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OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 017 – REEMPLOYED RETIRED MEMBERS

1 **459-017-0060**

2 **Reemployment of Retired Members**

3 (1) For purposes of this rule, “retired member” means a member of the PERS
4 Chapter 238 Program who is retired for service.

5 (2) Reemployment under ORS 238.082. A retired member *[of the system receiving a*
6 *service retirement allowance, who has elected an option other than the total lump sum*
7 *option under ORS 238.305(3), including those who have retired at a reduced benefit*
8 *under 238.280(1), (2), or (3)]* may be employed under ORS 238.082 by a participating
9 employer without loss of retirement benefits provided:

10 (a) The period or periods of employment with one or more participating *[public]*
11 employers *[participating in the system]* do not exceed 1039 hours in a calendar year; or

12 (b) If the retired member is receiving retirement, survivors, or disability benefits
13 under the federal Social Security Act, the period or periods of employment do not exceed
14 the greater of 1039 hours in a calendar year or the total number of hours in a calendar
15 year that, at the retired member's specified hourly rate of pay, limits the annual
16 compensation of the retired member to an amount that does not exceed the following
17 Social Security annual compensation limits:

18 (A) For retired members who have not reached full retirement age under the Social
19 Security Act, the annual compensation limit is **\$14,160**; or

20 (B) For the calendar year in which the retired member reaches full retirement age
21 under the Social Security Act and only for compensation for the months before reaching
22 full retirement age, the annual compensation limit is **\$37,680**.

1 ~~[(2)]~~ (3) The limitations on employment in section ~~[(1)]~~ (2) of this rule do not apply
2 if the retired member has reached full retirement age under the Social Security Act.

3 ~~[(3)]~~ (4) The limitations on employment in section ~~[(1)]~~ (2) of this rule do not apply
4 if:

5 (a) The retired member meets the requirements of ORS 238.082~~[(3),]~~ (4), (5), (6),
6 (7) or ~~[(7)]~~(8), and did not retire at a reduced benefit under the provisions of 238.280(1),
7 (2), or (3);

8 (b) The retired member retired at a reduced benefit under ORS 238.280(1), (2) or
9 (3), is employed in a position that meets the requirements of 238.082~~[(3)]~~(4), the date of
10 employment is more than six months after the member's effective retirement date, and the
11 member's retirement otherwise meets the standard of a bona fide retirement;

12 (c) The retired member is employed by a school district or education service district
13 as a speech-language pathologist or speech-language pathologist assistant and:

14 (A) The retired member did not retire at a reduced benefit under the provisions of
15 ORS 238.280(1), (2), or (3); or

16 (B) If the retired member retired at a reduced benefit under the provisions of ORS
17 238.280(1), (2) or (3), the retired member is not so employed until more than six months
18 after the member's effective retirement date and the member's retirement otherwise meets
19 the standard of a bona fide retirement;

20 (d) The retired member meets the requirements of section 2, chapter 499, Oregon
21 Laws 2007;

22 (e) The retired member is employed for service during a legislative session under
23 ORS 238.092(2); or

1 (f) The retired member is on active state duty in the organized militia and meets the
2 requirements under ORS 399.075(8).

3 ~~[(4)]~~ (5) If a retired member is reemployed subject to the limitations of ORS
4 238.082 and section ~~[(1)]~~ (2) of this rule, the period or periods of employment
5 subsequently exceed those limitations, and employment continues into the month
6 following the date the limitations are exceeded:

7 (a) If the member has been retired for six or more calendar months:

8 (A) PERS will cancel the member's retirement.

9 (i) If the member is receiving a [The last] monthly service retirement allowance,
10 the last payment to which the member is entitled ~~[to will be]~~ is for the month in which
11 the limitations were exceeded.

12 (ii) If the member is receiving installment payments under ORS 238.305(4), the
13 last installment payment to which the member is entitled is the last payment due on
14 or before the last day of the month in which the limitations were exceeded.

15 (iii) If the member received a single lump sum payment under ORS 238.305(4)
16 or ORS 238.315, the member is entitled to the payment provided the payment was
17 dated on or before the last day of the month in which the limitations were exceeded.

18 (iv) A member who receives benefits to which he or she is not entitled must repay
19 those benefits to PERS.

20 (B) The member will reestablish active membership ~~[as required by ORS 238.078]~~
21 the first of the calendar month following the ~~[date]~~ month in which the limitations were
22 exceeded.

1 (C) The member's account *[shall]* **must** be rebuilt in accordance with the provisions
2 of section *[(9)]* **(7)** of this rule.

3 (b) If the member has been retired for less than six calendar months:

4 (A) PERS will cancel the member's retirement effective the date *[of]* the member*['s]*
5 **was** reemployed*[ment.]*

6 (B) All retirement benefits received by the member must be repaid to PERS in a
7 single payment *[before the member can be reemployed]*.

