

Work After Retirement Information for Tier One/Tier Two Retirees

EFFECTIVE JANUARY 1, 2010, THESE RULES APPLY TO ALL TIER ONE/TIER TWO RETIREES, REGARDLESS OF BENEFIT PAYMENT OPTION.

Oregon statute imposes certain restrictions on members who work for PERS covered public employers after retirement. The following paragraphs describe these rules for members who retired for service. Different rules apply to members who retired due to disability.

If you return to employment with a private employer or non-PERS covered public employer, your PERS retirement benefits will continue unchanged. PERS does not limit the hours you may be employed or the amount of money you can earn from a private or non-PERS covered employer.

The Work After Retirement Limitation

If you are a Tier One/Tier Two retired member, you may be employed by a participating public employer and continue to receive retirement benefits **as long as the period or periods of employment with one or more participating public employers do not total 1,040 hours or more in a calendar year**. Please note that hours are counted in the year in which you performed the service, not in the year in which the hours were reported.

NOTE: In previous years the hour limitation was described as “may not exceed 1,039 hours in a calendar year”, but the statutory limitation in ORS 238.082(2) is actually “...may not total 1,040 hours or more in a calendar year.” This distinction had little importance because hours of employment were previously reported in whole hours, not fractions. However, with the implementation of electronic reporting, employers may now report fractions of hours, resulting in reported employment hour totals which can marginally exceed 1,039, but not total 1,040. To accommodate this reporting capability, the limit is now described as “may not total 1,040 hours.” It is still a good idea for retirees to think of 1,039 hours as a total they may not exceed.

Exceptions to the 1,040 Hour Rule ([view exceptions in table format](#))

You can work for an employer or in a position that is excluded from the 1,040 rule (these “exceptions” are shown below). By keeping under the 1040-hour limit or working under an exception to the rule, you will retain your status as a PERS retired member and may continue to receive retirement benefits. You will not accrue any new benefits for employment while you retain your status as a retired member.

IMPORTANT: 2009 legislation provides that hours worked under an exception to the 1,040-hour limitation are not counted toward the limitation. For example, if you are working under an exception for Employer A and concurrently working under the 1,040-hour limitation for Employer B, only the hours worked for Employer B are counted toward the 1,040-hour limitation. This change is retroactive. It applies to all hours worked under an exception on or after January 1, 2004, or, if the exception was created after January 1, 2004, hours worked on or after the date the exception became effective, whichever is later. The effective date of an exception can be found on the table at the above link.

The Exceptions

If you are re-employed as follows, the 1,040-hour limitation does not apply to that employment. You may work any number of hours in that position and they will not be counted toward the 1,040-hour limitation. **Unless noted otherwise, these exceptions do not apply if you retired early**, i.e., if you are a Tier One General Service member who retired before age 58 or a Tier

Two General Service member who retired before age 60 unless you qualified for retirement with 30 or more years of service; or if you are a Tier One or Tier Two police officer or firefighter member who retired before age 55 unless you qualified for retirement at age 50-54 with 25 or more years of service.

- As a teacher or administrator employed by a community college district or school district located in a county with a population of not more than 35,000 inhabitants. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date.
- As a teacher or administrator employed by an education service district (ESD), provided the primary duties of the retired employee are performed in a county with a population of not more than 35,000 inhabitants. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date.
- As a speech-language pathologist or speech-language pathologist assistant employed by a school district or ESD. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date. This exception ends January 2, 2016,
- By the Sheriff of a county with a population of fewer than 75,000 inhabitants,
- By the municipal police department of a city with less than 15,000 inhabitants,
- By the State or a county for work in a correctional institution located in a county with less than 75,000 inhabitants,
- By the Oregon State Police for work in a county with less than 75,000 inhabitants,
- By the Black Butte Ranch Rural Fire Protection District, the Black Butte Ranch Service District or the Sunriver Service District,
- By any participating employer if the retired member is employed to temporarily replace an employee serving in the National Guard or in a reserve unit of the United States Armed Forces who is called to federal active duty,
- By a road assessment district organized under ORS 371.405-.535,
- Is on active state duty in the organized militia and has reached normal retirement age.
- As Director or as an Assistant Director of the Department of Human Services if the Governor approves the exception for the specific person in the position,
- The retired member is a nurse and employed as a nurse or to teach nursing during a nursing workforce shortage declared by the Governor or Legislative Assembly,
- The retired member is a registered nurse employed as a nursing instructor. This exception ends January 2, 2016,
- By the Legislative Assembly or the Oregon State Police for service during a legislative session,
- As Director or as an Assistant Director of the Oregon Health Authority if the Governor approves the exception for the specific person in the position,
- By the Department of Public Safety Standards and Training to provide training under ORS 181.610 – 181.712. This exception ends January 2, 2016.

