



Oregon

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Public Employees Retirement System

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TO: Members of the PERS Board
 FROM: Mary Dunn, Financial and Administrative Services Division
 SUBJECT: *Moro* Implementation Project Update and Funding Request

PROJECT ACTIVITIES

Since the July 31, 2015 PERS Board meeting, the *Moro* Implementation Project team has been hard at work. We have determined the amount of underpaid COLA and the revised benefit for recipients based on members with all their service credit prior to May 1, 2013 (approximately 119,639 recipients). This group will receive, by October 31, 2015, a lump-sum retroactive payment of underpaid COLA minus their Supplementary Payment received last year. Their benefit payment will also be revised to reflect the corrected COLA starting November 1, 2015.

For recipients whose benefit includes service credit earned after May 1, 2013, PERS will apply a blended COLA based on the member's service credit before and after the effective date of the legislation challenged in *Moro*. Of this population, approximately 7,027 recipients will receive a lump-sum retroactive payment, minus Supplementary Payments and invoices for updated actuarial equivalency factors (AEF), by January 31, 2016. However, others in this group will only receive an invoice for their Supplementary Payment and AEF overpayments (there are approximately 3,807 recipients in this situation) as any COLA owed to them is not sufficient to cover these other changes. For both groups, their revised benefit should start with the February 1, 2016, payment.

As reported in July, updated AEF tables for retirements from January 1, 2014, through June 1, 2015, have been implemented. Now, PERS is recalculating all of the affected members, with the goal to have all of these recalculations completed by the end of 2015. We currently have about 39% recalculated and, based on the project plan, that's 10% more than scheduled. These AEF table updates were required because survivorship options originally used the reduced COLA assumption that was deemed invalid by the Supreme Court.

The next part of the project to begin is reprogramming PERS jClarety system for the blended COLA calculation. This will begin following final approval of the OAR presented for adoption at this meeting, and is planned to be completed in time for the 2016 COLA update next July, paid August 1, 2016. The remaining accounts impacted by the *Moro* decision are related to death and are on hold until after system programming is complete.

FUNDING SOURCE

The Oregon Supreme Court decided in the *Moro* case that PERS underpaid COLA from August 1, 2013, to October 1, 2015. This underpayment resulted from applying the challenged 2013 legislation to all recipients. Currently, the total amount of underpayments is calculated to be around \$73.2 million. When the amount of the Supplementary Payments made in 2014 (about \$9.8 million) are recovered as a deduction from the COLA payments, the net amount to be distributed to recipients is about \$63.4 million.

In 2013, the PERS Board earmarked a total of \$65 million from the Contingency Reserve to fund the Supplementary Payment. With PERS no longer making these payments, the \$55.2 remaining (minus the 2014 payments) is now left unallocated in the reserve.

Per ORS 238.670(1), the Contingency Reserve “may be used by the board for the following purposes:

- (a) To prevent any deficit in the fund by reason of the insolvency of a participating public employer. Reserves under this paragraph may be funded only from the earnings on employer contributions made under ORS 238.225.
- (b) To pay any legal expenses or judgments that do not arise in the ordinary course of adjudicating an individual member’s benefits or an individual employer’s liabilities.
- (c) To provide for any other contingency that the board may determine to be appropriate.”

As this restored COLA is being paid pursuant to a court judgment, the use of the Contingency Reserve to fund these COLA payment seems appropriate. Staff is requesting approval from the PERS Board to fund the restored COLA payments from the Contingency Reserve, in an amount approximating \$63.4 million.

The Contingency Reserve was funded to its current level with this eventuality in mind. Other potential funding sources, such as the Benefit-in-Force Reserve, could be tapped for this purpose but would reduce the assets available to fund member benefits.

BOARD ACTION

1. Fund the restored COLA payment from the Contingency Reserve.
2. Have the funding for the restored COLA come from another source, such as the Benefit-in-Force Reserve.

STAFF RECOMMENDATION

Option 1, use of the Contingency Reserve to fund these restored COLA payments.