OREGON PUBLIC EMPLOYEES RETIREMENT BOARD

Friday February 24, 2006 11:00 A.M. & 1:00 P.M.	PERS 11410 SW 68th Parkway Tigard, OR

	ITEM	PRESENTER
A. Contested Case Hearings – 11:00 A.M.		
1.	Contested Case Final Order for Debbie L. McIntosh	KUTLER / RODEMAN
2.	Contested Case Final Order for Stephen Ross	KUTLER / RODEMAN
3.	Contested Case Final Order for Annabeth Wright	KUTLER / RODEMAN
Lunch Break		
B. Administration – 1:00 P.M.		
1.	January 27, 2006 Board Meeting Minutes	CLEARY
2.	Director's Report a. Forward-Looking Calendar b. OIC Investment Report c. Budget Report d. HB2020 Update e. Miscellaneous	
C. Consent Action and Information Items		
1.	Adoption of Contested Case Final Orders	KUTLER / RODEMAN
2.	Notice of OAR 459-014-0030, PERS Designation of Beneficiary	RODEMAN
D. Action and Discussion Items		
1.	Adoption of OAR 459-017-0060, Reemployment of Retired Members	RODEMAN
2.	2004 Valuation Results	MERCER
3.	2005 Preliminary Earnings Crediting and Reserving	ORR / RODEMAN
4.	*Strunk/Eugene* Implementation Plan Update	STROUD
5.	2007 Legislative Process Update	DELANEY
E. Executive Session Pursuant to ORS 192.660(2)(f), (h), and/or ORS 40.225		
1.	Litigation Update	LEGAL COUNSEL

***Note**: If you have a disability that requires any special materials, services or assistance, call (503) 603-7575 at least 48 hours before the meeting.*

Michael Pittman, Chair * James Dalton * Thomas Grimsley * Eva Kripalani * Brenda Rocklin * Paul R. Cleary, Executive Director

Level 1 - Public

PUBLIC EMPLOYEES RETIREMENT BOARD

PERS Board Meeting
1:00 P.M.
January 27, 2006
Tigard, Oregon

MEETING DATE	**2-24-06**
AGENDA ITEM	**B.1.** **01-27-06 Minutes**

MINUTES

Board Members:
Mike Pittman, Chair
Brenda Rocklin, Vice-chair
James Dalton
Thomas Grimsley
Eva Kripalani

Staff:
Paul R. Cleary, Director
Donna Allen
Jane Beisell
Bob Davis
Helen Bamford
Jeff Marecic
Steve Delaney
Brendalee Wilson
Joe Delillo
David Crosley
Steve Rodeman
Dale Orr
Brian DeForest
Dave Tyler
Rick Howitt
Brian Harrington
Craig Stroud
Jeanette Zang

Others:
Steve Manton
Greg Hartman
Steve Law
Bob Andrews
Maria Keltner
Keith Kutler
Chris Warner
Deborah Tremblay
Bill Hallmark
Annette Strand
Bill McGee
Linda Ely
Dallas Weyand
Bruce Adams
Michelle Deister
Duane Bales
Debra Guzman
Jim Green
Bill Gary
Lance Colley
Karen Artico
Marc Feldesman
Victor Nolan
Stakeholder Peg
E.M. Laird
Tim Kadlec
Hasina Squires
Danelle Romain
Darel Glatt
Karla Alderman
Jim Brown
Denise Yunker

Board Chair Mike Pittman called the meeting to order at 1:00 P.M.

EXECUTIVE SESSION

Pursuant to ORS 192.660 (2) (f), (h) and ORS 40.255, the Board went into executive session.

The Board reconvened to open session at 1:20 P.M.

ADMINISTRATION

A.1. BOARD MEETING MINUTES OF DECEMBER 16, 2005

Brenda Rocklin moved and Tom Grimsley seconded to approve the minutes of the December 16, 2005 meeting. The motion passed unanimously.

A.2. DIRECTOR'S REPORT

Director Paul Cleary presented the Forward-Looking Calendar and said that the primary focus for the February 24 Board meeting will be preliminary decisions on earnings crediting and reserving, followed by the final decisions that will be made at the March 31 Board meeting. Cleary provided a positive year-end report on the Oregon Investment Council (OIC) investments of the retirement fund and noted that the 2005 investment returns exceeded the benchmarks for all asset classes. Cleary reviewed the January 2006 Budget Report that included the final report on 2003 – 05 biennium expenditures. Cleary reported steady progress in the HB2020 employer reporting program and related accounts receivable efforts as the agency begins the third year of the employer electronic reporting system. Cleary provided the 2004 Purchasing Power Study prepared by Mercer Human Resource Consulting (Mercer). Mercer's Bill Hallmark introduced Annette Strand, as replacing PERS former principal actuary, Marcia Chapman, who left Mercer in September 2005. Cleary reviewed a sample Tier One and Tier Two member 2004 annual statement as had recently been mailed to PERS members. The statements reflected member account balances as of December 31, 2004 with the various earnings crediting reallocations that were based on the *Strunk / Eugene* court decisions implementation.

CONSENT ACTION AND INFORMATION ITEMS

B.1. FIRST READING OF OAR 459-017-0060, REEMPLOYMENT OF RETIRED MEMBERS

Steve Rodeman, Policy, Planning and Legislative Analysis Division (PPLAD) administrator, presented the first reading of revisions to the current rule regarding reemployment of retired members of the Chapter 238 program.

B.2. NOTICE OF 2005 LEGISLATION RULEMAKING

Rodeman presented notice of rulemaking for a series of rules implementing PERS-related legislation enacted in the 2005 legislative session. Rodeman said that staff had already begun rulemaking necessary to comply with changes made during the 2005 legislative session in the following areas:

B.2.a Final Average Salary and Salary Definition Rules
B.2.b. OAR 459-011-0115, Military Full Cost Purchase
B.2.c. OAR 459-050-0060, OSGP Designation of Beneficiary
B.2.d. OAR 459-070-0001, OPSRP Definitions
B.2.e. OAR 459-075-0010, Eligibility and Membership (Break in Service)

C.1 ADOPTION OF OAR 459-005-0610, RECOVERY OF OVERPAYMENTS

Rodeman presented the proposed rule modifications that would incorporate changes to the statutes that were adopted by the 2003 Oregon Legislature, and clarify agency overpayment recovery processes. Rodeman noted that several changes had been made to the proposed rules in response to public comments.

It was moved by Brenda Rocklin and seconded by Eva Kripalani to adopt permanent rule modifications to OAR 459-005-0610, as presented. The motion passed unanimously.

C.2.a. ADOPTION OF EARNINGS CREDITING AND COLA RULES

Rodeman presented the proposed permanent rule modifications that would amend the various earnings crediting and COLA rules in order to comply with the state of the law as articulated in the *Strunk* decision and allow the agency to move forward with earnings crediting in compliance with the court decision.

It was moved by Brenda Rocklin and seconded by Eva Kripalani to repeal temporary rules adopted in October 2005 and adopt permanent rule modifications to OAR 459-007-0001, 459-007-0003, 459-007-0005 and 459-007-0090 and repeal OAR 459-007-0095 and 459-013-0300, as presented. The motion passed unanimously.

C.2.b. POLICY DISCUSSION ON EARNINGS CREDITING AND RESERVE DEPLOYMENT

Rodeman presented a slide presentation on reserve status and deployment policy issues that included a review of the statutory provisions, funding status and permitted uses of the various system reserves. Rodeman also described how reserving decisions were related to the *Strunk and Eugene* cases, and outlined two alternative deployment methods. The Board discussed potential reserving needs and deployment criteria and asked staff to model an expanded spectrum of reserve deployment scenarios. Rodeman said there would be additional analysis on reserve deployment options and principles that will be further discussed at the February Board meeting.

No Board action was required.

C.3.a. *STRUNK / EUGENE* POLICY ISSUES

Rodeman noted that staff wanted to provide an opportunity for additional stakeholder input on the One-time Variable Transfer (OVT) issue. Rodeman also described the staff recommendation to use the highest benefit calculation method when doing the *Strunk / Eugene* benefit adjustments. Rodeman said that staff continues to search for options within IRS laws and PERS rules that would, if possible, allow recipients to repay their overpayments with lump-sum rollovers from IRA's or other qualified plans without tax consequences. Rodeman requested additional stakeholder suggestions and recommendations on this policy issue.

C.3.b. FINAL ORDER ON *STRUNK / EUGENE* OVERPAYMENT RECOVERY METHOD

Rodeman presented a final order for the Board to adopt specifying allowable repayment methods under the *Strunk/Eugene* project implementation as follows:

1.) Each recipient shall repay the amounts overpaid in a single lump sum unless the recipient is receiving monthly payments.
2.) Any recipient receiving a monthly payment will repay the overpaid amounts by actuarial reduction of their monthly payment pursuant to ORS 238.715(1)(b), unless the recipient elects to repay the overpaid amount in a lump sum by paying that amount within the time allowed in the explanation to be provided to the recipient by PERS.
3.) If a recipient is due a payment from PERS other than a monthly payment, the amount-overpaid shall be deducted from the recipient’s next payment and subsequent payments, if any, until the amount overpaid is recovered.

It was moved by Brenda Rocklin and seconded by Eva Kripalani to adopt the Final Order as presented. The motion passed unanimously.

C.4. ADMINISTRATION OF CONTESTED CASES

Rodeman presented background and staff recommendations regarding administration of the contested case process. The Board discussed the various staff recommendations and asked staff to return with proposed rules reflecting that discussion for further consideration. The Board indicated it would continue to meet in a separate session before the regular Board meetings to consider contested cases and allow opportunity for oral argument, but would also retain flexibility to review cases over the phone as necessary.

C.5. 2007 LEGISLATIVE SESSION

Deputy Director Steve Delaney presented the 2007 legislative concept timeline and reviewed stakeholder input from the January 5th legislative advisory committee meeting.

Chair Pittman adjourned the meeting at 2:45 P.M.

Respectfully submitted,

Paul R. Cleary
Executive Director

Prepared by Donna R. Allen, Executive Assistant

MEETING DATE	**2-24-06**
AGENDA ITEM	**B.2.a**

PERS Board Meeting
Forward-Looking Calendar

March 2006

Meeting: 1:00 P.M March 31, 2006

Contested Case Final Order for Susan Boracci
Notice of Contested Case Rules
Notice of OAR 459-001-0005, Model Rules of Procedure
Adoption of 2005 Legislation Rulemaking

- Full Cost Purchase (OAR 459-011-0115)
- OPSRP Definitions (OAR 459-070-0001)
- Break In Service (OAR 459-075-0010)
- OSGP Designation of Beneficiary (OAR 459-050-0060)

2004 Valuation Results – Revised Actuarial Cost Methods
2005 Final Earnings Crediting and Reserving
2007 Legislative Concepts Update

April 2006

Meeting: 1:00 P.M. *April 21, 2006 (tentative date)*

Actuarial Cost Method Selection – PUC vs EAN
2007 Budget Process Overview
Strunk / Eugene Implementation Update

May 2006

Meeting: TBD

SL1

B.2.b. Invest. Report

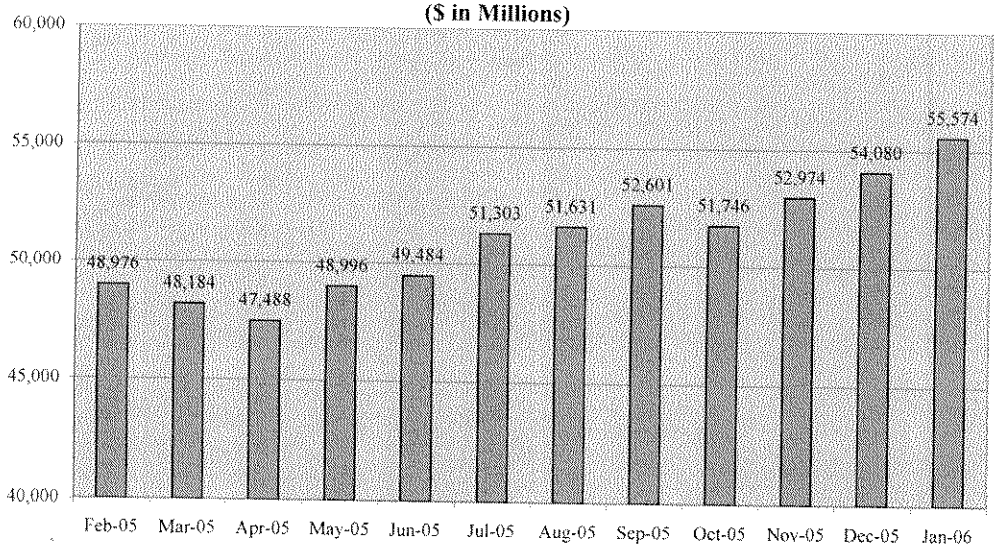
Returns for periods ending 1/31/06 **Oregon Public Employees Retirement Fund**

OPERF	Regular Account: Policy[1]	Target[1]	$ Thousands[2]	Actual	Historical Performance: Year-To-Date	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
Domestic Equity	30-40%	35%	$ 18,749,741	34.8%	3.76	15.23	11.03	19.68	7.36	2.45
International Equity	15-25%	20%	11,910,011	22.1%	7.52	29.75	23.21	31.37	18.29	8.61
Alternative Equity	7-13%	10%	4,997,600	9.3%	N/A	44.11	35.07	22.05	14.26	7.02
Total Equity	**60-70%**	**65%**	**35,657,352**	**66.2%**						
Total Fixed	**22-32%**	**27%**	**14,914,071**	**27.7%**	**0.36**	**3.45**	**4.67**	**6.22**	**6.95**	**6.97**
Real Estate	**5-11%**	**8%**	**3,314,062**	**6.2%**	**N/A**	**37.98**	**26.87**	**24.32**	**19.74**	**17.31**
Cash	**0-3%**	**0%**	**-**	**0.0%**	**0.34**	**3.32**	**2.41**	**2.04**	**2.04**	**2.45**
TOTAL OPERF Regular Account		**100%**	**$ 53,885,485**	**100.0%**	**3.13**	**18.38**	**14.63**	**18.36**	**11.04**	**6.74**
OPERF Policy Benchmark					**2.43**	**13.50**	**11.55**	**16.56**	**9.59**	**5.41**
Value Added					**0.70**	**4.88**	**3.08**	**1.80**	**1.45**	**1.33**

Asset Class Benchmarks:

	Year-To-Date	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
Russell 3000 Index	3.34	12.67	9.66	18.15	6.33	1.57
MSCI ACWI Free Ex US	6.97	27.47	22.33	30.61	17.66	7.79
Russell 3000 Index + 300 bps--Quarter Lagged	(1.57)	14.22	14.45	19.18	11.67	4.70
LB Universal--Custom FI Benchmark	0.10	2.49	3.62	4.39	5.54	5.78
NCREIF Property Index--Quarter Lagged	N/A	19.19	15.75	13.04	11.16	10.95
91 Day T-Bill	0.31	3.22	2.31	1.92	1.87	2.27

TOTAL OPERF NAV
(includes variable fund assets)
One year ending January 2006
($ in Millions)



[1]OIC Policy 4.01.18

[2]Includes impact of cash overlay management.