*NOTE: Population figures from the latest federal decennial census are used to determine the applicability of certain exceptions to the 1040-hour limitation. The latest federal decennial census is for the year 2000. **Population figures from the 2010 federal decennial census will not be used until the calendar year beginning January 1, 2012.***

Year 2000 population figures are available at:

<http://quickfacts.census.gov/qfd/states/41000.html>. CAUTION: BE SURE that you use the year 2000 population figures, NOT the population estimates.

Social Security Exceptions to the 1,040 Hour Rule

Tier One or Tier Two retirees who have reached full retirement age under Social Security may work an unlimited number of hours. Remember that full retirement age under Social Security varies by birth date.

Tier One or Tier Two retirees who are receiving Social Security benefits and have not reached full retirement age under Social Security may work either less than 1,040 hours in a calendar year or, if greater, the total number of hours, at the retiree's hourly rate of pay, that would not exceed the annual earnings limit set by the Social Security Administration.

The Social Security Administration annually establishes the calendar year earnings limits for recipients of Social Security benefits. Annual changes to earnings limits established by the Social Security Administration are not effective for Tier One or Tier Two retirees until PERS amends its administrative rule that specifies the limits. Effective January 1, 2010, the Board has adopted the following limits:

- For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is \$14,160.
- For the calendar year in which the retired member reaches full retirement age under the Social Security Act and only for compensation for the months before reaching full retirement age, the annual compensation limit is \$37,680.

Working 1,040 Hours or More in a PERS-Covered Position

As a Tier One or Tier Two retiree, if you return to public employment and meet or exceed the 1,040-hour limitation or, if applicable, exceed the Social Security limits explained above, and your employment continues into the month following the month in which you met or exceeded the limits, your PERS benefits will cease. Your retirement benefits, whether monthly payments or installment payments, will be stopped as of the first of the calendar month following the date the limit was exceeded. Your retirement will be canceled and you will return to active membership. If you were receiving a monthly benefit or have unpaid installment payments from a lump sum option, your account will be rebuilt, adjusted for benefits received, and credited with any applicable interest while you are employed as an active member.

You will not have to repay any benefits you were entitled to receive that were paid before you returned to active membership unless you meet or exceed the limitations in the first six months after your retirement date. If you do, you will be required to repay all benefits received.

Once you meet or exceed the limitations in a calendar year, your retirement is canceled. You cannot begin the new calendar year and expect to work under the limitation again. For example, a retiree who works 1,050 hours by the middle of December and continues employment into the next month becomes an active member again and benefits will be stopped as of January 1. Your

retirement benefits will not re-start until you separate from covered employment and reapply for retirement benefits. When you re-retire, your benefit will be calculated based on the Tier One/Tier Two program laws, administrative rules, and factors in place at that time.

Elected or Appointed Officials: Tier One or Tier Two Retirees as Elected Officials or Appointed Officials

An “Elected Official” is a person who is elected to a full-time salaried office of the state or a participating political subdivision of the state. An “Appointed Official” is a person who is appointed to a full-time salaried office with a fixed term. “Elected Official” and “Appointed Official” do not include a member of the Legislative Assembly.

If you are a Tier One or Tier Two retiree who is an elected or appointed official, your employment is **NOT** subject to the 1,040-hour limitation. Instead, your retirement benefits cease once you take office and will not be paid for your entire term of office. Once the term is over, you may re-apply for benefits. The benefits will be re-computed based on your age, account balance, and other calculation factors in effect at the time you re-retire.

If you are an elected or appointed official who is a retired Tier One or Tier Two member, you may elect to become an active a Tier One or Tier Two member by giving the PERS Board written notice within 30 days after taking office. This election is irrevocable during the term of office for which the election is made. Even if you do not make this election, your retirement benefits will still cease unless you qualify for the exception below.

There is one exception for retired Tier One or Tier Two members who did not retire under the early retirement provisions of ORS 238.280(1), (2), or (3). If you are elected or appointed as a sheriff, county judge, or commissioner in a county with a population of less than 75,000, you may continue to receive retirement benefits during your term of office as long as you do not elect to become an active member. The benefit will continue during and after the term of office. If you did take an early retirement, you are not eligible for this exception and your benefit will stop during your term of office.

Address Changes

After you retire, keep PERS informed of your correct mailing address. That way, you will continue to receive tax reporting forms, retiree health insurance information, *Perspectives* newsletter, and other important information. For your protection, address change requests must be in writing, signed, and dated. Please use the [Retiree Name and Address Change Request Form](#).