8 (C) The member will reestablish active membership *[as required by ORS 238.078]*
9 effective the date the member *[is]* **was** reemployed.

10 (D) The member account *[shall]* **will** be rebuilt as of the date that PERS receives the
11 single payment. The amount in the member account *[shall]* **must** be the same as the
12 amount in the member account at the time of the member's retirement.

13 *[(5) Reemployment of retired member who elected the total lump sum option or who*
14 *received a lump sum payment in lieu of a small allowance (AS Refund). A retired member*
15 *who elected the total lump sum option under ORS 238.305(3) or who received a lump*
16 *sum payment in lieu of a small allowance under 238.315 (AS Refund) may return to work*
17 *with a participating employer in the six month period following the member's effective*
18 *retirement date without having to repay the retirement benefits paid to them provided:*

19 *(a) The retired member is designated by the employer(s) as a casual, emergency, or*
20 *seasonal worker as defined in OAR 459-005-0001; and*

21 *(b) The period or periods of employment with one or more public employers*
22 *participating in the system do not exceed 599 hours.*

1 *(6) The return to work in a qualifying or other position after six months following*
 2 *the retirement date of a member who elected the total lump sum option or who received*
 3 *an AS Refund has no effect on the retirement status of that member and, upon such*
 4 *reemployment, the member is not required to repay retirement benefits.*

5 *(7) If a retired member described in section (5) of this rule, is working subject to the*
 6 *limitation of subsection (5)(b) of this rule and the member exceeds that limitation, the*
 7 *member's retirement will be cancelled. The member will be required to repay to PERS in*
 8 *a single payment the total amount of all retirement benefits received. The member will*
 9 *reestablish active membership as required by ORS 238.078 effective the first of the*
 10 *calendar month following the date the member exceeded that limitation. The member's*
 11 *account shall be rebuilt in accordance with 238.078(2) and subsection (10)(d) of this*
 12 *rule. Upon subsequent retirement, the member may choose a different retirement*
 13 *payment option.]*

14 *[(8)] **(6) For purposes of the [L] limitations [on hours of employment] in section***
 15 ***(2)[s (1) and (5)] of this rule;***

16 ***(a) Hours of employment** will be based on the number of hours *[employed] of**
 17 ***compensated service with participating employer(s)** on and after the retired member's*
 18 *effective retirement date. **Hours of compensated service include, but are not limited***
 19 ***to:***

20 ***(A) Hours of service for which the member receives wages, salary, or other***
 21 ***compensation.***

22 ***(B) Hours of paid leave.***

1 (b) Hours of employment do not include hours served in employment subject to
2 the provisions of section (3) of this rule on or after the later of January 1, 2004 or
3 the operative date of the applicable statutory or Oregon Law exclusion implemented
4 by section (3).

5 ~~[(9)]~~ (7) Reemployment under ORS 238.078(1). If a member has been retired for
6 service for more than six calendar months and is reemployed in a qualifying position by a
7 participating employer under the provisions of 238.078(1) *[, the following will occur]:*

8 (a) PERS will cancel the member's retirement effective the date *[of]* the member~~['s]~~
9 is reemployed~~[ment]~~.

10 (b) The member will reestablish active membership *[as required by ORS 238.078]*
11 on the date the member is reemployed.

12 (c) If the member elected a~~[n]~~ benefit payment option other than a lump sum option
13 under ORS 238.305(2) or (3), *[the member need not repay any service retirement*
14 *allowance payment received that is attributable to the period the member was separated*
15 *from service. T]he* last monthly service retirement allowance payment to which the
16 member is entitled *[will be]* is for the month before the calendar month in which the
17 member is reemployed. *[A member who receives benefits to which he or she is not*
18 *entitled must repay those benefits to PERS.]* Upon subsequent retirement, the member
19 may choose a different *[retirement]* benefit payment option.

20 (A) The member's account *[shall]* will be rebuilt as required by ORS 238.078
21 effective the date active membership is reestablished.

22 (B) Amounts from the Benefits-In-Force Reserve (BIF) credited to the member's
23 account under the provisions of paragraph (A) of this subsection *[shall]* will be credited

1 with earnings at the BIF rate or the assumed rate, whichever is less, from the date of
2 retirement to the date of active membership.

3 (d) If the member elected a partial lump sum option under ORS 238.305(2), *[the*
4 *member need not repay any service retirement allowance payment received that is*
5 *attributable to the period the member was separated from service. T]*the last monthly
6 service retirement allowance payment to which the member is entitled *[will be]* is for the
7 month before the calendar month in which the member is reemployed. The last lump
8 sum or installment payment to which the member is entitled is the last payment due
9 before the date the member is reemployed. *[A member who receives benefits to which*
10 *he or she is not entitled must repay those benefits to PERS. No repayment of lump sum*
11 *payment(s) received during the period the member was separated from service is*
12 *required.]* Upon subsequent retirement, the member may not choose a different
13 *[retirement]* benefit payment option unless the member has repaid to PERS in a single
14 payment an amount equal to the lump sum and installment payment(s) received and the
15 *[interest]* earnings that would have accumulated on that amount.

