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Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.
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Bureau of Labor and Industries Commissioner's Office Hearings Unit	839
Agency and Division	Administrative Rules Chapter Number
The proposed rule would provide procedure for hearings on predeterminations of prevailing wage coverage.	
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)	

In the Matter of: Temporary Rules providing Contested Case Procedures for Prevailing Wage Predeterminations

Statutory Authority: ORS chapter 183, ORS 279C.817

Other Authority: none

Stats. Implemented: ORS 279C.817

Need for the Rule(s):
During 2007 legislation was enacted which is codified as ORS 279C.817, providing for a public agency or interested person to ask the bureau to make a determination about whether a construction project would be a public works on which payment of the prevailing rate of wage would be required under ORS 279C.840. The bureau is required to afford the requester or a person adversely affected or aggrieved by the determination a hearing in accordance with ORS 183.413 to 183.470. The bureau is required to adopt rules establishing the process for requesting and making the determinations provided under ORS 279C.817.

Documents Relied Upon, and where they are available: none

Fiscal and Economic Impact:
Statement of Cost of Compliance:
    1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The rule is required to implement a new statute, so insofar as costs of compliance those already issue from the statute. However, both the rule and the statute would likely have not an increased cost of compliance, but a cost benefit to public bodies who let contracts for public works, and to all construction contractors, by providing procedures for on-the-record hearings to review determinations by the bureau that a project requires payment of prevailing wages.

    2. Cost of compliance effect on small business (ORS 183.336): Provision of contested case procedures for administrative hearings to challenge a determination of prevailing wage coverage, rather than resolution by litigation in court, should result in cost savings rather than compliance costs for small businesses. Small businesses are less likely to retain their own house legal counsel, and more likely to have to rely on outside counsel if they should have to litigate in court about prevailing wage coverage.
    a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: The Oregon Construction Contractors Board estimates there are 45,000 licensed construction contractors in Oregon. It is unknown what percentage of these would qualify as small businesses, but any construction contractor could potentially be impacted if a project they contemplate could be determined to be a public works.
    b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: There are no reporting, recordkeeping or other administrative requirements.
    c. Equipment, supplies, labor and increased administration required for compliance: No equipment, supplies, labor or administration is required in connection with the proposed rule.

How were small businesses involved in the development of this rule? Small businesses were not involved in the development of this rule. This rule is mandated by statute to be promulgated. A temporary rule, which this proposed rule will supersede when final, is in place until January 23, 2009.

Administrative Rule Advisory Committee consulted?: No.
    If not, why?: This proposed rule will be referred to the Commissioner's Prevailing Wage Advisory Committee for review.

Marcia Ohlemiller

	Marcia Ohlemiller	8/14/08
Signature	Printed name	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007