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2005

MEETING DATE	2/24/06
AGENDA ITEM	B.2.c. Budget Report

TO: Members of the PERS Board

FROM: Brian DeForest, Budget and Fiscal Operations Manager

SUBJECT: February 2006 Budget Report

2005-07 ACTUAL EXPENDITURES AND PROJECTIONS

Operating expenditures for the month of January totaled $2,870,324, an expected increase of $464,884 from December actuals. The variance from projected expenditures for January was $272,102, or 8.66% below projections. If vacancy savings were factored out for the month of January, actual expenditures would be within 4% of projections.

BUDGET VARIANCES

Vacancy savings contributed to more than $160,000 of the positive variance for the month. The net remaining positive variance was driven by various Services & Supplies accounts. Most notably, legal services payments processed during the month were $70,000 lower than projected. The variance for legal services has been moved to subsequent months.

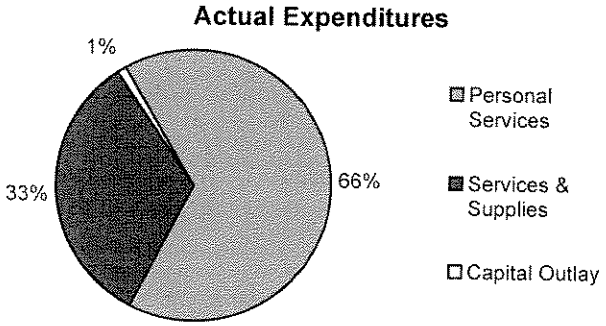
As noted in several previous reports, budget variances continue to remain within expected parameters at an aggregate level. Budget staff is reviewing individual account variances with section managers throughout the next month. Budget resources will shift from accounts carrying positive variances to accounts carrying negative variances, if such a shift is appropriate.

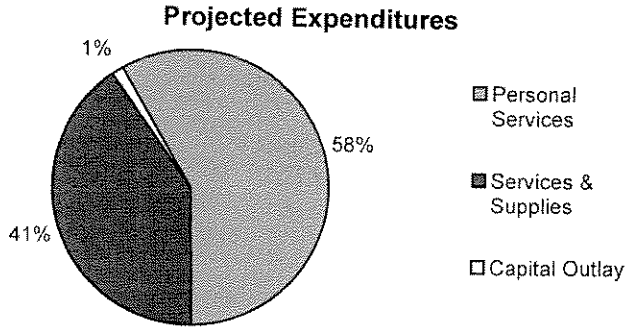
Budget staff will continue this process to "rebalance" the Agency's base budget in preparation for the 2007-09 biennial budget development process. If additional budget resources become available during this analysis they will be earmarked for use on the Agency's highest priorities such as the *Strunk / Eugene* Project. Variances will also be analyzed for potential long-term savings during the next budget development cycle.

2005-07 Agency-wide Operations - Budget Execution
Summary Budget Analysis
For the Month of: Jan. 2006 (prelim)

Biennial Summary

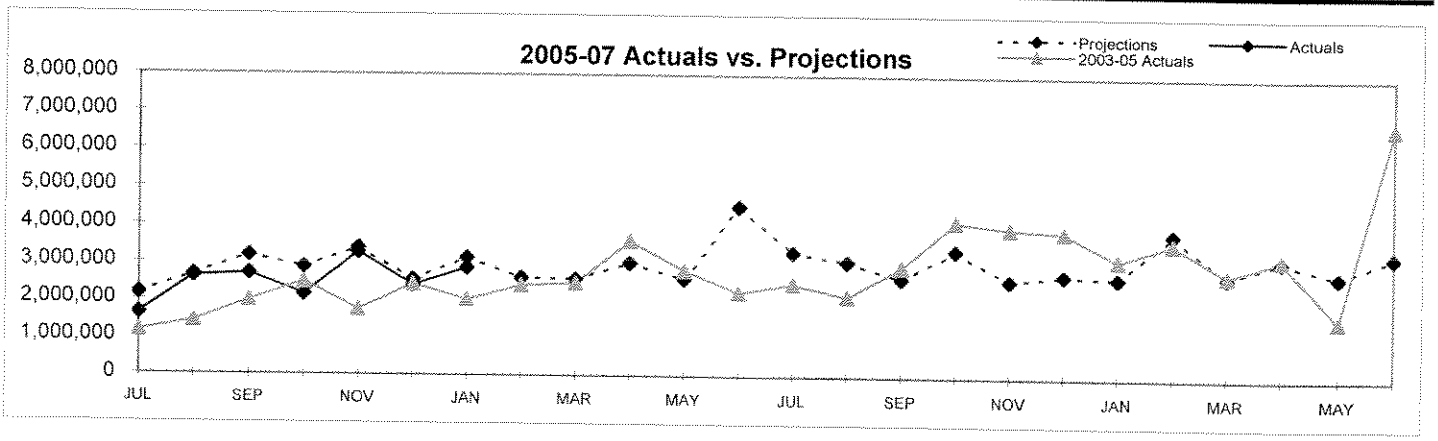
Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2005-07 LAB	Variance
Personal Services	11,620,757	33,166,960	44,787,716	44,564,938	(222,778)
Services & Supplies	5,860,101	23,171,092	29,031,193	30,384,327	1,353,134
Capital Outlay	181,877	751,103	932,980	1,033,494	100,514
Special Payments					
Total	17,662,735	57,089,155	74,751,890	75,982,759	1,230,869





Monthly Summary

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Projected Expenditures
Personal Services	1,710,334	1,876,527	166,193	1,660,108	1,950,998
Services & Supplies	1,159,989	1,265,899	105,910	837,157	1,363,005
Capital Outlay				25,982	44,183
Special Payments					
Total	2,870,324	3,142,426	272,102	2,523,248	3,358,186



SL1

2005-07 Agency-wide Operations - Budget Execution

Spending Plan - Actual and Estimated Expenditures

2005-07 Summary

	1st QTR	2nd QTR	3rd QTR	4th QTR	5th QTR	6th QTR	7th QTR	8th QTR	ACTUAL EXPEND. TO DATE	EST. EXPEND.	ENC. & PRE-ENC.	TOTAL ESTIMATED EXPEND.	05-07 LAB BUDGET	VARIANCE
Personal Services														
Salaries & Wages	3,102,084	3,128,099	3,486,884	3,655,149	3,664,778	3,746,107	3,858,703	3,912,888	7,295,808	21,258,884		28,554,692	28,490,581	(64,111)
Temporary Appointments	40,406	43,071	14,889	5,600	1,600	6,200	21,600	25,137	95,067	63,437		158,503	156,924	(1,579)
Overtime	33,466	71,029	63,151	44,530	18,100	14,230	52,130	36,330	130,026	202,940		332,966	540,501	207,535
Shift Differential	1,326	1,615	876	375	375	375	375	375	3,568	2,125		5,693	1,978	(3,715)
All Other Differential	34,599	54,556	30,228	18,385	17,462	17,554	17,704	17,757	107,150	101,094		208,244	209,351	1,107
ERB Assessment	1,289	1,311	1,676	1,848	1,848	1,848	1,848	1,848	3,044	10,471		13,515	12,096	(1,419)
Wokers' Comp. Insurance (SA														
PERS	449,000	451,927	511,928	544,374	541,415	552,760	574,800	580,423	1,051,052	3,155,575		4,206,626	4,278,123	71,497
Pension Bond Contribution	207,759	205,184	223,079	235,919	236,378	241,624	248,886	252,381	479,744	1,371,466		1,851,210	1,375,395	(475,815)
Social Security Taxes	243,827	249,974	274,538	285,080	283,227	289,512	302,214	305,425	578,901	1,654,897		2,233,798	2,249,083	15,285
Unemployment Comp.		16,576							16,576			16,576	37,390	20,814
Workers' Comp. Assess.	2,484	2,335	2,970	3,354	3,354	3,354	3,354	3,354	5,554	19,007		24,561	26,835	2,274
Mass Transit Tax	19,249	19,844	21,234	21,946	21,989	22,477	23,152	23,477	45,790	127,578		173,368	177,399	4,031
Flexible Benefits	756,424	772,987	861,970	874,353	874,353	909,327	979,275	979,275	1,808,479	5,199,486		7,007,965	6,976,368	(31,597)
Vacancy Savings													(155,537)	(155,537)
Reconciliation Adj.													188,451	188,451
Unscheduled P.S.														
Total Personal Services	4,891,915	5,018,508	5,493,424	5,690,912	5,664,879	5,805,367	6,084,041	6,138,671	11,620,757	33,166,960		44,787,716	44,564,938	(222,778)
	actual				*estimated*									
Services & Supplies														
Instate Travel	12,995	24,326	19,597	25,285	23,185	29,085	21,485	26,130	40,729	141,360	142	182,231	116,894	(65,337)
Out-of-state Travel					300	300	300	300		1,200		1,200	31,127	29,927
Employee Training	30,385	44,332	36,668	37,815	37,815	37,815	37,815	38,915	86,175	215,385	2,710	304,270	488,069	183,799
Office Expenses	91,727	121,888	201,190	212,393	211,572	221,481	211,140	254,349	277,565	1,248,173		1,525,738	2,063,722	537,984
Telecommunications	25,713	69,518	54,591	68,249	68,249	68,249	68,249	68,249	104,323	386,746		491,068	537,685	46,617
St. Gov. Svc. Chg.	595,854	135,567	78,284	69,317	589,000	89,000	24,000	24,000	793,704	811,317		1,605,021	1,504,171	(100,850)
Data Processing	266,701	506,983	599,940	675,000	675,000	675,000	675,000	700,000	923,624	3,850,000	14,792	4,788,417	5,256,990	468,573
Publicity/Publications	7,318	6,251	30,827	12,100	28,600	16,100	14,200	22,100	15,547	121,950		137,497	292,704	155,207
Professional Services	545,896	1,213,796	1,033,313	342,950	326,050	330,900	485,550	407,600	2,557,355	2,128,700	447,566	5,133,622	2,862,534	(2,271,088)
IT Professional Services		360,233	182,557	2,573,709	979,563	1,026,185	1,227,303	1,035,966	360,233	7,025,283	4,300,000	11,685,516	13,897,953	2,212,437
Attorney General	48,913	72,187	94,377	141,000	141,000	141,000	141,000	146,500	121,477	804,500		925,977	947,681	21,704
Dispute Res. Svc.	957	3,910	7,122	5,900	8,300	5,500	6,200	10,000	9,188	38,700		47,888	73,736	25,848
Empl. Recruit./Devel.	8,863	24,770	13,120	15,000	15,000	15,000	15,000	15,000	36,753	85,000		121,753	58,036	(63,717)
Dues & Subscriptions	4,943	10,106	2,866	3,005	1,675	1,775	2,175	2,275	15,940	12,880		28,820	50,702	21,882
Facility Rental	104,691	95,696	94,778	94,068	94,068	97,368	99,018	132,024	232,453	579,258		811,711	703,597	(108,114)
Fuels/Utilities	23,497	25,490	19,519	15,000	15,000	15,000	15,000	20,000	58,507	90,000		148,507	121,063	(27,444)
Facility Maint.	47,868	43,335	52,039	76,251	76,251	76,251	76,251	101,668	92,408	457,506		549,914	724,698	174,784
Agency/Program S & S														
Other COP Costs		371							371			371	6,500	6,129
Other S & S	1,095	8,915	378						10,388			10,388	2,700	(7,688)
Expendable Property	72,658	19,094	11,435	6,350	7,350	7,350	7,350	7,600	97,587	41,600	5,395	144,583	193,465	48,882
IT Expendable Property		23,267	42,506	60,000	60,000	60,000	60,000	60,000	25,773	340,000	20,929	386,702	450,300	63,598
Unscheduled S & S														
Total Services & Supplies	1,890,074	2,810,037	2,575,107	4,433,392	3,357,978	2,913,359	3,187,035	3,072,675	5,860,101	18,379,557	4,791,535	29,031,193	30,384,327	1,353,134
Capital Outlay														
Office Furn./Fixture													30,868	30,868
Telecomm. Equip.													5,589	5,589
Technical Equipment													57,161	57,161
Data Proc.-Software											362,246	362,246	447,019	84,773
Data Proc.-Hardware	181,877								181,877		388,857	570,734	492,857	(77,877)
Building & Structure														
Total Capital Outlay	181,877								181,877		751,103	932,980	1,033,494	100,514
Special Payments														
Total Special Payments														
Total Expenditures	6,963,866	7,828,545	8,068,531	10,124,304	9,022,856	8,718,726	9,271,077	9,211,346	17,662,735	51,546,517	5,542,638	74,751,890	75,982,759	1,230,869

Percent of 2005-07 LAB Expended:	23.25%
Percent of Biennium Expired:	29.17%

I:\BUD\1997-99\EXPEND\B.2.c.attach Budget.XLS[Operations 05-07]

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	02-24-05
AGENDA ITEM	B.2.d. HB2020 Update

TO: Members of the PERS Board

FROM: Paul Cleary, Executive Director

SUBJECT: Update of HB2020 Employer Reporting

The agency is in its third year of administering the HB2020 program and using the new employer electronic reporting system. The Membership and Employer Relations Section (MERS) is working with 875 employer-reporting units to process outstanding 2004 and 2005 employer reports, as well as current 2006 reports. The table below shows the status of employer reports and member records, by year since 2004.

	Calendar Year 2004 (As of 02-11-06)	**Calendar Year 2005** (As of 02-11-06)	**Calendar Year 2006** (As of 02-11-06)
Reports due (estimated):			
▪ Number	12,540	12,818	1,134
▪ Percent	99.9%	98.2%	91.5%
Outstanding reports	4	227	97
Reports fully posted at 100%:			
▪ Number	12,408	11,752	802
▪ Percent	98.5%	91.7%	70.7%
Records due (estimated)	3,079,211	3,043,536	257,436
Records not posted	1,089	12,234	5,085
Contributions posted	$ 388,094,158	$ 407,369,663	$ 33,702,559
Contributions not posted	$ 29,223	$ 420,311	$ 141,735

Currently, employers are concentrating their efforts on completing their 2005 reports and records so PERS can complete the 2005 Annual Reconciliation. The decline in the 2006 timeliness and accuracy statistics is a direct result of the focused effort by employers to close their 2005 reporting year. We anticipate that by the second quarter of 2006 the reporting statistics will improve and mimic the levels shown for 2005.

