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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 732
DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION DIVISION

FILED

08/30/2024 8:50 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Statewide Transportation Improvement Fund

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/21/2024 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.

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NEED FOR THE RULE(S)

Currently, OAR 732 Division 42 does not allow any modifications to Statewide Transportation Improvement Fund formula plans after the plans are submitted by providers and approved by the Oregon Transportation Commission. Due to the nature of the funding, collected tax revenues fluctuate from quarter to quarter. And circumstances beyond a recipient's control can delay projects or impact timing of project spending, resulting in unspent funds at the end of a plan cycle. These amounts are not always known when a Qualified Entity submits their plan for the next biennium. If these funds are not accounted for in an approved formula plan, agencies cannot modify the plan to add any funding, and these funds cannot be utilized for two full fiscal years, until the next formula plans are submitted.

The temporary rule in place will expire in November of 2024 and no longer allow Qualified Entities to add unspent and reserve funding to projects in their approved STIF Formula plan. When the revised Plans are approved by the Commission, Qualified Entities can spend the funds immediately on improvements to public transportation can happen within the biennium of their revised plan.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None

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

This rulemaking adopts the STIF Plan amendment rule and modifies plan submission timelines and will not have any impact on racial equity. This rule allows agencies to put more money to work in their communities, as well as allowing more time to file a STIF plan.

FISCAL AND ECONOMIC IMPACT:

Providing the opportunity for additional funding to be moved from the Public Transportation Division accounts to public transportation system sooner has positive economic impacts for the community. Thus, putting these funds to work for public transportation will have numerous benefits such as providing transportation to jobs, medical appointments, shopping and social services.

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).

(1) This rule change will require the use of a marginal amount of administrative resources by ODOT to process Amended STIF Plans, and will provide economic benefit to County and Municipal Transit Providers, as well as individuals who use public transportation.

(2) Individuals at small businesses will benefit due to the ability of a transit agency to provide services during a current biennium rather than having to wait for the funds being held.

(2)(a) Letters were sent to sixteen different small business entities representing thousands of businesses across Oregon. Very little feedback was received, and of those received it was all positive, or no comment.

(2)(b) The funding that is being included in already prepared plans will involve minimal reporting or administrative activities.

(2)(c) It is estimated to take approximately 2-3 hours per application. During the temporary rule there were only five applications that were received and thus resulted in about 15 hours maximum in review of these documents.

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

Letters were sent to the small business agencies and comments were requested. In addition, the information was provided to the Public Transportation Advisory Committee for comment and several of the individuals represent small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

732-042-0005, 732-042-0045

AMEND: 732-042-0005

RULE SUMMARY: Amending section (4) of this rule from six months to "at least four months prior to the beginning of a Biennium, Qualified Entities shall submit their STIF Plans to the Agency."

CHANGES TO RULE:

732-042-0005

STIF Formula Fund Cycle

(1) The STIF Formula Fund cycle will be structured around a Biennium, with key dates and exceptions identified in these rules.¶

(2) After the first disbursement of STIF moneys following the enactment of Oregon Laws 2017, chapter 750, the Agency shall make disbursements quarterly beginning at the beginning of the first quarter of each Biennium, subject to the provisions of OAR 732-042-0010.¶

(3) No later than December 31 of each year, the Agency shall provide written notice to each Qualified Entity of the estimated allocation of STIF Formula Fund moneys for which it is eligible in the coming calendar year.¶

(4) ~~Six~~As determined by the Agency, but at least four months prior to the beginning of a Biennium, Qualified Entities shall submit their STIF Plans to the Agency.-¶

(5) Qualified Entities may prepare their STIF Plans for a period of one or two Biennia. The Commission may approve a STIF Plan for one or two Biennia.¶¶

(6) The Commission shall decide to accept or reject STIF Plans no later than July 1 of the coming Biennium.¶¶

(7) The Agency shall email notice of the Commission's decision to affected Qualified Entities within seven days of the issuance of the Commission's decision. A Qualified Entity may appeal a rejection of its STIF Plan as described in OAR 732-040-0050.¶¶

(8) During the first STIF Formula Fund Cycle after the enactment of Oregon Laws 2017, chapter 750, a Qualified Entity may submit its STIF Plan either three months or nine months after the effective date of OAR Chapter 732, Division 042. A Qualified Entity that submits a STIF Plan under this section shall submit a STIF Plan for a period that ends at the end of the 2019-2021 Biennium. The Commission shall decide to accept or reject a STIF Plan submitted under this section no later than four months after it is received by the Agency, following the approval procedures described in OAR 732-042-0025.

Statutory/Other Authority: ORS 184.619, ORS 184.658, ORS 184.761

Statutes/Other Implemented: ORS 184.751-184.766

ADOPT: 732-042-0045

RULE SUMMARY: Revised wording of temporary rule as it's being converted to a permanent rule.

CHANGES TO RULE:

732-042-0045

Agency Amendment of STIF Plan

(1) No later than 90 days prior July 1 annually, a Qualified Entity with an approved STIF Plan for the current Biennium (an "Original STIF Plan") may submit a proposed amended STIF Plan for the current Biennium (an "Amended STIF Plan") to the Agency.¶

(2) The Amended STIF Plan must include documentation that the Governing Body approved the Amended STIF Plan prior to its submittal to the Agency. If STIF Formula funds will be jointly managed by two or more Qualified Entities, the Amended STIF Plan must include documentation demonstrating each Governing Body's commitment to joint management.¶

(3) An Amended STIF Plan submitted under section (1) of this rule may amend one or both of the following elements of the Qualified Entity's Original STIF Plan:¶

(a) The amount of unspent STIF Formula Fund moneys carried forward from the previous Biennium under OAR 732-042-0035(2) and the identification of the Projects to which those moneys will be allocated in the current Biennium; or¶

(b) Based upon the latest estimate of STIF Formula Fund distributions for the current Biennium provided by the Agency, the total funding sought in the STIF Plan and Identification of the projects to which those moneys will be allocated in the current Biennium. ¶

(4) An Amended STIF Plan submitted under section (1) of this rule may:¶

(a) Neither add any new Projects to the Original STIF Plan nor ¶

(b) Modify the description of Projects included in the Original STIF Plan, except that the description may be modified to reflect any changes to the anticipated benefits and discrete measurable outcomes associated with each Project with specific reference to whether the Project advances each of the criteria listed at 732-042-0015(2)(c).¶

(5) The Agency shall review all timely received proposed Amended STIF Plans. The Agency shall submit each completed Amended STIF Plan to PTAC for review and recommendation to the Commission. The Commission shall thereafter review and either approve or reject each proposed Amended STIF Plan. ¶

(6) If an Amended STIF Plan is approved by the Commission, the Amended STIF Plan supersedes the Qualified Entity's Original STIF Plan for the remainder of the current Biennium. ¶

(7) If an Amended STIF Plan is rejected by the Commission, a Qualified Entity may file one appeal as described in OAR 732-040-0050.

Statutory/Other Authority: ORS 184.619, 184.658, 184.761

Statutes/Other Implemented: ORS 184.755-184.766