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SHEMIA FAGAN
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CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 644
DEPARTMENT OF AGRICULTURE
OREGON SHEEP COMMISSION

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Per Diem Compensation and Expense Reimbursement for Oregon Sheep Commission Members

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/25/2022 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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

CONTACT: Nikki Koesan
503-364-5462
info@oregonsheepcommission.com

1270 Chemeketa St NE
Salem, OR 97301

Filed By:
Nikki Koesan
Rules Coordinator

NEED FOR THE RULE(S)

These rules are required in order to ensure that the Oregon Sheep Commission complies with House Bill 2992 (2021), which changed certain requirements for per diem compensation and expense reimbursement for members of state boards and commissions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

HB 2992 (2021) is available at
<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2992/Enrolled>.
Oregon Accounting Manual Policy 40.10.00 is available at
<https://www.oregon.gov/das/Financial/Acctng/Documents/40.10.00.pdf>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

No impact.

FISCAL AND ECONOMIC IMPACT:

The Oregon Sheep Commission is likely to be fiscally impacted by these rules because these rules will increase the per diem compensation amount and will require the Commission to pay per diem compensation to all "qualified members" (a term defined in HB 2992 and in these rules), regardless of whether funds are available in the Commission's budget therefore.

Prior to the passage of HB 2992 (2021), the Oregon Sheep Commission paid \$30 to a commissioner for each day or part thereof during which the commissioner was engaged in the performance of official duties. Payment of the \$30 per diem was subject to the availability of funds therefor in the Commission's budget.

Under these proposed rules, the Oregon Sheep Commission will pay to a commissioner per diem compensation equal to the per diem paid to members of the Legislative Assembly under ORS 171.072 (currently, \$151; increasing to \$155 on 10/1/2021) for each day or part thereof during which the commissioner is engaged in the performance of official duties. For “qualified members” of the Commission—that is, members who are not in full-time public service and who had an adjusted gross income in the previous tax year of less than \$50,000 as reported on an income tax return other than a joint income tax return, or less than \$100,000 as reported on a joint income tax return—the Oregon Sheep Commission is required to pay per diem compensation and to reimburse actual and necessary travel or other expenses actually incurred in the performance of the member’s official duties, unless the qualified member declines per diem compensation and/or expense reimbursement. For non-qualified members, payment of per diem compensation remains subject to the availability of funds therefor in the Commission’s budget.

It is not possible to estimate the fiscal and economic impact of these rules on the Commission because that impact will depend on (1) how many commissioners are “qualified members” during any given year, and (2) how many of the commissioners decline to accept per diem compensation and/or expense reimbursement.

The provisions for expense reimbursement remain largely the same, and are not expected to generate a fiscal or economic impact on the Commission substantially different from what the Commission experienced under its pre-HB 2992 expense reimbursement rules.

No units of local government or members of the public will be fiscally or economically impacted by these rules.

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).

The only state agency economically affected by these rules is the Oregon Sheep Commission.

These rules do not impose any costs on small businesses, because there are no small businesses subject to these rules.

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

Small businesses were not involved in the development of these rules because they are not economically impacted by these rules.

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

HB 2992 and the statutes governing the Oregon Sheep Commission afford limited flexibility to the Oregon Sheep Commission. The purpose of these rules is to ensure that the Commission complies with those statutory requirements.

RULES PROPOSED:

644-040-0010, 644-040-0020, 644-040-0030, 644-040-0100, 644-040-0110, 644-040-0120, 644-040-0130, 644-040-0140

REPEAL: 644-040-0010

RULE SUMMARY: Establishes the rate of per diem compensation for Commission members.

CHANGES TO RULE:

644-040-0010

Per-Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Sheep Commission must pay any member of the commission, 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 duties.¶¶

(2) The rate of compensation is limited to \$30 per day, pursuant to ORS 292.495(1).¶¶

(3) In order to receive compensation, a member must submit to the Oregon Sheep Commission a written claim for compensation by the 30th day of the calendar month following the quarter for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties, as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Statutory/Other Authority: ORS 292.495, 576.206, 574.416

Statutes/Other Implemented:

REPEAL: 644-040-0020

RULE SUMMARY: Describes the procedures for claiming expenses and the type of expenses to be reimbursed to Commission members.