Beginning in late spring 2006, PERS will implement penalties for late reporting, late remittances, and non-compliance with the electronic payment (automated clearing house - ACH) requirement. Employers have been informed and will be reminded monthly as the penalty implementation date approaches. Currently, PERS is working with employers to complete the mandatory ACH enrollment process. As of February 11, 2006, 77% of all employers have submitted ACH agreements. PERS is issuing monthly letters to employers who have not yet completed the ACH enrollment process. Of the employers who have enrolled, 56% have chosen to remit contributions via a debit payment and 44% have chosen to remit contributions via a credit payment.

SL1

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	**2/24/06**
AGENDA ITEM	**C.1. Contested Cases.**

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Action on Contested Cases

OVERVIEW

- Action: Reach a decision on the contested cases presented at this meeting.
- Reason: To decide the outcome of the contested cases included as part of this meeting's agenda. Staff recommends adopting the proposed orders, with minor changes in some cases. This recommendation is based on the record submitted to date. After the Board has heard from the members or their representatives and deliberated on these cases, this agenda item provides the opportunity to reach a decision during a public meeting.

BOARD OPTIONS

The Board may:

1. Adopt a motion to "accept the staff's recommendations in the contested cases of Debbie L. McIntosh, Stephen Ross, and Annabeth Wright."
2. Adopt alternative motions in each case, which, as is more fully explained in the accompanying memos, would result in different future actions on these cases.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- **Reason**: Staff's recommendations follow the Administrative Law Judges' proposed orders, with minor, non-substantive modifications in some cases. Also note that these recommendations are developed before the parties' opportunity for Board presentations, which have been requested in some cases, and the Board's deliberation on these cases.

If the Board does not adopt: The specific outcomes and alternatives vary in some cases and are more fully explained in the memos on each individual case.

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	2/24/06
AGENDA ITEM	C.2. Designation of Beneficiary

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Notice of Rulemaking for OAR 459-014-0030, *PERS Designation of Beneficiary*

OVERVIEW

- Action: None. This is notice that staff began rulemaking.
- Reason: Update the PERS Designation of Beneficiary rule to comply with statutory changes and to reflect current PERS practices.
- Subject: Remove the requirement that a beneficiary must have an insurable interest in the life of the member.
- Policy Issues: No policy issues have been identified at this time.

BACKGROUND

Sections (1) and (2) of OAR 459-014-0030, which require that a beneficiary have an insurable interest in the life of the member, have been in this rule since it was adopted in 1955. The doctrine of insurable interest is no longer recognized in common law. This rule's requirements have, however, caused confusion because the insurable interest requirement hasn't been deleted and some members' counsel have tried to use that requirement in beneficiary disputes, even though it's no longer relevant.

PERS staff proposes to delete sections (1) and (2) from OAR 459-014-0030 to be consistent with state law and PERS practices at this time. This rule will be reviewed again and more comprehensively when staff returns with rules related to deceased members, slated for later this year.

LEGAL REVIEW

The attached draft has been submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rule is presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing is scheduled for February 28, 2006 at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends on March 10, 2006 at 5:00 p.m.

IMPACT

Mandatory: Yes, to comply with statute and PERS practices.

Impact: The modifications conform to state law and do not have a material fiscal or economic impact.

Cost: There is not expected to be any cost incurred by members, employers, PERS administration or the PERS fund.

RULEMAKING TIMELINE

January 13, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
February 1, 2006	*Oregon Bulletin* published the Notice.
February 24, 2006	PERS Board notified that staff began the rulemaking process.
February 28, 2006	Rulemaking hearing to be held at 2:00 p.m. in Tigard.
March 10, 2006	Public comment period ends at 5:00 p.m.
March 31, 2006	Staff proposes adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

NEXT STEPS

A hearing is scheduled for February 28, 2005. These rules are scheduled to be presented to the PERS Board for adoption at the March 31, 2006 Board meeting.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 007 – DEATH BENEFITS

MEETING DATE	2/24/06
AGENDA ITEM	C.2. Designation of Beneficiary

459-014-0030

PERS Designation of Beneficiary

[(1) No person may be designated as a beneficiary to receive the balance in a member's account in the Retirement Fund in the event of the member's death before retirement, unless facts show that such person has an insurable interest in the life of the member.

(2) An insurable interest in the life of a member is an interest whether pecuniary, or one of affection or dependency based on reasonable grounds for expectation of benefit or advantage from continuation of the life of the member and arising out of the relationship between the member and the possessor of such interest, whether the relationship be one of affinity, consanguinity, or debtor and creditor. It is not necessary that the insurable interest continue until the death of the member in order to qualify the beneficiary to receive such payments as may otherwise be due to him.]

(1) *[(3)]* A member may designate a new beneficiary or revoke a previous designation by giving written notice to the Retirement Board, but no revocation or new designation shall be effective until received by the Public Employees Retirement Board. (Forms will be furnished by the Board upon request.)

(2) *[(4)]* When a member designates a new beneficiary or beneficiaries, such action shall annul and revoke all prior designations.

(3) *[(5)]* The right of a beneficiary to receive the balance in a member's account in the Retirement Fund shall not be deemed nullified or waived by any agreement or property settlement between the member and the beneficiary, or on behalf of either of

1 them, which does not specifically mention such right and waive it on the part of the
2 beneficiary or vacate and set aside the designation of said beneficiary by such member.
3 Stat. Auth.: ORS 238.650
4 Stats. Implemented: ORS 238.390

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	2/24/06
AGENDA ITEM	D.1. Reemployment

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Adoption of OAR 459-017-0060, *Reemployment of Retired Members*

OVERVIEW

- Action: Adopt permanent rule modifications to OAR 459-017-0060, Reemployment of Retired Members.
- Reason: The current rule needs to be amended to correct statutory citations, reflect the most recent Social Security annual compensation limitations, and include existing policy regarding reemployment restrictions for retirees who elected the total lump sum option. The current rule does not provide comprehensive guidance on the reemployment of retirees under ORS 238.078, including such issues as reestablishing active membership, rebuilding of the member account, earnings crediting, and the actuarial equivalency factors to be used for calculating the subsequent retirement benefit, so these issues are addressed by the proposed modifications.
- Subject: Reemployment of retired members of the Chapter 238 Program.
- Policy Issues:
  1. Should rebuilt member accounts of reemployed retirees be credited with earnings for the period the funds were in the Benefits in Force Reserve (BIF) and, if so, at what rate?
  2. When should these rule modifications be implemented to ensure the consistent treatment of members who have passed their first retirement and to provide adequate notice to future retired members?

BACKGROUND

Members who retire from the Chapter 238 Program may be reemployed by a participating employer as an active member under the provisions of ORS 238.078 or remain retired and be employed, subject to certain limitations, under ORS 238.082. If a retired member returns to work under ORS 238.078 and thereby reestablishes active membership, the member's retirement is canceled.

If the member returns to work under ORS 238.078 less than six months after retirement, they are required to repay all retirement benefit amounts in a lump sum. If the member returns to work more than six months after retirement, their benefits cease and the statute directs that their account be rebuilt. Rebuilding their account entails transferring moneys

back from the Benefits-in-Force Reserve ("BIF") but accounting for the fact that part of their original account has been disbursed to them in retirement benefit payments.

At some point subsequent to reestablishing active membership, the member will retire again. This subsequent or "second" retirement benefit is calculated using the rebuilt member account and the total creditable service, recalculated final average salary, and other calculation elements in effect on the subsequent retirement date, as affected by the second period of employment.

POLICY ISSUES

1. Should rebuilt member accounts of reemployed retirees be credited with earnings for the period the funds were in the Benefits in Force Reserve (BIF) and, if so, at what rate?

ORS 238.078 requires that the member's account be rebuilt from the BIF, which receives earnings crediting. The funds transferred to the BIF at the member's retirement receive earnings crediting during the period they are in the BIF. The proposed rule would credit rebuilt accounts with earnings for the period the funds were in the BIF.

The BIF earnings crediting rate is determined by the Board (ORS 238.670(2)). Although funds are transferred to the BIF on the assumption that they will earn the assumed rate, the BIF in fact is subject to positive or negative earnings.

The funds transferred to the BIF at retirement are in fact credited with earnings at the BIF rate while held in the BIF. The proposed rule would use that rate or the assumed rate, whichever is less, to credit earnings (or losses) during that period in rebuilding the member's account. Using the lesser of these rates will stabilize the account rebuilding process, avoid any crediting of rebuilt accounts at a rate higher than the assumed rate, and diminish the significance of rate crediting in the member's retirement decision.

2. When should these rule modifications be implemented to ensure the consistent treatment of members who have passed their first retirement and to provide adequate notice to future retired members?

The proposed rule's calculation methodology may result in a different benefit payment upon a member's second retirement than they may have expected when they returned to work. Members who previously retired and returned to work may be under the impression that their payment amount cannot be less upon the second retirement. Under many prior paradigms (unchanging actuarial factors, continued contributions), this statement may have been true. With the 2003 PERS reforms (mandating updated actuarial factors, stopping future contributions), no such guarantee could be maintained.

Applying the proposed rule's crediting method to rebuild member accounts could result in positive or negative earnings. Regardless of the actual impact, that policy was not in effect at the time members made their initial retirement and re-employment decisions. To apply it retroactively would create frustration and uncertainty for previously retired members and an administrative burden for the agency. Staff recommends that the proposed rule's calculation methods only apply to members whose initial effective retirement date is on or after the effective date of these rule modifications. This would

ensure adequate notice to members of the policy changes and allow the agency sufficient time to implement the policy changes prospectively.

SUMMARY OF MODIFICATIONS TO RULE SINCE FIRST READING

The following modifications have been made in this version:

Subsections (9)(c)(A) and (B), (9)(d)(A) and (B), and (9)(e)(A) and (B) were rewritten to reduce complexity. The rebuilding and crediting procedures staff developed for this rule don't need restatement here; the language was clarified to reference the statutory requirements and establish the crediting policy. The specific procedures for rebuilding and crediting are better suited for internal agency business rules.

Section (12): Citations of rule subsections were changed to accommodate the modification of Section (9) noted above.

LEGAL REVIEW

This proposed rule was submitted to the Department of Justice for legal review. Their recommended changes have been incorporated in the rule as presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on December 27, 2005 at PERS headquarters in Tigard. No members of the public attended. The public comment period ended on January 31, 2006 at 5:00 p.m.

In the Board memo prepared for the January 27, 2006 First Reading of this rule, staff addressed the public comments that had been received to date. Comments from Denise Yunker, the Oregon University System Optional Retirement Plan Retirement Committee Chair, and Greg Hartman, representing the PERS Coalition, were fully addressed in that memo. No other public comments were received during the comment period.

IMPACT

Mandatory: No, the Board could retain the existing rule language. The current rule, however, is imprecise and does not provide policy guidance on a number of issues relevant to the re-employment of retirees.

Impact: Approximately 50 "second" retirements are processed each year. The policies implemented by the rule will impact all "second" retirement benefit calculations for members whose initial retirement date is on or after the effective date of these rule modifications. The impact upon each member will vary with the retirement status particular to each member at the time of the "second" retirement. Retired members will benefit from the updated Social Security annual compensation limitations. Members, employers, and staff will benefit from the clarification of policy.

Cost:

- *Members:* There will be no new costs to members.

- *Employers:* There will be no new costs to employers.
- *Administration:* The rebuilding of member accounts and the calculation of "second" retirement benefits will continue to be done manually. Ultimately, there may be a programming cost which cannot be determined at this time. There are no new administrative costs attributable to the other provisions of this rule.
- *Fund:* There will be no significant effect on the Fund. The effect of including BIF earnings in the amount transferred to the rebuilt member account is diminished by the minimal number of "second" retirements.

RULEMAKING TIMELINE

November 15, 2005	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
December 1, 2005	*Oregon Bulletin* published the Notice.
December 16, 2005	PERS Board notified that staff began the rulemaking process.
December 27, 2005	Rulemaking hearing held at 2:00 p.m. in Tigard.
January 27, 2006	First Reading of rule.
January 31, 2006	Public comment period ended at 5:00 p.m.
February 24, 2006	Board may adopt the permanent rule modifications.

BOARD OPTIONS

The Board may:

1. Pass a motion to "adopt permanent rule modifications to OAR 459-017-0060, as presented."
2. Take no action and direct staff to make changes to the rule or take other action.

STAFF RECOMMENDATIONS

Staff recommends the Board choose Option #1.

