great. Thank you, Mark. Is there anyone on the call who would like to provide testimony at this time?

Hearing no one, I will recess the hearing. And the time is currently 4:08 p.m. Thank you.

Those on the call: our meeting is currently at recess. If you would please mute yourselves if you are not speaking.

Mark Hopkins:

Mark Hopkins here. How best can I get in contact with you regarding that agenda item?

Marie Rogers:

Mark, yes. I was just about to message you privately. That way, you'll have my email address and you can email me. I will put my email right here in the chat. If that works for you, you can reach out to me directly and we'll connect that way, if that works for you. Are you able to see that, Mark? It's marie.a.rogers@dcbs.oregon.gov.

Mark Hopkins:

OK. What I'll do is I'll probably—I'm not at my office right now. So, I'll tomorrow reach out to you with a screen capture of what I was seeing.

Marie Rogers:

That works great. Thank you so much, Mark.

Mark Hopkins:

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Thank you.

Marie Rogers:

Hello. The hearing is resumed at 4:28 p.m.

Does anyone else wish to testify this afternoon?

Hearing no one, this hearing is adjourned.

The time is now 4:28 p.m.

Thank you so much for coming!

Transcribed from a digital audio recording by Marie Rogers on September 20, 2024.