

NAVAGATING RULE INFESTED WATERS

Most of you are aware by now that the Oregon Legislature was extremely prolific this 2007 session. As a result of the recent flurry of House and Senate bills being passed into law, many state agencies are scrambling to get their administrative rules drafted.

Our column today is designed to help you understand the processes by which rules are made.

Once the Legislature passes bills into law, they either become a new Oregon statute or amend an existing statute. Bills usually stipulate dates on which they statutes are to become effective.

Oregon Revised Statutes (ORS) are state law. The law is supported by Administrative Rule (OAR). These rules can be thought of as tools developed by state government which set the parameters of the law and which are designed to help you implement the law. These rules have the force of law.

The state agency responsible for enforcement of the individual statute is also responsible for promulgating rules to support it. If you have questions regarding a specific bill or statute you should contact the enforcing agency.

Once drafted, there is an actual process the enforcing agency must go through to adopt “permanent rules.”

The actual process for promulgating permanent rules includes provisions for providing notice and an opportunity for hearing. This process is also required for amending or repealing a rule. The process is allowed so that interested parties may have a voice in the outcome of the permanent rule.

Agencies are required to publish notice in the Oregon Bulletin (publication of the Secretary of State) 21 days prior to the effective date of the rule. They are also required to provide reasonable opportunity for interested persons to be notified of the rulemaking action. A 28 day period before the effective date is generally considered sufficient notice. As part of the notice requirement, agencies must also prepare a Statement of Need and a Statement of Fiscal Impact.

Agencies are also required to keep a mailing list of persons who have provided a written request to be given copies of its notices of rulemaking. The agency must respond to these requests, by providing copies of notices and proposed rules at least 28 days prior to the effective date of the rule.

Once all notice requirements have been met and agencies have considered all data, opinions and views by interested parties, agencies may proceed with adopting their new rules.

Like other agencies, the Bureau of Labor and Industries (BOLI) is very busy with the rule making process. For information about these legislative changes, please visit our website at

www.oregon.gov/BOLI. Our “current topics” section has a click on link to “2007 Legislative Updates” and another to “New/Proposed Rules.”

Our web site also offers finger tip access to OARs and ORSs. Just scroll down to the bottom of our home page and click on the handy link.

For more information on this and other important issues affecting Oregon employers, please visit our website at. www.oregon.gov/BOLI/TA You can also call us at 971-673-0824.