- **Reason:** The current rule needs to be amended to provide comprehensive guidance on the reemployment of retirees under ORS 238.078, correct statutory citations, reflect the most recent Social Security annual compensation limitations, and include existing policy regarding reemployment restrictions for retirees who elected the total lump sum option.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board's policy direction if the Board determines that a change is warranted.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 17 – REEMPLOYED RETIRED MEMBERS

MEETING DATE	2/24/06
AGENDA ITEM	D.1. Reemployment

459-017-0060

Reemployment of Retired Members

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

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

(b) If [a] **the** retired member is receiving **retirement***[old age]*, survivors**,** or disability benefits under the federal Social Security Act, **the period or periods of** employment **do not exceed** *[is limited to]*the greater of 1039 hours in a calendar year or the total number of hours **in a calendar year that,** at *[a]* **the retired member's** specified hourly rate of pay,*[so that the]* **limits the** annual compensation of the *[retiree]* **retired member to an amount that** does not exceed the **following Social Security annual compensation limits:** *[following:]*

(A) For retired members who have not reached *[the]* full retirement age under **the** Social Security **Act**, the **annual compensation** limit is $**12,480** *[11,640 for the calendar year 2004]*; or

(B) For the calendar year in which the retired member reaches *[the]* full retirement age under **the** Social Security **Act** and only for **compensation for** the months prior to

1 reaching *[the]* full retirement age, the **annual compensation** limit is **$33,240.***[$31,080*
2 *for the calendar year 2004.]*
3 **(2)***[(c)] A [R]***r**etired member*[s]* **described in section (1) of this rule** who **has**
4 **reached** *[the]* full retirement age under **the** Social Security **Act** may work an unlimited
5 number of hours **without loss of retirement benefits**.
6 *[(2) Limitations on employment in section (1) of this rule will be based on the*
7 *number of hours employed on and after the retired member's effective retirement date.]*
8 (3) The limitations on employment in section (1) of this rule do not apply if:
9 (a) The retired member meets the requirements under ORS 238.082(3), (4), (5)**,** or
10 (6), and did not retire **at a reduced benefit** under the provisions of ORS 238.280(1) **or**
11 **(2)**; or
12 (b) The retired member **is on active state duty in the organized militia and** meets
13 the requirements under ORS 399.075(8).
14 *[(4) Except as provided under section (3) of this rule, limitations on employment in*
15 *section (1) of this rule shall also apply to retired members who, upon reemployment, elect*
16 *to participate in an Optional Retirement Plan under ORS 243.800, or an Alternative*
17 *Retirement Plan under ORS 353.250(2).]*
18 *[(5)] A participating employer may be required to certify to PERS that a retired*
19 *member has not exceeded the number of hours allowed in ORS 238.082(2) and this rule.*
20 *In addition, the participating employer may be required to provide PERS with business*
21 *and employment records to substantiate the actual number of hours a retired member*
22 *was employed.]*

1 **(4)** *[(6) Exceeding the hourly limitation.]* If a retired member is reemployed **subject**
2 **to** *[within]* the limitations of ORS 238.082*[(2)]* and section (1) of this rule, but the period
3 or periods of employment subsequently exceed*[s]* those *[limits]***limitations**, the
4 following will occur if employment continues into the month following the date the
5 *[limits]* **limitations** are exceeded:
6 (a) PERS will **cancel** *[terminate]* the *[retired]* member's **retirement** *[benefits]*. The
7 last monthly service retirement allowance **payment** the member is entitled to will be for
8 the month in which the *[limits]* **limitations** were exceeded. **A member who receives**
9 **benefits to which he or she is not entitled must repay those benefits to PERS.**
10 (b) The member will reestablish active membership *[in* accordance *with]* **as**
11 **required by** ORS 238.078 the first of the calendar month following the date the *[limits]*
12 **limitations** were exceeded. *[If the member has incurred a break in service as defined in*
13 *OAR 459-070-0001(1), then the employee will become a member of the Oregon Public*
14 *Service Retirement Plan (OPSRP) pension program.]*
15 *[(c) A member who receives benefits to which he or she is not entitled must repay*
16 *those benefits to PERS.]*
17 **(c) The member's account shall be rebuilt in accordance with the provisions of**
18 **section (9) of this rule.**
19 **(5) Reemployment of retired member who elected the total lump sum option. A**
20 **retired member who has elected the total lump sum option under ORS 238.305(3)**
21 **may return to work with a participating employer in the six month period following**
22 **the member's effective retirement date without having to repay the retirement**
23 **benefits paid to them provided:**

1 **(a) The retired member is designated by the employer(s) as a casual,**
2 **emergency, or seasonal worker as defined in OAR 459-005-0001; and**
3 **(b) The period or periods of employment with one or more public employers**
4 **participating in the system do not exceed 599 hours.**
5 **(6) The return to work in a qualifying or other position after six months**
6 **following the retirement date of a member who elected the total lump sum option**
7 **has no effect on the retirement status of that member and, upon such**
8 **reemployment, the member is not required to repay retirement benefits.**
9 **(7) If a retired member described in section (5) of this rule, is working subject**
10 **to the limitation of subsection (5)(b) of this rule and the member exceeds that**
11 **limitation, the member's retirement will be cancelled. The member will be required**
12 **to repay to PERS in a single payment the total amount of all retirement benefits**
13 **received. The member will reestablish active membership as required by ORS**
14 **238.078 effective the first of the calendar month following the date the member**
15 **exceeded that limitation. The member's account shall be rebuilt in accordance with**
16 **ORS 238.078(2) and subsection 10(d) of this rule. Upon subsequent retirement, the**
17 **member may choose a different retirement payment option.**
18 **(8) Limitations on hours of employment in sections (1) and (5) of this rule will**
19 **be based on the number of hours employed on and after the retired member's**
20 **effective retirement date.**
21 **(9)***[(7)]* **Reemployment under ORS 238.078(1).** If a *[retired]* member **has been**
22 **retired for service for more than six calendar months and** is reemployed in a

1 qualifying position by a participating employer under the provisions of ORS 238.078**(1)**,
2 the following will occur *[and will be effective on the date of reemployment]*:
3 (a) PERS will **cancel** */terminate]* the *[retired]* member's **retirement** /benefits.*]*
4 **effective the date of the member's reemployment.**
5 (b) The member will reestablish active membership **as required by ORS 238.078**
6 **on the date the member is reemployed**. *[If the member has incurred a break in service,*
7 *as defined in OAR 459-070-0001(1), then the employee will become a member of the*
8 *OPSRP pension program.]*
9 *[The last monthly service retirement allowance to which the member is entitled will*
10 *be for the month prior to the calendar month the member is reemployed. A member who*
11 *receives benefits to which he or she is not entitled must repay those benefits to PERS;*
12 *and]*
13 **(c) If the member elected an option other than a lump sum option under ORS**
14 **238.305(2) or (3), the member need not repay any service retirement allowance**
15 **payment received that is attributable to the period the member was separated from**
16 **service. The last monthly service retirement allowance payment to which the**
17 **member is entitled will be for the month prior to the calendar month in which the**
18 **member is reemployed. A member who receives benefits to which he or she is not**
19 **entitled must repay those benefits to PERS. Upon subsequent retirement, the**
20 **member may choose a different retirement option.**
21 **(A) The member's account shall be rebuilt as required by ORS 238.078 effective**
22 **the date active membership is reestablished.**

1 **(B) Amounts distributed from the BIF under the provisions of subsection (A)**
2 **shall be credited with earnings at the BIF rate or the assumed rate, whichever is**
3 **less, from the date of retirement to the date of active membership.**
4 **(d) If the member elected a partial lump sum option under ORS 238.305(2), the**
5 **member need not repay any service retirement allowance payment received that is**
6 **attributable to the period the member was separated from service. The last monthly**
7 **service retirement allowance payment to which the member is entitled will be for**
8 **the month prior to the calendar month in which the member is reemployed. A**
9 **member who receives benefits to which he or she is not entitled must repay those**
10 **benefits to PERS. No repayment of lump sum payment(s) received during the period**
11 **the member was separated from service is required. Upon subsequent retirement,**
12 **the member may not choose a different retirement option unless the member has**
13 **repaid to PERS an amount equal to the lump sum payment(s) received and the**
14 **interest that would have accumulated on that amount.**
15 **(A) The member's account shall be rebuilt as required by ORS 238.078 effective**
16 **the date active membership is reestablished.**
17 **(B) Amounts distributed from the BIF under the provisions of subsection (A),**
18 **excluding any amounts attributable to any lump sum repayment(s) by the member,**
19 **shall be credited with earnings at the BIF rate or the assumed rate, whichever is**
20 **less, from the date of retirement to the date of active membership.**
21 **(e) If the member elected the total lump sum option under ORS 238.305(3), no**
22 **repayment of the total lump sum payment received is required. Upon subsequent**
23 **retirement, the member may not choose a different retirement option unless the**

1 **member has repaid to PERS in a single payment an amount equal to the total lump**
2 **sum payment received and the interest that would have accumulated on that**
3 **amount.**
4 **(A) If the member repays PERS as described in subsection (e) the member's**
5 **account shall be rebuilt as required by ORS 238.078 effective the date that PERS**
6 **receives the single payment.**
7 **(B) Amounts distributed from the BIF under the provisions of subsection (A)**
8 **shall not be credited with earnings for the period from the date of retirement to the**
9 **date of active membership.**
10 **(10) Reemployment under ORS 238.078(2)***[(c) If the member has been retired less*
11 *than six months as of the [effective] date of reemployment, all retirement benefits*
12 *received by the member must be repaid to PERS in a lump sum payment before the*
13 *member can be reemployed.]* **If a member has been retired for service for less than**
14 **six calendar months and is reemployed in a qualifying position by a participating**
15 **employer under the provisions of ORS 238.078(2), the following will occur:**
16 **(a) PERS will cancel the member's retirement effective the date of the**
17 **member's reemployment.**
18 **(b) All retirement benefits received by the member must be repaid to PERS in a**
19 **single payment before the member can be reemployed.**
20 **(c) The member will reestablish active membership as required by ORS 238.078**
21 **effective the date the member is reemployed.**

1 **(d) The member account shall be rebuilt effective the date that PERS receives**
2 **the single payment. The amount in the member account shall be the same as the**
3 **amount in the member account at the time of the member's retirement.**
4 **(e) Upon subsequent retirement, the member may choose a different retirement**
5 **payment option.**
6 **(11) Upon the subsequent retirement of any member who reestablished active**
7 **membership under ORS 238.078, the retirement benefit of the member shall be**
8 **calculated using the actuarial equivalency factors in effect on the effective date of**
9 **the subsequent retirement.**
10 **(12) The provisions of subsections (9)(c)(B), (9)(d)(B), and (9)(e)(B) of this rule**
11 **are applicable to members who reestablish active membership under ORS 238.078**
12 **whose initial effective retirement date is on or after the effective date of this rule.**
13 **(13)***[(8)]* **Reporting requirement.** The employer shall notify PERS under which
14 statute **a** *[the]* retiree is reemployed in a format acceptable to PERS.
15 **(a) Upon request by PERS, a participating employer shall certify to PERS that**
16 **a retired member has not exceeded the number of hours allowed in ORS 238.082**
17 **and sections (1) and (5) of this rule.**
18 **(b) Upon request by PERS a participating employer shall provide PERS with**
19 **business and employment records to substantiate the actual number of hours a**
20 **retired member was employed.**
21 **(c) Participating employers shall provide the information requested in this**
22 **section within 30 days of the date of the request.**

1 *[(9) The provisions of this rule are not applicable to a reemployed retired member*
2 *who is not defined as an employee under OAR 459-005-0001.]*
3 **(14)***[(10)]* Sick leave. Accumulated unused sick leave reported by the employer to
4 PERS upon **a member's** retirement, as provided *[for]* in ORS 238.350, **shall** *[will]* not
5 be made available to a retired **member** *[employee]* returning to **employment** *[work]*
6 under *[the provision of]* sections (1) or **(9)** *[(7)]* of this rule.
7 *[(11) The provisions of this rule are effective January 1, 2004.]*
8 Stat. Auth.: ORS 238.650
9 Stats. Implemented: ORS 238.078 & 238.082

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	**2/24/06**
AGENDA ITEM	**D.2. 2004 Valuation Report**

TO: Members of the PERS Board

FROM: Dale S. Orr, Coordinator, Actuarial Analysis Section

SUBJECT: 2004 Tier One/Two Actuarial Valuation System-Wide Results

On February 24, 2006, PERS actuaries Bill Hallmark and Annette Strand will present the 2004 system-wide valuation results for the Tier One/Tier Two Chapter 238 program. A valuation for the Oregon Public Service Retirement Pension (OPSRP) program will not be completed until the 2005 Valuation is completed in late 2006.

Annually, the Board instructs the actuary to conduct a valuation study to calculate the PERS system's liabilities and assets to determine how well the system's liabilities are funded. This information is the fundamental yardstick by which the financial health of pension systems are measured.

Odd-numbered year valuations are used to set employer rates. Valuations from even numbered years, such as the 2004 Valuation, are 'interim' valuations and are used primarily for status assessment, financial reporting and other purposes.

We will forward the actuaries' presentation to the Board as soon as it is available.

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	2/24/06
AGENDA ITEM	D.3. Preliminary Earnings

TO: Members of the PERS Board

FROM: Dale S. Orr, Coordinator, Actuarial Analysis Section

SUBJECT: 2005 Preliminary Earnings Crediting and Reserving

Staff recommends that the Board, at its February 24, 2006 meeting, make decisions on reserving and preliminarily crediting 2005 earnings to meet the statutory reporting requirements contained in ORS 238.670(5). This statute requires PERS to submit a preliminary proposal to a legislative committee 30 days prior to making a final decision on the crediting of any interest or other income.

Once the Board makes its preliminary earnings crediting and reserving decisions, staff will prepare and present the required report to the Legislature's Emergency Board. Any comments received from that committee will be presented to the Board prior to its final earnings crediting decision on March 31, 2006.

These preliminary decisions and the resulting report to the Legislature will not prohibit the PERS Board from changing its final crediting and reserving decisions, such as if new information becomes available. If the Board makes a significant change from its preliminary decisions, staff will promptly report the Board's actions to the Legislature.

Background

There are several components to the Board's preliminary earnings crediting and reserving decisions. Many of these components are articulated in statute or rule. Some components have down-stream effects, such as crediting decisions regarding the Contingency and Capital Preservation Reserves, which determines the amount of earnings remaining to credit to other reserves and accounts. The statutes and rules governing the decision are briefly summarized below:

a. Contingency Reserve (Current Balance: $1,398.5 million). In each year that available earnings exceed the assumed rate, ORS 238.670(1) requires the Board to consider funding the Contingency Reserve until the Board determines that the reserve is adequately funded. The Board cannot credit more than 7.5% of that year's earnings to the Contingency Reserve. Moreover, the Contingency Reserve is not credited with its own earnings but, instead, funds are added to the reserve only when the Board directs.

b. Capital Preservation Reserve (Current Balance: $460.5 million). This reserve can be used to "offset gains and losses in invested capital" (ORS 238.670(3)). The funding of this reserve is at the Board's discretion. Earnings used to fund the Capital Preservation Reserve come from earnings that would otherwise be credited to Tier Two Member regular accounts, Employer Reserves, and the Benefits-In-Force Reserve. This reserve can also be funded with transfers from the Contingency Reserve.

c. Tier One Rate Guarantee Reserve (Current Balance: $311.4 million). This reserve established under ORS 238.255(1) is to be used to fund crediting of the assumed rate to Tier One member regular accounts. This reserve is to be fully funded with amounts determined by the Board, after consultation with the actuary, to be necessary to ensure a zero balance in the reserve when all Tier One members have retired. Only when this reserve has been fully funded to the limit set by the Board for three consecutive years may the Board credit more than the assumed rate to Tier One member regular accounts.

d. OAR 459-007-0005. This rule (copy attached) sets forth the sequence and summarizes the statutory limitations that form the basis for annual earnings crediting.

Policy Discussion

At its January 27, 2006 meeting, the Board directed staff to provide an expanded spectrum of reserve deployment and earnings crediting scenarios. Staff have developed 5 scenarios for Board consideration. Scenario 1 reflects deployment of all but $100 million of the Contingency Reserve and all of the Capital Preservation Reserve. Scenario 2 retains $200 million in the Contingency Reserve and deploys all of the Capital Preservation Reserve. Scenario 3 retains $500 million in the Contingency Reserve and deploys all of the Capital Preservation Reserve. Scenario 4 assumes full retention of all current Contingency and Capital Preservation Reserve balances without adding any 2005 earnings to those reserves. Scenario 5 assumes full retention of the Contingency and Capital Preservation Reserves with an additional 7.5% of available 2005 earnings being added to both those reserves. The Tier One Rate Guarantee Reserve is funded under all scenarios with any available 2005 Tier One regular account earnings remaining after crediting those accounts the assumed rate, and with a varying amount of transfers from the Contingency Reserve depending on the scenario.