CHANGES TO RULE:

~~644-040-0020~~

~~Reimbursement of Travel and Other Expenses~~

~~(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Sheep Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.¶¶~~

~~(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Sheep Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 30th day of the calendar quarter following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:¶¶~~

~~(a) Date on which the member incurred the expense; and¶¶~~

~~(b) Nature of the expense; and¶¶~~

~~(c) Amount of the expense.¶¶~~

~~(3) An expense that exceeds 25 dollars must be authorized by the Oregon Sheep Commission before a member incurs the expense.¶¶~~

~~(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:¶¶~~

~~(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and¶¶~~

~~(b) The expense is necessary to enable the member to carry out official commission business.¶¶~~

~~(5) For the purposes of this rule, "travel and other expenses" includes:¶¶~~

~~(a) Meals.¶¶~~

~~(b) Overnight lodging.¶¶~~

~~(c) Transportation.¶¶~~

~~(d) Cost of attending an event associated with promotion of a commodity, such as a festival, stock show, county fair or state fair.¶¶~~

~~(6) For the purposes of this rule, "travel and other expenses" does not include:¶¶~~

~~(a) Attendance at a sporting event, concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show.¶¶~~

~~(b) Snacks, beverages or in-room movie rental offered for sale at a place of lodging.¶¶~~

~~(c) Long-distance telephone charges at a place of lodging.¶¶~~

~~(d) Alcoholic beverages.~~

~~Statutory/Other Authority: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416, 576.440~~

~~Statutes/Other Implemented:~~

REPEAL: 644-040-0030

RULE SUMMARY: Establishes limit on amount reimbursed to Commissioner who must employ a substitute worker in order to perform duties as a Commission member.

CHANGES TO RULE:

~~644-040-0030~~

~~Reimbursement for Hiring a Substitute~~

~~(1) As used in OAR 644-040-0020, "other expenses" includes expenses incurred by a member of the Oregon Sheep Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform 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~~

~~Statutes/Other Implemented:~~

ADOPT: 644-040-0100

RULE SUMMARY: OAR 644-040-0100 provides relevant definitions for per diem compensation and expenses reimbursement.

CHANGES TO RULE:

644-040-0100

Definitions ¶¶

(1) "Actual and necessary" means that a travel or other expense:¶¶

(a) Is an actual expense incurred by a member in carrying out official duties; and¶¶

(b) The expense is necessary to enable the member to carry out official duties.¶¶

(2) "Member" means any individual appointed by the Director of Agriculture to serve on the Oregon Sheep Commission.¶¶

(3) "Non-qualified member" means a member other than a qualified member.¶¶

(4) "Other expenses" includes, but is not limited to, expenses incurred by a member of the Oregon Sheep Commission in employing a substitute to perform duties, including personal, normally performed by the member which the member is unable to perform because of the performance of official duties and which by the nature of such duties cannot be delayed without risk to health or safety. No member shall be reimbursed for expenses incurred in employing a substitute in excess of \$25 per day.¶¶

(5) "Official duties" includes:¶¶

(a) Attendance at an Oregon Sheep Commission meeting or subcommittee meeting; ¶¶

(b) Substantial preparation for an Oregon Sheep Commission meeting or subcommittee meeting;¶¶

(c) Attendance at a conference or other activity as a representative of the Oregon Sheep Commission, either at the request of the chair of the Oregon Sheep Commission or as authorized in advance by a vote of the Oregon Sheep Commission; and¶¶

(d) Legislative testimony. ¶¶

(6) "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.¶¶

(7) "Travel and other expenses" includes meals, overnight lodging, transportation, postage, and the cost of attending, as a representative of the Oregon Sheep Commission, an event associated with marketing, promoting, researching, or representing the commodity, such as a trade show, stock show, county fair, state fair, conference, or training. "Travel and other expenses" does not include:¶¶

(a) Attendance at a sporting event, concert, theatrical or dance performance, or movie, including such events that occur at a trade show, festival, stock show, county fair, state fair, conference, or training;¶¶

(b) In-room movie rental;¶¶

(c) Telephone charges that are not associated with Oregon Sheep Commission business;¶¶

(d) Use of a gym or health club;¶¶

(e) Cost of a gift for a host, business associate, family member, or Oregon Sheep Commission member, employee, or contractor; or¶¶

(f) Alcoholic beverages.