16 (A) The member's account *[shall]* will be rebuilt as required by ORS 238.078
17 effective the date active membership is reestablished.

18 (B) Amounts from the BIF credited to the member's account under the provisions of
19 paragraph (A) of this subsection, excluding any amounts attributable to *[any lump sum]*
20 repayment*[(s)]* by the member, *[shall]* will be credited with earnings at the BIF rate or
21 the assumed rate, whichever is less, from the date of retirement to the date of active
22 membership.

1 (e) If the member elected the total lump sum option under ORS 238.305(3) or
2 received a lump sum payment under ORS 238.315, *[no repayment of the total lump*
3 *sum payment received is required.]* the last lump sum or installment payment to
4 which the member is entitled is the last payment due before the date the member is
5 reemployed. Upon subsequent retirement, the member may not choose a different
6 *[retirement]* benefit payment option unless the member has repaid to PERS in a single
7 payment an amount equal to the *[total lump sum]* benefit payment(s) received and the
8 *[interest]* earnings that would have accumulated on that amount.

9 (A) If the member repays PERS as described in this subsection *[(e)]* the member's
10 account *[shall]* will be rebuilt as required by ORS 238.078 effective the date that PERS
11 receives the single payment.

12 (B) If any amounts from the BIF are credited to the member's account under the
13 provisions of paragraph (A) of this subsection the amounts *[shall]* may not be credited
14 with earnings for the period from the date of retirement to the date of active membership.

15 (f) A member who receives benefits to which he or she is not entitled must repay
16 those benefits to PERS.

17 *[(10)]* (8) Reemployment under ORS 238.078(2). If a member has been retired *[for*
18 *service]* for less than six calendar months and is reemployed in a qualifying position by a
19 participating employer under the provisions of 238.078(2): *[, the following will occur:]*

20 (a) PERS will cancel the member's retirement effective the date *[of]* the member *['s]*
21 is reemployed*[ment]*.

22 (b) All retirement benefits received by the member must be repaid to PERS in a
23 single payment. *[before the member can be reemployed.]*

1 (c) The member will reestablish active membership *[as required by ORS 238.078]*
2 effective the date the member *[is]* is reemployed.

3 (d) The member account *[shall]* will be rebuilt as of the date that PERS receives the
4 single payment. The amount in the member account *[shall]* must be the same as the
5 amount in the member account at the time of the member's retirement.

6 (e) Upon subsequent retirement, the member may choose a different *[retirement]*
7 benefit payment option.

8 *[(11)]* (9) Upon the subsequent retirement of any member who reestablished active
9 membership under ORS 238.078 and this rule, the retirement benefit of the member
10 *[shall]* must be calculated using the actuarial equivalency factors in effect on the
11 effective date of the subsequent retirement.

12 *[(12)]* (10) The provisions of paragraphs *[(9)]*(7)(c)(B), *[(9)]*(7)(d)(B), and
13 *[(9)]*(7)(e)(B) of this rule are applicable to retired members who reestablish active
14 membership under ORS 238.078 and this rule and whose initial effective retirement
15 date is on or after March 1, 2006.

16 *[(13)]* (11) Reporting requirement. *[The]* A participating employer that employs a
17 retired member must*[shall]* notify PERS in a format acceptable to PERS under which
18 statute *[a]* the retired member*[e]* is *[re]*employed *[in a format acceptable to PERS]*.

19 (a) Upon request by PERS, a participating employer *[shall]* must certify to PERS
20 that a retired member has not exceeded the number of hours allowed *[in]* under ORS
21 238.082 and section (2) *[s (1) and (5)]* of this rule.

1 (b) Upon request by PERS a participating employer *[shall]* **must** provide PERS with
2 business and employment records to substantiate the actual number of hours a retired
3 member was employed.

4 (c) Participating employers *[shall]* **must** provide *[the]* information requested *[in]*
5 **under** this section within 30 days of the date of the request.

6 *[(14)]* **(12)** Sick leave. Accumulated unused sick leave reported by *[the]* **an**
7 employer to PERS upon a member's retirement, as provided in ORS 238.350, *[shall]*
8 **may** not be made available to a retired member returning to employment under sections
9 *[(1)]* **(2)** or *[(9)]* **(7)** of this rule.

10 *[(15)]* **(13)** Subsections *[(3)]* **(4)**(c) and *[(3)]* **(4)**(d) of this rule are repealed effective
11 January 2, 2016.

12 **(14) This rule is effective January 1, 2010.**

13 Stat. Auth.: ORS 238.650

14 Stats. Implemented: ORS 238.078, 238.082, 238.092, 399.075, *[&]* 2007 OL Ch.

15 499 & 774, **2009 OL Ch. 390 & 868.**