Currently there is a combined total of $2,170.4 million in the Contingency, Capital Preservation and Tier One Rate Guarantee Reserves.

The reserve balances remaining after deployment and 2005 earnings crediting under the five scenarios are summarized as follows:

Reserve	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Contingency Reserve	$100 million	$200 million	$500 million	$1,398.5 million	$1,782.5 million
Capital Pres. Reserve	$ 0.0	$0.0	$0.0	$460.5 million	$771.6 million
Rate Guarantee Res.	$997.6 million	$978.2 million	$919.9 million	$745.4 million	$670.8 million
Reserve Balance Totals	$1,097.6 million	$1,178.2 million	$1,419.9 million	$2,604.4 million	$3,224.9 million
2005 Earnings to Cont. & Cap. Pres. Reserves?	No	No	No	No	Yes 7.5%

All reserve deployment scenarios use a targeted proportional allocation method based on year-end 2005 balances. The impact by scenario on respective accounts, reserves, and the crediting of 2005 earnings is reflected in the attached charts and graphs.

Preliminary Earnings Crediting Decision

To aid the Board in making its preliminary earnings crediting decision for 2005, staff has prepared a set of recommended motions. These motions are based on the following assumptions and preliminary steps, as outlined in OAR 459-007-0005:

1. The health insurance accounts in the PERS Fund are credited with their actual earnings, less administrative expenses incurred.
2. Employer lump sum payment accounts are credited with their actual earnings based on time on deposit, less administrative expenses as authorized by ORS 238.225(10).
3. Variable Annuity Accounts are credited with their actual earnings, less a proportional charge for administrative expenses.
4. Available earnings are net of the agency's administrative expenses, which are to be recovered first from available earnings according to ORS 238.610.

In addition to these preliminary steps, under the proposed Individual Account Program (IAP) remediation plan, the available 2005 earnings attributed to IAP accounts would be credited evenly to those accounts in proportion to the corrected account balances at a preliminary determined rate of 12.72%.

The recommended motions are segregated into two groups. The first group preliminarily credits 2005 earnings to Tier One/Tier Two Member Accounts, Employer Reserves and the Benefits-In-Force Reserve. The second group will either deploy dollars from or credit earnings to the Contingency and Capital Preservation Reserves, depending on the Board's reserving decisions. Also provided are consolidated motions designed to simplify the crediting process.

<u>2005 Preliminary Earnings Crediting Motions</u>

1. Tier One Member Regular Accounts

This motion will credit Tier One member regular accounts with the assumed earnings rate (8%) and credit the remainder of Tier One member regular account earnings to the Tier One Rate Guarantee Reserve.

"I move that Tier One member regular accounts be preliminarily credited at 8% for the 2005 earnings year with all remaining available earnings attributable to Tier One member regular accounts being credited to the Tier One Rate Guarantee Reserve."

2. Tier Two Member Regular Accounts, Benefits-In-Force and Employer Reserves

This motion will provide an even crediting of 2005 preliminary earnings to Tier Two member regular accounts, the Benefits-in-Force Reserve, and Employer Reserves.

"I move that Tier Two member regular accounts, Benefits-In-Force Reserve and Employer Reserves be preliminarily credited evenly with the remaining available earnings that are attributable to those accounts and reserves."

Reserve Deployment Motions

1. Contingency Reserve Deployment

This motion will deploy funds from the Contingency Reserve to other specified reserves and accounts on a targeted proportional basis, leaving a remaining balance in the Contingency Reserve that is determined to be adequate funding for contingency purposes at this time.

"I move that all but $___ million of the Contingency Reserve be proportionally allocated to the Tier One Rate Guarantee Reserve, Tier Two Member regular accounts, the Benefits-In-Force Reserve and Employer Reserves based on the balances in those accounts and reserves prior to crediting 2005 earnings, and that the remaining balance be declared an adequate funding level for the Contingency Reserve at this time. In addition, I move that no 2005 earnings be added to the Contingency Reserve."

2. Capital Preservation Reserve Deployment

This motion will deploy funds from the Capital Preservation Reserve (CPR) to other specified accounts and reserves on a targeted proportional basis. This motion would distribute the entire balance in the CPR.

"I move that the entire Capital Preservation Reserve be proportionally allocated to Tier Two Member regular accounts, the Benefits-In-Force Reserve, and Employer Reserves based on the balances in those accounts and reserves prior to crediting 2005 earnings. The allocation of the Capital Preservation Reserve is to partially offset capital losses previously allocated to those reserves in 2001 and 2002."

Contingency and Capital Preservation Reserves Funding Motion

If, instead of deploying the reserves, the Board determines that it would like to credit 2005 earnings to the Contingency and Capital Preservation Reserves, this motion would allow the Board to allocate a percentage (not to exceed 7.5% for the Contingency Reserve and at any percentage for the Capital Preservation Reserve) of available 2005 earnings to either or both reserves.

"I move that the Contingency Reserve be credited with ____% [not to exceed 7.5%] of available 2005 earnings and that the Capital Preservation Reserve be credited with _____% of available 2005 earnings, proportionally from the sources specified in OAR 459-007-0005(7) and (9) respectively."

Consolidated Motions

The Board can simplify the 2005 preliminary earnings crediting process by consolidating all of the previous motions as follows into one of two motions:

1. *Assuming no 2005 earnings to Contingency and Capital Preservation Reserves and full or partial deployment of those reserves*

"I move that 2005 earnings be preliminarily credited and the Contingency and Capital Preservation Reserves be deployed as stated in this February 24, 2006 memorandum without further earnings being credited to those Reserves. In the context of the wording and order of these recommended motions, I move that the Board retain $_____ million in the Contingency Reserve and $_____ million in the Capital Preservation Reserve."

2. *Assuming no 2005 earnings to the Contingency and Capital Preservation Reserves and no deployment of those reserves*

"I move that 2005 earnings be preliminarily credited as stated in this February 24, 2006 memorandum without further earnings being credited to the Contingency and Capital Preservation Reserves.

3. *Assuming crediting of 2005 earnings to the Contingency and Capital Preservation Reserves and no deployment of from those reserves*

"I move that 2005 earnings be preliminarily credited as stated in this February 24, 2006 memorandum. In the context of the wording and order of these recommended motions, I move that the Board allocate ____% [not to exceed 7.5%] of available 2005 earnings to the Contingency Reserve and _____% of available 2005 earnings to the Capital Preservation Reserve, proportionally from the sources specified in OAR 459-007-0005(7) and (9) respectively."

Attachments:

Scenario 1: $100 million Contingency Reserve Retention
Scenario 2: $200 million Contingency Reserve Retention
Scenario 3: $500 million Contingency Reserve Retention
Scenario 4: Full Reserve Retention with no 2005 Earnings to Contingency or Cap. Pres. Res.
Scenario 5: Full Reserve Retention with 7.5% of 2005 Earnings to Cont. and Cap. Pres. Res.
OAR 459-007-0005

Scenario 1

2005 Earnings Crediting and Reserve Allocation

Targeted Proportional Allocation of Contingency and Cap. Pres. Reserves

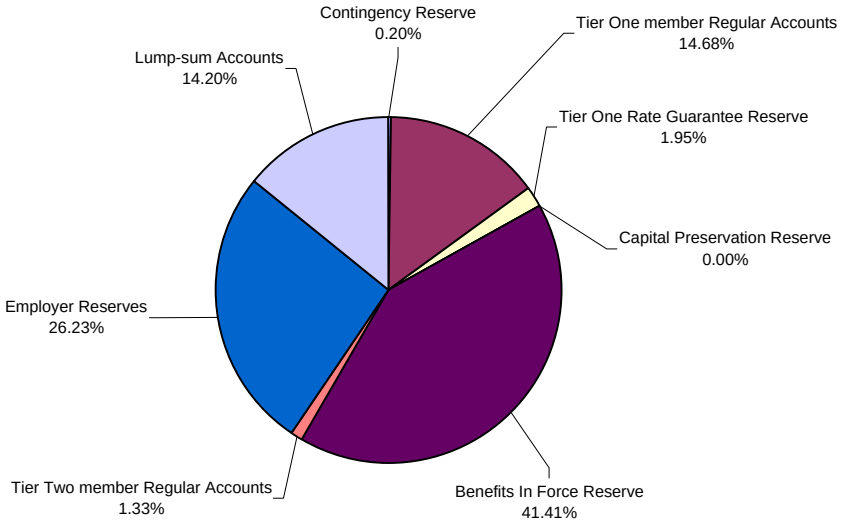
Contingency Reserve: Retain $100 million; Capital Preservation Reserve Retain $0.0; No 2005 Earnings

(All dollar amounts in millions)

Reserve	2005 Crediting	Balance Before Reserve Allocation and 2005 Crediting	Allocated Contingency Reserve	Allocated Capital Pres. Reserve	Balances After Reserve Allocation	2005 Earnings (Based on Pre-Allocation Res. Balances)	Reserves After 2005 Crediting and Allocation	Combined Allocation/ 2005 Erngs Change
Contingency Reserve	0.00%	$1,398.5	-$1,298.5	$0.0	$100.0	$0.0	$100.0	-92.85%
Tier One member Regular Accounts	8.00%	6,941.9	0.0	0.0	$6,941.9	$555.4	$7,497.3	8.00%
Tier One Rate Guarantee Reserve	N/A	311.4	252.2	0.0	$563.6	$434.0	$997.6	220.36%
Capital Preservation Reserve	0.00%	460.5	0.0	-460.5	$0.0	$0.0	$0.0	-100.00%
Benefits In Force Reserve	13.86%	17,779.3	627.6	276.2	$18,683.1	$2,464.2	$21,147.3	18.94%
Tier Two member Regular Accounts	13.86%	572.4	19.9	8.8	$601.1	$79.3	$680.4	18.87%
Employer Reserves	13.86%	11,262.5	398.8	175.5	$11,836.8	$1,561.0	$13,397.8	18.96%
Lump-sum Accounts	12.82%	6,428.9	0.0	0.0	$6,428.9	$824.2	$7,253.1	12.82%
Total		$45,155.4	$0.0	$0.0	$45,155.4	$5,918.1	$51,073.5	13.11%

2005 Estimated Reserve Balances

After Est. 2005 Crediting and Targeted Allocation of Contingency and Capital Preservation Reserves



Scenario 2

2005 Earnings Crediting and Reserve Allocation

Targeted Proportional Allocation of Contingency and Cap. Pres. Reserves

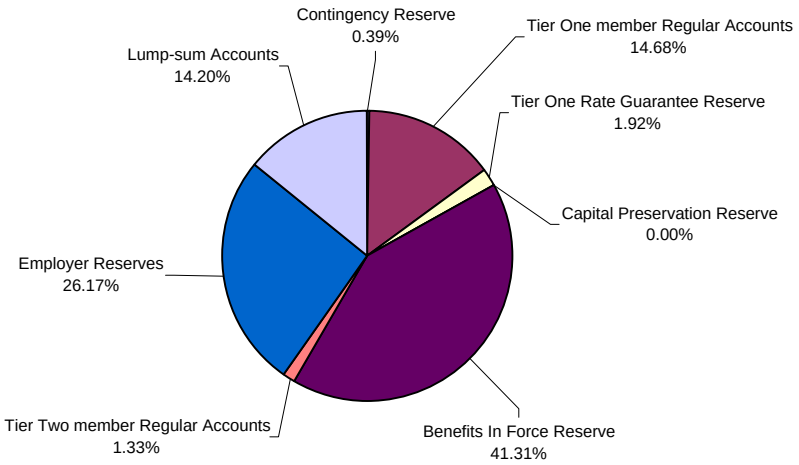
Contingency Reserve: Retain $200 million; Capital Preservation Reserve Retain $0.0; No 2005 Earnings

(All dollar amounts in millions)

Reserve	2005 Crediting	Balance Before Reserve Allocation and 2005 Crediting	Allocated Contingency Reserve	Allocated Capital Pres. Reserve	Balances After Reserve Allocation	2005 Earnings (Based on Pre-Allocation Res. Balances)	Reserves After 2005 Crediting and Allocation	Combined Allocation/ 2005 Erngs Change
Contingency Reserve	0.00%	$1,398.5	-$1,198.5	$0.0	$200.0	$0.0	$200.0	-85.70%
Tier One member Regular Accounts	8.00%	6,941.9	0.0	0.0	$6,941.9	$555.4	$7,497.3	8.00%
Tier One Rate Guarantee Reserve	N/A	311.4	232.8	0.0	$544.2	$434.0	$978.2	214.13%
Capital Preservation Reserve	0.00%	460.5	0.0	-460.5	$0.0	$0.0	$0.0	-100.00%
Benefits In Force Reserve	13.86%	17,779.3	579.3	276.2	$18,634.8	$2,464.2	$21,099.0	18.67%
Tier Two member Regular Accounts	13.86%	572.4	18.4	8.8	$599.6	$79.3	$678.9	18.61%
Employer Reserves	13.86%	11,262.5	368.0	175.5	$11,806.0	$1,561.0	$13,367.0	18.69%
Lump-sum Accounts	12.82%	6,428.9	0.0	0.0	$6,428.9	$824.2	$7,253.1	12.82%
Total		$45,155.4	$0.0	$0.0	$45,155.4	$5,918.1	$51,073.5	13.11%

2005 Estimated Reserve Balances

After Est. 2005 Crediting and Targeted Allocation of Contingency and Capital Preservation Reserves



Scenario 3

2005 Earnings Crediting and Reserve Allocation

Targeted Proportional Allocation of Contingency and Cap. Pres. Reserves

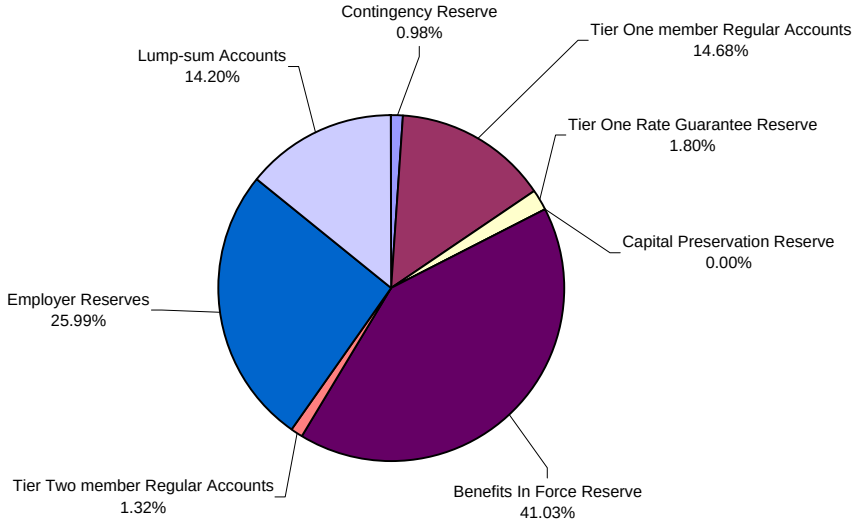
Contingency Reserve: Retain $500 million; Capital Preservation Reserve Retain $0.0; No 2005 Earnings