Statutory/Other Authority: ORS 576.265, ORS 576.304

Statutes/Other Implemented: ORS 292.495, ORS 576.265

ADOPT: 644-040-0110

RULE SUMMARY: OAR 644-040-0110 describes the obligation to pay per diem compensation and expense reimbursement to qualified members of the Oregon Sheep Commission.

CHANGES TO RULE:

644-040-0110

Qualified Members

(1) In accordance with the procedures set forth in OAR 644-040-0130 and OAR 644-040--0140, the Oregon Sheep Commission shall provide to a qualified member of the Oregon Sheep Commission:

(a) Per diem compensation equal to the per diem paid to members of the Legislative Assembly under ORS 171.072, for each day or portion thereof during which the qualified member is actually engaged in the performance of official duties; and

(b) Reimbursement of actual and necessary travel or other expenses actually incurred in the performance of a member's official duties within the limits provided in Oregon Accounting Manual Policy 40.10.00.

(2) A qualified member of the Oregon Sheep Commission may decline to accept compensation or reimbursement of expenses related to the qualified member's service on the Oregon Sheep Commission.

Statutory/Other Authority: ORS 576.265, ORS 576.304

Statutes/Other Implemented: ORS 292.495, ORS 576.265

ADOPT: 644-040-0120

RULE SUMMARY: OAR 644-040-0120 describes the obligation to pay per diem compensation and expense reimbursement to non-qualified members of the Oregon Sheep Commission.

CHANGES TO RULE:

644-040-0120

Non-Qualified Members

(1) In accordance with the procedures set forth in OAR 644-040-0130, and only if there are funds available in the budget for such compensation, the Oregon Sheep Commission shall provide to a non-qualified member of the Oregon Sheep Commission who is not employed in full-time public service per diem compensation equal to the per diem paid to members of the Legislative Assembly under ORS 171.072, for each day or portion thereof during which the non-qualified member is actually engaged in the performance of official duties.¶

(2) In accordance with the procedures set forth in OAR 644-040-0140, the Oregon Sheep Commission shall provide to a non-qualified member of the Oregon Sheep Commission reimbursement of actual and necessary travel or other expenses actually incurred in the performance of a non-qualified member's official duties within the limits provided in Oregon Accounting Manual Policy 40.10.00.¶

(3) A non-qualified member of the Oregon Sheep Commission may decline to accept compensation or reimbursement of expenses related to the non-qualified member's service on the Oregon Sheep Commission.

Statutory/Other Authority: ORS 576.265, ORS 576.304

Statutes/Other Implemented: ORS 292.495, ORS 576.265

ADOPT: 644-040-0130

RULE SUMMARY: OAR 644-040-0130 describes the procedures for claiming per diem compensation.

CHANGES TO RULE:

644-040-0130

Procedures for Payment of Per Diem Compensation

A member must submit a written claim for compensation to the Oregon Sheep Commission no later than the 15th day of the calendar month following the end of the quarter for which the member seeks compensation. For example, claims for compensation for July 1-September 30 must be submitted by October 15. The member must specify the amount of time the member spent performing official duties, as well as the nature of the official duties performed, for any day or portion thereof for which the member claims compensation.

Statutory/Other Authority: ORS 576.265, ORS 576.304

Statutes/Other Implemented: ORS 292.495, ORS 576.265

ADOPT: 644-040-0140

RULE SUMMARY: OAR 644-040-0140 describes the procedures for claiming expense reimbursement.

CHANGES TO RULE:

644-040-0140

Procedures for Expense Reimbursement

(1) A member must submit a written, itemized claim for reimbursement of actual and necessary travel or other expenses to the Oregon Sheep Commission no later than the 15th day of the calendar month following the end of the quarter for which the member seeks compensation. For example, claims for compensation for July 1-September 30 must be submitted by October 15. The claim for reimbursement must include the following information for each expense:¶

(a) Date on which the member incurred the expense; ¶

(b) Nature of the expense; and¶

(c) Amount of the expense.¶

(2) An expense that exceeds \$25 must be authorized by the Oregon Sheep Commission before the member incurs the expense.

Statutory/Other Authority: ORS 576.265, ORS 576.304

Statutes/Other Implemented: ORS 292.495, ORS 576.265