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TEMPORARY ADMINISTRATIVE ORDER

INCLUDING STATEMENT OF NEED & JUSTIFICATION

APD 37-2021

CHAPTER 411
DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

FILED
09/19/2021 3:12 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: APD: Changes state board/commission member per diem rate to comply with HB 2992 (2021)

EFFECTIVE DATE: 09/24/2021 THROUGH 03/22/2022

AGENCY APPROVED DATE: 09/13/2021

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Filed By:
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NEED FOR THE RULE(S):

HB 2992 defines and specifies “qualified members” of state boards and commissions as those who are not in full-time public service and who had an adjusted gross income in the previous tax year below a certain threshold. It mandates that those members be paid a per diem rate for performance of duties and that they be reimbursed for travel and other expenses. Rulemaking is needed to implement the change in the existing per diem rate and the means to identify and pay “qualified members.”

JUSTIFICATION OF TEMPORARY FILING:

Failure to act promptly and immediately adopt OAR chapter 411, division 063 will result in serious prejudice to the public interest and state board and commission members. These rules need to be adopted promptly so that the rules implementing HB 2992 take effect by the 91st day after the 2021 legislative session adjourned sine die.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Full text of HB 2992
https://www.oregonlegislature.gov/bills_laws/listbills/2021R1SessionBills.html
ORS 292.495, 2019
https://www.oregonlegislature.gov/bills_laws/ors/ors292.html

RULES:
411-063-0010, 411-063-0020, 411-063-0030, 411-063-0040

ADOPT: 411-063-0010

RULE TITLE: Definitions

RULE SUMMARY: Created to establish definitions.

RULE TEXT:
(1) “Commission or Council” means those official bodies identified in ORS 410.070, 410.595 and 410.602.

(2) “Qualified member” means a member who is not in full-time public service and who had an adjusted gross income in the previous tax year:

(a) Of less than $50,000, as reported on an income tax return other than a joint income tax return; or

(b) Of less than $100,000, as reported on a joint income tax return.

STATUTORY/OTHER AUTHORITY: ORS 292.495, 410.070

STATUTES/OTHER IMPLEMENTED: ORS 292.495, 410.070

ADOPT: 411-063-0020

RULE TITLE: Per Diem Compensation

RULE SUMMARY: Created to establish per diem compensation for qualified members.

RULE TEXT:

(1) Subject to the availability of funds in the budget of the Commission or Council, and except as otherwise provided by law, the Oregon Department of Human Services shall pay any member of a Commission or Council, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official Commission or Council duties.

(2) The rate of compensation per day pursuant to ORS 292.495(5) is equal to the per diem paid to members of the Legislative Assembly under ORS 171.072.

(3) A member of a Commission or Council may decline to accept compensation or reimbursement of expenses related to the member's service on the Commission or Council.

(4) In order to receive compensation, a member must submit to the Oregon Department of Human Services a signed written request for compensation within 30 days of the meeting or work performed. The member must specify the date, name, type of meeting(s) or work, and the number of full or partial days the member spent performing official Commission or Council business.

STATUTORY/OTHER AUTHORITY: ORS 292.495, 410.070

STATUTES/OTHER IMPLEMENTED: ORS 171.072, 185.200, 292.495, 410.070, 410.320, 410.550, 410.602

ADOPT: 411-063-0030

RULE TITLE: Reimbursement of Travel and Other Expenses

RULE SUMMARY: Created to establish reimbursement of travel and other expenses.

RULE TEXT:

(1) Except as otherwise provided by law, the Oregon Department of Human Services may reimburse all members of Commissions and Councils, including those employed in full-time public service, for actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(2) Except as provided in subsection (5) of this section, and notwithstanding any other provision of law, the Oregon Department of Human Services shall provide reimbursement to a qualified member of the Commission or Council for actual and necessary travel or other expenses actually incurred in the performance of a member's official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(3) For the purposes of this rule, in order to be considered a qualified member, a member may attest by signature that they meet the conditions and income limits specified in 411-063-0010(2).

(4) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Department of Human Services a travel expense claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses within 30 days following the day the member incurred the expense.

(5) A member of a Commission or Council may decline to accept compensation or reimbursement of expenses related to the member's service on the Commission or Council.

STATUTORY/OTHER AUTHORITY: ORS 292.495, 410.070

STATUTES/OTHER IMPLEMENTED: ORS 185.200, 292.210 - 292.250, 292.495, 410.070, 410.320, 410.550, 410.602

ADOPT: 411-063-0040

RULE TITLE: Reimbursement for Hiring a Substitute

RULE SUMMARY: Created to establish reimbursement for hiring a substitute when a member of a commission or council cannot carry out duties.

RULE TEXT:
(1) As used in OAR 411-063-0030, “other expenses” includes expenses incurred by a member of the Commission or Council in employing a substitute to carry out duties, including personal duties, normally performed by the member, which the member is unable to carry out because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.
(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).

STATUTORY/OTHER AUTHORITY: ORS 292.495, 410.070

STATUTES/OTHER IMPLEMENTED: ORS 185.200, 292.210 - 292.250, 292.495, 410.070, 410.320, 410.550