(All dollar amounts in millions)

Reserve	2005 Crediting	Balance Before Reserve Allocation and 2005 Crediting	Allocated Contingency Reserve	Allocated Capital Pres. Reserve	Balances After Reserve Allocation	2005 Earnings (Based on Pre-Allocation Res. Balances)	Reserves After 2005 Crediting and Allocation	Combined Allocation/ 2005 Erngs Change
Contingency Reserve	0.00%	$1,398.5	-$898.5	$0.0	$500.0	$0.0	$500.0	-64.25%
Tier One member Regular Accounts	8.00%	6,941.9	0.0	0.0	$6,941.9	$555.4	$7,497.3	8.00%
Tier One Rate Guarantee Reserve	N/A	311.4	174.5	0.0	$485.9	$434.0	$919.9	195.41%
Capital Preservation Reserve	0.00%	460.5	0.0	-460.5	$0.0	$0.0	$0.0	-100.00%
Benefits In Force Reserve	13.86%	17,779.3	434.3	276.2	$18,489.8	$2,464.2	$20,954.0	17.86%
Tier Two member Regular Accounts	13.86%	572.4	13.8	8.8	$595.0	$79.3	$674.3	17.81%
Employer Reserves	13.86%	11,262.5	275.9	175.5	$11,713.9	$1,561.0	$13,274.9	17.87%
Lump-sum Accounts	12.82%	6,428.9	0.0	0.0	$6,428.9	$824.2	$7,253.1	12.82%
Total		$45,155.4	$0.0	$0.0	$45,155.4	$5,918.1	$51,073.5	13.11%

2005 Estimated Reserve Balances

After Est. 2005 Crediting and Targeted Allocation of Contingency and Capital Preservation Reserves



Scenario 4

2005 Earnings Crediting and Reserve Allocation

Retention of Total Contingency and Cap. Pres. Reserves

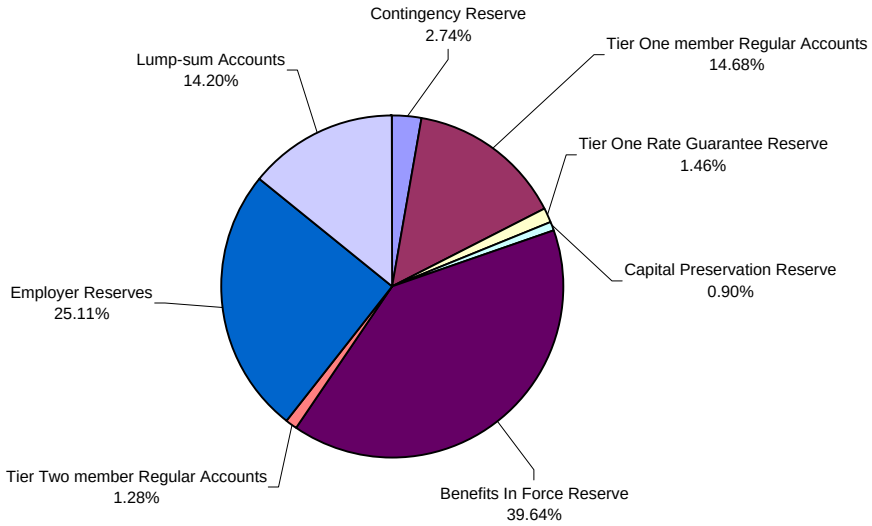
No 2005 Earnings to Contingency or Capital Preservation Reserves

(All dollar amounts in millions)

Reserve	2005 Crediting	Balance Before Reserve Allocation and 2005 Crediting	Allocated Contingency Reserve	Allocated Capital Pres. Reserve	Balances After Reserve Allocation	2005 Earnings (Based on Pre-Allocation Res. Balances)	Reserves After 2005 Crediting and Allocation	Combined Allocation/ 2005 Erngs Change
Contingency Reserve	0.00%	$1,398.5	$0.0	$0.0	$1,398.5	$0.0	$1,398.5	0.00%
Tier One member Regular Accounts	8.00%	6,941.9	0.0	0.0	$6,941.9	$555.4	$7,497.3	8.00%
Tier One Rate Guarantee Reserve	N/A	311.4	0.0	0.0	$311.4	$434.0	$745.4	139.37%
Capital Preservation Reserve	0.00%	460.5	0.0	0.0	$460.5	$0.0	$460.5	0.00%
Benefits In Force Reserve	13.86%	17,779.3	0.0	0.0	$17,779.3	$2,464.0	$20,243.3	13.86%
Tier Two member Regular Accounts	13.86%	572.4	0.0	0.0	$572.4	$79.4	$651.8	13.86%
Employer Reserves	13.86%	11,262.5	0.0	0.0	$11,262.5	$1,561.1	$12,823.6	13.86%
Lump-sum Accounts	12.82%	6,428.9	0.0	0.0	$6,428.9	$824.2	$7,253.1	12.82%
Total		$45,155.4	$0.0	$0.0	$45,155.4	$5,918.1	$51,073.5	13.11%

2005 Estimated Reserve Balances

After Est. 2005 Crediting (No allocation from Contingency and Capital Preservation Res.)



Scenario 5

2005 Earnings Crediting and Reserve Allocation

Retention of Total Contingency and Cap. Pres. Reserves

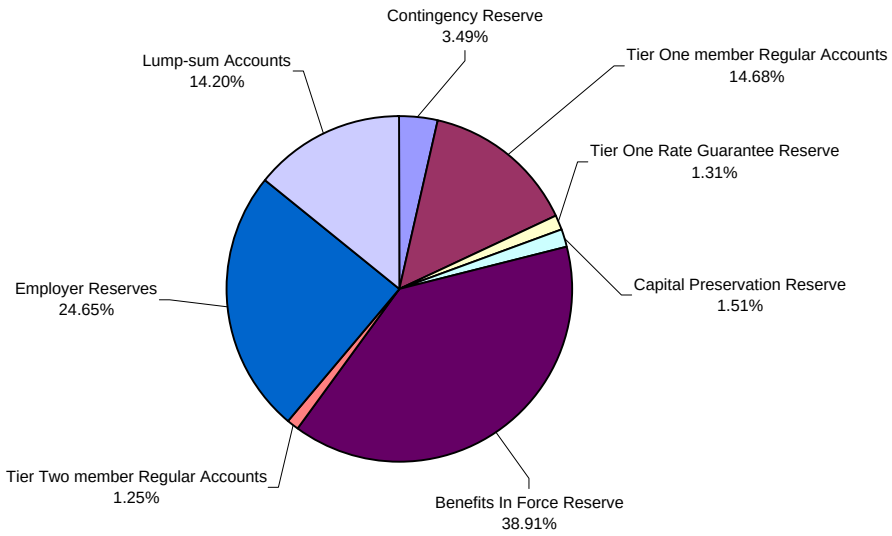
7.5% of 2005 Earnings to Contingency and Capital Preservation Reserves

(All dollar amounts in millions)

Reserve	2005 Crediting	Balance Before Reserve Allocation and 2005 Crediting	Allocated Contingency Reserve	Allocated Capital Pres. Reserve	Balances After Reserve Allocation	2005 Earnings (Based on Pre-Allocation Res. Balances)	Reserves After 2005 Crediting and Allocation	Combined Allocation/ 2005 Erngs Change
Contingency Reserve	27.46%	$1,398.5	$0.0	$0.0	$1,398.5	$384.0	$1,782.5	27.46%
Tier One member Regular Accounts	8.00%	6,941.9	0.0	0.0	$6,941.9	$555.4	$7,497.3	8.00%
Tier One Rate Guarantee Reserve	N/A	311.4	0.0	0.0	$311.4	$359.4	$670.8	115.41%
Capital Preservation Reserve	67.56%	460.5	0.0	0.0	$460.5	$311.1	$771.6	67.56%
Benefits In Force Reserve	11.76%	17,779.3	0.0	0.0	$17,779.3	$2,091.7	$19,871.0	11.76%
Tier Two member Regular Accounts	11.76%	572.4	0.0	0.0	$572.4	$67.3	$639.7	11.76%
Employer Reserves	11.76%	11,262.5	0.0	0.0	$11,262.5	$1,325.0	$12,587.5	11.76%
Lump-sum Accounts	12.82%	6,428.9	0.0	0.0	$6,428.9	$824.2	$7,253.1	12.82%
Total		$45,155.4	$0.0	$0.0	$45,155.4	$5,918.1	$51,073.5	13.11%

2005 Estimated Reserve Balances

After Est. 2005 Crediting (No allocation from Contingency and Capital Preservation Res.)



Adopted: 1/27/06
Filed and Effective: 2/1/06

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 007 – EARNINGS AND INTEREST DISTRIBUTION

459-007-0005
Annual Earnings Crediting

1) For purposes of this rule, "remaining earnings" means earnings available for distribution to a particular account or reserve after deduction of amounts required or authorized by law for other purposes.

(2) Except as otherwise specified in this division, earnings on all accounts and reserves in the Fund shall be credited as of December 31 of each calendar year in the manner specified in this rule.

(3) **Health insurance accounts**. All earnings attributable to the Standard Retiree Health Insurance Account (SRHIA), the Retiree Health Insurance Account (RHIA) or the Retirement Health Insurance Premium Account (RHIPA) shall be credited to the account from which they were derived, less administrative expenses incurred by each account, as provided in ORS 238.410, 238.415 and 238.420, respectively.

(4) **Employer lump sum payments**. All earnings or losses attributable to the employer lump sum payment accounts established under ORS 238.225(9) shall be credited to the accounts from which they were derived.

(5) **Administrative expenses**.

(a) Earnings on the Variable Annuity Account shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238.260(6). If the Variable Annuity Account experiences a loss, the loss shall be increased to pay a pro rata share of administrative expenses.

(b) Earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two member regular accounts, employer contribution accounts, the Contingency Reserve, the Benefits-in-Force Reserve and the Capital Preservation Reserve shall first be used to pay the system's remaining administrative expenses under ORS 238.610.

(6) **Member variable accounts**. All remaining earnings or losses attributable to the Variable Annuity Account shall be credited to the participants of that account, as provided under ORS 238.260(6) and (7)(b).

(7) **Contingency Reserve**.

(a) In any year in which total earnings on the Fund equal or exceed the assumed rate, an amount not exceeding seven and one-half percent of remaining earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two regular accounts, Benefits-in-Force Reserve, employer contribution accounts, the Capital Preservation Reserve and the Contingency Reserve shall be credited to the Contingency Reserve to the level at which the Board determines it is adequately funded for the purposes specified in ORS 238.670(1).

(b) The portion of the Contingency Reserve allowed under ORS 238.670(1)(a) for use in preventing a deficit in the fund due to employer insolvency may only be credited using earnings attributable to employer contribution accounts.

(8) **Tier One Member Deficit Reserve**. All remaining earnings attributable to Tier One regular accounts and the Tier One Rate Guarantee Reserve shall be credited to the Tier One Member Deficit Reserve established in ORS 238.255(1) until the deficit is eliminated.
(9) **Capital Preservation Reserve**. Remaining earnings attributable to the Tier Two member regular accounts, employer contribution accounts, the Benefits-in-Force Reserve, the Contingency Reserve and the Capital Preservation Reserve may be credited from those sources to one or more reserve accounts that may be established under ORS 238.670(3) to offset gains and losses of invested capital.
(10) **Tier One regular accounts**. All remaining earnings attributable to Tier One regular accounts and the Tier One Rate Guarantee Reserve shall be credited to Tier One member regular accounts at the assumed rate in any year in which the conditions set out in ORS 238.255 have not been met. Crediting under this subsection shall be funded first by all remaining earnings attributable to Tier One regular accounts and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.
(11) **Tier One Member Rate Guarantee Reserve**. In any year in which the Deficit Reserve has a zero balance, remaining earnings attributable to Tier One regular accounts, the Tier One Member Rate Guarantee Reserve, the Benefits-in-Force Reserve, and the Contingency Reserve may be credited to the Tier One Member Rate Guarantee Reserve established under ORS 238.255(1).
(12) **Tier Two member regular accounts**. All remaining earnings or losses attributable to Tier Two member regular accounts shall be credited to all active and inactive Tier Two member regular accounts under ORS 238.250.
(13) **Benefits-in-Force Reserve**. Remaining earnings attributable to the Benefits-in-Force Reserve, the Contingency Reserve, the Capital Preservation Reserve and employer contribution accounts, in that order, shall be used, to the extent available, to credit the Benefits-in-Force Reserve with earnings up to the assumed rate for that calendar year in accordance with ORS 238.670(2).
(14) **Employer contribution accounts**. All remaining earnings attributable to employer contribution accounts shall be credited to employer contribution accounts.
(15) **Remaining earnings**. Any remaining earnings shall be credited to accounts and reserves in the Fund at the Board's discretion.
(16) The provisions of this rule shall be applied retroactively to April 15, 2004.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	**2/24/06**
AGENDA ITEM	**D.4.a. S & E**

TO: Members of the PERS Board

FROM: Craig Stroud, Administrator, Benefit Payments Division

SUBJECT: *Strunk* and *Eugene* Project – Business Plan Update

Attached is a presentation describing *Strunk* and *Eugene* planning activities. The plan continues to be a work in progress. This presentation includes:

- Project Activities Update
- Project Planning – Benefit Adjustments
- Project Planning – Macro Agency Impacts
- Next Steps

SL1

Strunk and Eugene Project Business Plan Update

February 24, 2006

PERS Oregon Public Employees Retirement System

SL1

Agenda

- Project Activities Update
- Project Planning – Benefit Adjustments
- Project Planning – Macro Agency Impacts
- Next Steps

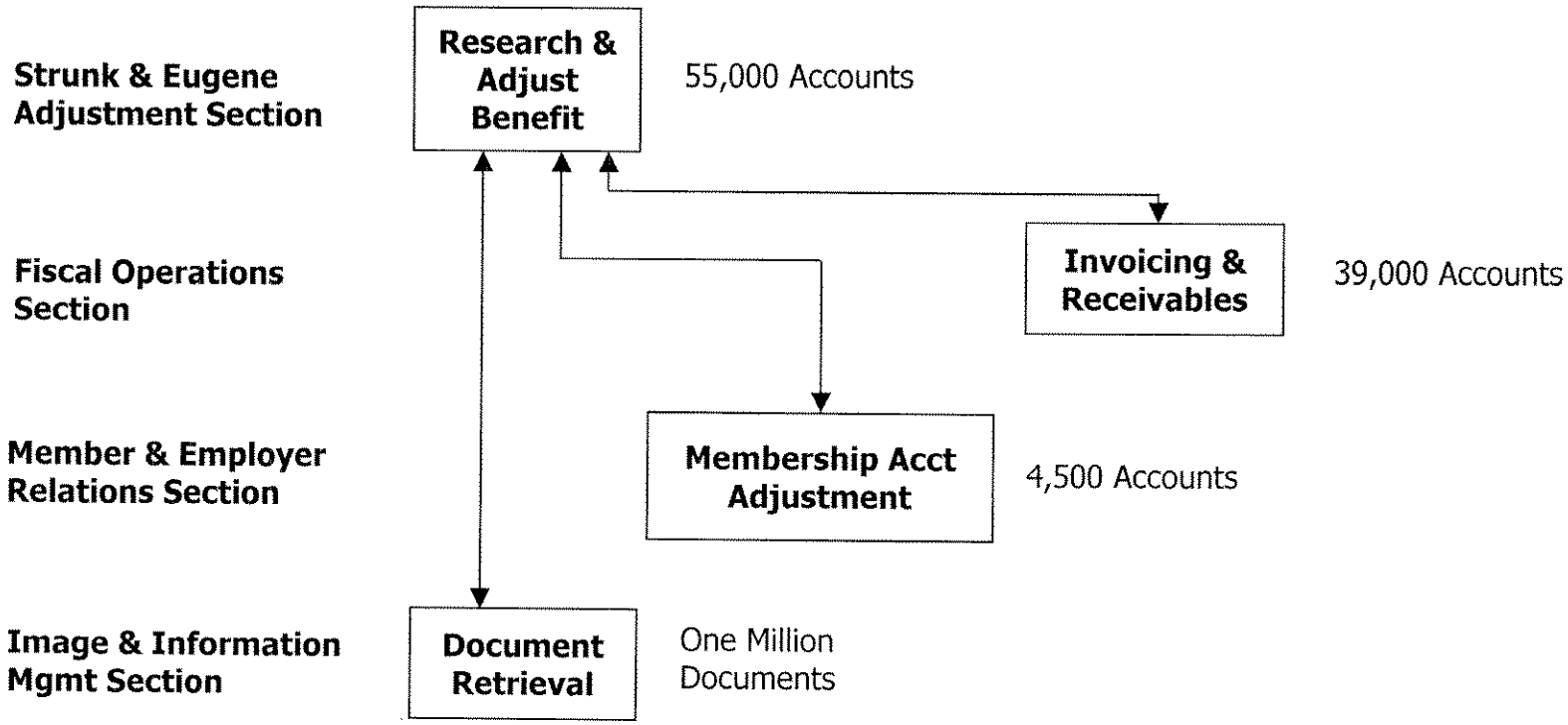
SL1

Project Activities Update

- Completed Since December 2005 Board Meeting:
  - Finalized 1,266 Estimated Benefits and Mailed Corresponding Notice of Entitlement.
  - Finalized 226 Actuarial Settlement Refund Benefits. 74 Required Additional Payments.
- In Process:
  - Preparing to Mail 37,700 Board Order Notification Letters in Early March.
  - Manually Recalculated 1,880 Divorced Member and Alternate Payee Accounts.
  - Continued Project Planning Activities.

SL1

Project Planning - Benefit Adjustments



SL1

Project Planning – Macro Agency Impacts

- Prior presentations have principally focused on the impact of this project on Benefit Payments Division.
- The benefit adjustments and other recovery efforts significantly impact all PERS divisions.
- The *Strunk/Eugene* Project competes for agency resources with other projects and workloads (e.g., RCP, IAP). Also, interdependencies among these projects must be reconciled.

MERS Support

ISD Technical Support

Human Resources

PPLAD/Legal Support

Auxiliary Services

SL1

Project Planning – Macro Agency Impacts

- Impact Examples:
  - Document Retrieval
    - RIMS is only part of a member's record – archived documents must be retrieved to process benefit adjustments.
    - Member records are spread across 2,700 rolls of microfilm; only 35 percent are digitized.
    - An estimated one million images must be retrieved. Retrieval is a manual process (cross–indexing documents and physically copying them from film record).
    - Benefit adjustments will not be accurate if these records are not completely retrieved.
    - These same resources are tapped for on-going PERS retirement benefit calculations and estimates. Staffing and equipment limits threaten to create a bottleneck.

SL1

Project Planning – Macro Agency Impacts

- Impact Examples:
  - Customer Service Phone Support
    - As members receive adjusted benefits, call volume will increase.
    - Explaining the nature and scope of the adjustments adds complexity, and therefore, extends the duration of calls.
    - Call volume increases are based on similar prior events (statement mailings, court decisions).
    - Phone staff will need extensive training and support to adequately and accurately meet these demands.
    - Databases and other tools will be created to track status and provide supplemental information.
    - Again, all this competes with on-going PERS processes that require customer service and support.

Project Planning – Macro Agency Impacts

- Impact Examples:
  - Invoicing and Receivables Management
    - 10,000 adjustments will generate invoices with associated receivables (e.g., not able to use Actuarial Reduction Method (ARM) to recover lump sum payments).
    - 29,000 adjustments will be noticed, and have to elect lump sum repayment or ARM.
    - Potential for invoices to jump from normal 20 per month up to as many as 1,000 additional invoices per month.
    - Current Receivables Management System must be upgraded to address increased receivables.
    - Processes and procedures must be developed to adapt to and support the new receivable system and increased volume.

SL1

Project Planning – Macro Agency Impacts

- Agency Priorities and Interdependencies Must be Considered
- Methodical, Accurate Planning is Key
- Progress is Being Made While Planning Continues

SL1

Next Steps

- April Board Meeting
  - Project Plan Update
- June Board Meeting
  - Final E-Board Package and Request – September E-Board Meeting Targeted

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	**2/24/06**
AGENDA ITEM	**D.4.b. S & E**

TO: Members of the PERS Board

FROM: Craig Stroud, Administrator, Benefit Payments Division

SUBJECT: *Strunk* and *Eugene* Project – Order Adopting Repayment Methods Mailing

In early March 2006, PERS plans to mail a letter regarding the Final Order Adopting Repayment Methods to approximately 38,000 *Strunk* and *Eugene* overpaid benefit recipients. On the reverse side of the letter will be a copy of the Order signed by Chair Pittman on January 27, 2006.

The draft letter and Order are included in this packet for your review.

DATE

The PERS Board's Final Order Adopting Repayment Methods for the recovery of overpayments under *Strunk* and *City of Eugene* is on the reverse side. The Board's Order is notice that PERS is pursuing repayment of benefit overpayments made as a result of 1999 earnings crediting. Based on the Settlement Agreement in the *City of Eugene* case, the earnings crediting rate for Tier One member regular accounts in 1999 will be reallocated at 11.33 percent, instead of the 20 percent that was originally credited.

Those affected by the Board Order include:

- Tier One members who retired on or after April 1, 2000 and before April 1, 2004 under the Money Match method,
- Persons who received or are receiving benefits based on 1999 account balances, and
- Former members or beneficiaries who withdrew their accounts prior to the earnings reallocation.

The benefit recalculation will also reflect all cost-of-living adjustments (COLAs) that have been restored by the *Strunk* ruling.

Some recipients who started receiving benefits recently will have been underpaid by PERS and will receive a check for the underpayment.

PERS will send a letter to each affected recipient that details the benefits received to date, the amount of the overpayment (or underpayment), and the methods to repay PERS the amount of the overpayment. PERS will send individual letters at the time PERS recalculates the recipients benefit. We anticipate this process will begin in April 2006 and take up to three years to complete.

More information regarding this process is posted on the PERS website: http://oregon.gov/PERS/.

NOTICE OF RIGHT TO APPEAL

You are entitled to seek judicial review of this order pursuant to ORS 183.484. Judicial review under ORS 183.484 may be obtained by filing a petition for review within 60 days from the service of this order. A petition for judicial review under ORS 183.484 may be filed in the Circuit Court for Marion County or the Circuit Court in the county in which you reside.

BEFORE THE PUBLIC EMPLOYEES RETIREMENT BOARD OF THE STATE OF OREGON

In the Matter of the Recovery of Overpayments)
under *Strunk* and *City Of Eugene*) Order Adopting Repayment Methods

This matter came before the Board at its regularly scheduled meeting on January 27, 2006. As a result of Oregon Supreme Court decisions in *Strunk v. PERB*, 338 Or 145, 108 P3d 1058 (2005), and *City of Eugene v. PERB*, 339 Or 113, 117 P3d 1001 (2005), and the settlement agreement between the parties in the latter case, the Board previously determined that the earnings on Tier One member regular accounts for 1999 should be reallocated at an earnings rate of 11.33 percent, instead of the 20 percent rate that originally was used. That reallocation, together with the effect of eliminating the so-called "COLA freeze" as required by *Strunk*, results in a recalculation of benefit payments made to persons who had Tier One member regular accounts that received earnings crediting for 1999. This recalculation will affect Tier One members who retired on or after April 1, 2000, and before April 1, 2004, other persons who received or are receiving benefits based on those 1999 Tier One account balances, and former members or beneficiaries who withdrew their accounts prior to the earnings reallocation (referred to collectively as "recipients" hereafter). These recipients have received benefits in excess of the amounts they were entitled to under ORS chapter 238.

ORS 238.715 requires the Board to collect amounts paid in excess of the benefit amounts recipient is entitled to under ORS chapter 238. ORS 238.715 provides several methods by which the Board may recover such overpayments, but does not require the Board to make all of the methods available in every case.

IT IS HEREBY ORDERED that each recipient who, based on the decisions in *Strunk* and *City of Eugene*, including the settlement agreement in the latter case, has received benefits in excess of amounts that the recipient is entitled to under ORS chapter 238, shall repay the amounts overpaid using one of the following methods:

1. Each recipient shall repay the amounts overpaid in a lump sum unless the recipient is receiving monthly payments.

2. Any recipient receiving a monthly payment will repay the overpaid amounts by actuarial reduction of their monthly payment pursuant to ORS 238.715(1)(b), unless the recipient elects to repay the overpaid amount in a lump sum by paying that amount within the time allowed in the explanation to be provided to the recipient by PERS.

3. If a recipient is due a payment from PERS other than a monthly payment, the amount overpaid shall be deducted from the recipient's next payment and subsequent payments, if any, until the amount overpaid is recovered.

DATED this 27th day of January, 2006.

Michael J. Pittman
Board Chair

SL1

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	**2/24/06**
AGENDA ITEM	**D.4.c. S & E**

TO: Members of the PERS Board

FROM: Craig Stroud, Administrator, Benefit Payments Division

SUBJECT: *Strunk* and *Eugene* Project – Benefit Adjustment Letter Draft

At the January 27, 2006 Board meeting, Director Cleary stated that PERS staff would provide the *Strunk* and *Eugene* Project – Benefit Adjustment Letter at the February Board meeting for review and comment. The draft letter is attached.

PERS plans to mail this letter to overpaid benefit recipients at the time PERS recalculates the recipient's benefit. These mailings will begin in April 2006 and run through the anticipated three-year project duration. The letter provides specific information about a recipient's original and revised account balances and related monthly benefit payments, informs the recipient of their total overpaid benefits as of their projected benefit re-calculation date, and provides instruction to repay the overpayments by submitting a lump-sum payment or by defaulting to the Actuarial Reduction Method.

PERS staff welcomes comment on the letter. Comments can be e-mailed to Strunk-Eugene.Comments@state.or.us or mailed to me at PERS' mailing address before March 24, 2006.

DRAFT

June ---, 2006

John Doe
1234 A Street
Portland, OR 97205

Dear John Doe:

This is your PERS retirement benefit recalculation explanation derived as a result of two 2005 Oregon Supreme Court cases, *Strunk* and *Eugene*. In March 2006, we sent you an information letter and the Board Order Adopting Repayment Methods notice.

Your account information below includes your account balance and monthly benefit based on the pre-court ruling 1999 regular account earnings crediting at 20 percent. Your new balance and benefit after reallocating 1999 regular account earnings at 11.33 percent, as required by the Settlement Agreement in the *Eugene* case, is also shown.

Retirement date: April 1, 2000
Recalculated payment start date: September 1, 2006

Account balance at retirement (with 20 percent earnings crediting in 1999)	$132,211.00
Recalculated account balance at retirement (11.33 percent earnings crediting in 1999)	$122,700.00
Monthly benefit at retirement (your retirement date was April 1, 2000)	$2,200.00
Recalculated monthly benefit at retirement (11.33 percent earnings crediting in 1999)	$2,042.00
Current monthly benefit, including any cost-of-living adjustments (COLAs) made since your retirement date	$2,335.00
Recalculated monthly benefit (starting September 1, 2006). This includes annual COLAs made and COLAs restored by the *Strunk* case through August 1, 2006	$2,346.00

Because your benefit was originally calculated with 20 percent earnings crediting in 1999, you have been overpaid benefits since your retirement date. We calculate the amount of overpayment as follows:

1. We summed up the monthly benefits actually paid and projected to be paid to you with no *Strunk / Eugene* adjustments from your retirement date of April 1, 2000 to the recalculated payment start date of September 1, 2006.

2. We then used the recalculated account balance for 1999 with earnings at 11.33 percent, compounded that account balance forward to your retirement date, and recalculated your benefit, including all COLAs made and all restored COLAs. This is the amount you should have received based on the revised 1999 earnings crediting from your retirement date of April 1, 2000 to the recalculated payment start date of September 1, 2006.

3. The amount of overpaid benefits you have received since your retirement date is $9,313.00. This is the amount you owe PERS.

You have two options available to pay back the overpayments you received:

1. Submit a lump-sum payment to PERS for the entire amount of $9,313.00 by August 1, 2006. The adjustment will then be limited to the change in your initial account balance at retirement and your monthly benefit will be adjusted to $2,346.00 beginning September 1, 2006.

   If you choose this option, please return the enclosed remittance form with payment in the enclosed envelope. Payment must be received by August 1, 2006.

2. If you choose not to submit the lump-sum payment, PERS will recover the overpayment of $9,313.00 using the Actuarial Reduction Method. We will first adjust your monthly benefit to $2,346.00 due to the change in your initial account balance at retirement. Then, using the Actuarial Reduction Method, we will further adjust your benefit by a reduction of $29.00 per month to $2,317.00. This reduction will continue so long as the benefit is paid to you and any beneficiaries you may have designated at retirement.

As provided by statute, an annual COLA will be applied to your benefit payment each August 1 subsequent to your recalculated payment start date.

For comprehensive information about the *Strunk* and *Eugene* cases, including a frequently asked questions and answers document, visit the PERS website at http://oregon.gov/PERS/.

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

February 24, 2006

MEETING DATE	**2/24/06**
AGENDA ITEM	**D.5.** Legislative

TO: Members of the PERS Board

FROM: Steve Delaney, PERS Deputy Director
Tom Grimsley, PERS Board Member

SUBJECT: 2007 LEGISLATIVE PROCESS UPDATE

The PERS Board's Legislative Advisory Committee met on Friday, February 3, to consider a number of possible legislative concepts that would meet the Board's stated objective of plan simplification.

The committee considered a number of plan simplification concepts as outlined in the attached January 27, 2006 memo.

LEGISLATIVE CONCEPTS

With the understanding that there would be opportunities later in the process to express concerns or opposition, and recognizing that the concepts may not all pass the principles previously laid out by the committee, the members approved further staff development of the concepts with the following comments:

1. **Eliminate the two-year requirement for the Equal-To-or-Better-Than (ETOB) plan comparison study**. – There was general consensus in support of this concept among the committee members.
2. **Change the ETOB standard against which police and fire plans outside of PERS are measured, with OPSRP being the present standard.** – Labor representatives did not see any value in measuring against the lower benefits of the new OPSRP plan. Employer representatives were not convinced of the need for a change in standard. PERS staff will investigate whether the standard can be adjusted through the administrative rule process as an alternative.
3. **Eliminate the "earned when earned" final average salary provision**. – Reverting to a single final average salary definition ("earned when paid") would bring simplicity. Employer representatives were divided on this issue, and would like to see further development from PERS staff.
4. **Eliminate the "break in service" provisions**. - The committee was generally supportive of this concept, but want to see what impact this might have on employer contribution rates. PERS staff is working with MERCER Inc to determine a fiscal impact.

5. **Modify the definition of salary to a single standard.** – The committee approved PERS staff fleshing this concept out in greater detail, but were very cautious regarding such a significant change. PERS staff cautioned that this project might be so large it may be necessary to introduce this concept as a placeholder to allow for further development by PERS staff through the spring months.

Steve Manton, City of Portland suggested a sixth concept. The committee supported further development of his suggestion to **amend the death benefit for OPSRP members**. Presently the benefit is only payable to a member's spouse. Mr. Manton recommends that be changed to a member's beneficiary.

ADMINISTRATIVE RULES

In addition, the committee directed that two other issues identified as possible legislative concepts be pursued instead through the administrative rules process:

1. **Defining if a withdrawal from PERS Tier 1 and 2 should also trigger a withdrawal from the Individual Account Program (IAP).**
2. **Defining whether a retiring police offer or firefighter must do so "immediately" upon separation, or simply without any other intervening work segment prior to retirement.**

HOUSEKEEPING CONCEPT

Finally, the committee concurred with PERS staff that a housekeeping concept could be added to any PERS bill that may be introduced by the PERS Board:

1. **Change the term "Notice of Contest" to "Notice of Challenge"** in order to avoid confusion on the part of members between the court challenge to a Notice of Entitlement and the contested case process.

FUTURE MEETINGS

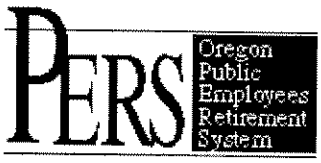
The committee will meet again on Friday, March 3, to review draft language for each concept, as well as considering any fiscal impacts.

Following input from the committee, PERS staff will further refine the proposed draft language, for additional review and comment by the committee on the morning of March 31, prior to the PERS Board's consideration of those concepts later that same day.

Any concepts approved by the PERS Board on March 31 would then be submitted to the Department of Administrative Services for review, as per the official timeline:

THE 2007 SESSION TIMELINE

April 3, 2006 – 5:00 PM	Last day to submit concepts to DAS for review and approval.
June 1, 2006 – 5:00 PM	Last day for DAS to submit concepts to Legislative Counsel for drafting.
July 14, 2006 – 5:00 PM	Last day for agencies to submit additional information necessary for drafting.
November 1, 2006 - 5:00 PM OR fourteen calendar days after the date on the draft – **whichever is sooner**	Deadline for requesting a revised draft.
December 15, 2006- 5:00 PM	Deadline for Governor to pre-session file agency bills.
January 8, 2007	Session begins



MEMORANDUM

To: PERS Board's Legislative Advisory Committee

From: Steve Delaney, PERS Deputy Director

cc: Tom Grimsley, PERS Board Member;
Paul Cleary, PERS Executive Director

Date: January 27, 2006

Re: Legislative Concepts for Consideration

Next Friday, February 3, 2006, PERS staff will present a number of concepts to the Legislative Advisory Committee (LAC) for consideration. PERS staff is looking to find ways to simplify the administration of the PERS plan, with the goal of simplifying not only the PERS administrative aspect of the plan, but more importantly assisting members to better understand the plan provisions as well as simplifying employer administrative duties.

At the January 5, 2006 meeting of the LAC, five basic standards were determined to be necessary in filtering any concepts for possible legislative introduction:

1. The concept must simplify the current plan;
2. The concept cannot increase or reduce member benefits;
3. The concept cannot increase employer costs;
4. The concept cannot produce a high administrative cost for PERS;
5. If the concept outcome can be accomplished through the administrative rule process, pursue that process, rather than introduce legislation.

PERS staff has reviewed eight basic concepts. Though not meeting all of the filtering standards, because of the gains that could be obtained through each concept due to simplification we want to share them with the committee for discussion and consideration.

LEGISLATIVE CONCEPTS

The first concept meets all five standards:

Equal-To-Or-Better Plan Review - Frequency

The Board is required to review a benefit plan outside the PERS plan that is applied to police officers and firefighters every two years and to determine if the plan provides benefits equal to or better than the benefits that would be provided under the Oregon Public Service Retirement Plan (OPSRP).

Plan Simplification Ideas:

- Reduce the frequency of mandated Board review. Increase the number of years between mandated reviews.
- Tie the requirement of review to a different standard, i.e., whenever a major change to the benefit structure of the outside plan or OPSRP occurs. An alternative standard is upon the adoption of new actuarial equivalency factors

---

The following concepts, though meeting the standard of simplicity, are not necessarily neutral when it comes to either member benefits or employer costs:

Equal-To-Or-Better Plan Review - Standard

The Board is required to review a benefit plan outside the PERS plan that is applied to police officers and firefighters every two years and to determine if the plan provides benefits equal to or better than the benefits that would be provided under the Oregon Public Service Retirement Plan (OPSRP).

Plan Simplification Ideas:

- Use a different standard for the equal to or better comparison to the outside plan. Instead of OPSRP use a national standard, the PERS Chapter 238 Program, or another alternative standard.

♦♦♦♦

Earned When Earned/Earned When Paid

The jClarety electronic employer reporting system (EDX) is programmed to accept payroll information on a "when paid" basis. With the passage of 2005 legislation the definition of Final Average Salary (FAS) is "when paid" for all PERS Chapter 238 and OPSRP Pension members except those PERS Chapter 238 Tier Two and OPSRP Pension members who are employed by local government employers. The definition of FAS for those members remains "when earned." A workaround is used to allow reporting of this payroll information. Future changes to EDX are planned to allow reporting of salary "when earned."

Plan Simplification Idea:

Use the "when paid" definition of FAS for all PERS Chapter 238 and OPSRP Pension Program members.

Eliminate "Break in Service"

Legislation in 2003 and 2005 established, altered, and added criteria for determining whether a PERS Chapter 238 Program member has incurred a "Break in Service." The multiple criteria and the retroactive application of some criteria make the determination administratively burdensome.

Plan Simplification Idea:

Eliminate the concept of a "Break in Service." Return to the PERS Chapter 238 Program loss of membership and vesting standards. If membership in the PERS Chapter 238 Program is terminated, then all future employment will be as an OPSRP member. If a PERS Chapter 238 Program member is vested, they will remain a PERS Chapter 238 Program member for all future employment.

Modify Definition of Covered Salary

Currently the 238 Program and 238A each have their own definition of salary. The definitions have many additions and exclusions, making reporting by employers complicated and confusing.

OPTIONS

- Use the federal income tax definition of wages.
- Use the federal FICA tax definition of wages.
- Use the Oregon Revised Statue definition of wages for state income tax purposes.

DISCUSSION

Using one definition of salary for both programs will help streamline administration of both programs. The employers are already familiar with all three proposed options and are already required to calculate these amounts for reporting on the employees' Form W-2s. Using one of these concepts will make employer reporting for PERS less complex and confusing. The following table contains examples of the current definitions and what would or would not be included in each of the three proposed definitions.

[**Note**: This chart is in draft form and is for discussion purposes only, PERS staff will need to perform additional research to complete all the sections of this table.]

	238 Plan	**238A Plan**	**Fed Inc Tax**	**FICA**	**OR Inc Tax**
Payments of EE and ER money into non-qualified Def Comp Plan	YES	YES	YES	YES	YES
Payments of EE and ER money into a qualified IRC 457(b) Def Comp Plan (i.e. OSGP)	YES	YES	NO	YES	NO
Contributions to TSA or Deferred Annuity	YES	YES	NO	YES	NO
Wages of deceased member paid to a surviving spouse or dependent children in the calendar year of death	YES	YES	NO	YES	
Wages of deceased member paid to a surviving spouse or dependent children after calendar year of death	YES	YES	NO	NO	
Travel or other expenses incidental to ER's business that is reimbursed under an accountable reimbursement plan (i.e. use IRS per diem – the State uses an accountable plan)	NO	NO	NO	NO	NO
Travel or other expenses incidental to ER's business that is reimbursed under a nonaccountable reimbursement plan	NO	NO	YES	YES	
Payments for insurance coverage by an ER on behalf of EE or EE and dependents, for which the EE has no cash option	NO		NO	NO	
Payments (not wages) made on account of member's death	NO	NO		NO	
Any lump sum payment for accumulated unused sick leave	NO	NO		YES	YES
Any lump sum payment for accumulated unused vacation leave or other paid leave	YES	NO	YES	YES	YES
Severance payments	YES	NO		NO	YES

Any accelerated payment of an employment contract for a future period or an advance against future wages	NO	NO			
Any retirement incentive, retirement severance pay, retirement bonus or retirement gratuitous payment	NO	NO			
Payments for periods of leave of absence after the date the ER and EE have agreed that no future services qualifying pursuant to ORS 238.015(3) will be performed, except for sick and vacation pay	NO	N/A			
Payments for periods of leave of absence after the date the ER and EE have agreed that no future services in a qualifying position will be performed	N/A	NO			
Payments for instructional services rendered to institutions of the OUS or OHSU when such services are in excess of full-time employment subject to this chapter	NO	NO	YES	YES	YES
Payments made by an ER for insurance coverage provided to a domestic partner of an EE when the domestic partner is also the EE's dependent	NO	YES	NO	NO	
Payments made by an ER for insurance coverage provided to a domestic partner of an EE when the domestic partner is not the EE's dependent	NO	YES	YES	YES	
Contributions to a cafeteria plan or qualified transportation fringe benefit plan under IRC 125 or 132	YES	YES	NO	YES	NO
Contributions to a cash or deferred arrangement by the ER at the election of the EE	YES	YES	NO	YES	NO
IAP EE contributions paid by ER and deducted from compensation	YES	YES	NO	NO	NO
IAP EE contributions paid by ER and not deducted from compensation	NO	NO	NO	NO	NO
IAP EE contributions paid by EE	YES	YES	NO	NO	NO

The following concepts can be cared for through the administrative rule process:

Withdrawals

Members may withdraw from separate programs at different times. A request by a PERS Chapter 238 Program member to withdraw their member account is deemed to be a request to withdraw any vested interest the member may have in the OPSRP Pension and Individual Account Programs unless otherwise stated by the member. A request by a member to withdraw only their Individual Account Program is not considered to be a request to withdraw their PERS Chapter 238 Program member account.

Plan Simplification Idea:

Establish that a member who wishes to withdraw from any program must withdraw from all programs at the same time. A withdrawal from one program is a withdrawal from all.

Police and Fire

Plan Simplification Idea:

In the OPSRP Pension Program, regarding eligibility for retirement as a Police and Fire (P&F) member, clarify what is meant by holding a position as a police officer or firefighter continuously for a period of five years "immediately before/preceding (both terms are used in different sections) the effective date of retirement." Must separation from P&F employment be the day before the effective retirement date? What time period between separation from P&F employment and the effective retirement date, if any, satisfies the "immediately before/preceding" standard?

The following concept is purely housekeeping in nature, it is not of sufficient importance to merit introduction on its own, however we would suggest that it be added as a writer to any bill that may come out of this committee:

Notice of Contest

Retirees who dispute the accuracy of the information used to calculate their retirement benefit may file a Notice of Contest, frequently confused with an appeal of a staff determination or a contested case.

Plan Simplification Idea:

Change the term "Notice of Contest" to another term less likely to cause confusion, such as "Notice of Challenge."

CONCLUSION

PERS staff has not developed fiscals nor produced draft language for any of the above concepts. Our goal on Friday is to discuss the concepts with you and determine if the committee is interested in having PERS staff spend the time and resources to further develop the concepts. Those concepts approved by the committee for further development will be returned to the committee at its meeting of February 3, 2006 for consideration of draft language and fiscal impacts if known at that point in time. Following committee input final drafts will be presented to the committee at it's meeting of March 31, 2006, prior to the PERS Board's consideration of the concepts at it's meeting later that same afternoon.

Please keep in mind that passing concepts onto the PERS Board for consideration on March 31, 2006 is only the beginning of the process. There will still be additional opportunities for the committee as well as for the Board to consider these concepts and determine if they will ultimately be introduced during the 2007 legislative session.

Any concepts approved by the PERS Board on March 31, 2006 will be forwarded to the Department of Administrative Services for consideration and approval by the Governor's Office. If approved those concepts will in turn be forwarded to the Office of Legislative Council for drafting. Those initial drafts will then be further reviewed by the LAC late this spring or early summer. If the LAC ultimately approves those drafts prepared by Legislative Council, they will be forwarded on to the PERS Board with a recommendation to pursue as PERS Board introduced bills. The Board will give final approval sometime in the late fall of this year.

Please feel free to call me at anytime [(503) 603-7694] with questions or concerns you may have on these or any other concepts you may wish the committee to take under consideration.