

## FAQs: Oregon Supreme Court Decision on 2013 Legislation Impacting PERS

### Q1: What was challenged in the Oregon Supreme Court?

Two provisions of 2013 legislation, changes in the annual cost-of-living adjustment (COLA) and eliminating the tax remedy for those who do not pay Oregon state income tax because they do not reside in Oregon, were challenged in the Oregon Supreme Court.

On April 30, 2015, the Oregon Supreme Court announced a decision that upheld elimination of the tax remedy payments to non-residents. The COLA reductions were declared unconstitutional as applied to benefits earned prior to those bills' respective effective dates. However, the reduced COLA could be applied to the benefits earned after the bills became effective.

The Court also voided the supplementary payment program, which was part of the challenged legislation.

### Q2: What did the 2013 legislation do to the COLA?

Senate Bill 822 (2013) and Senate Bill 861 (2013 Special Session) reduced the annual COLA to be applied to benefit payments. Previously, the COLA was capped at 2% annually and tied to changes in the Portland Consumer Price Index. These bills reduced the maximum COLA to, eventually, 1.25% on the first \$60,000 of benefits annually and 0.15% for amounts over \$60,000. Additionally, SB 861 provided an annual supplementary payment to benefit recipients over six years, starting in 2014.

### Q3: What does this mean for current benefit recipients?

Benefit recipients whose benefits are based on an effective retirement date of May 1, 2013, or earlier are entitled to restoration of their COLA under the prior rules: 2% annual cap tied to the Portland Consumer Price Index (CPI). Note that index adjustments above and below the 2% cap are “banked” for future years.

Benefit recipients whose benefits are based on an effective retirement date of June 1, 2013, or later may have a blended COLA rate based on when their benefit was earned in relation to the effective dates of Senate Bill 822 and Senate Bill 861.

This blended COLA methodology presents administrative complications in that it applies the revised COLA tables prospectively, and the allocation method was not clear. PERS is working to clarify the Court's direction on how to administer that blended COLA.

The table below shows the affected populations (as of May 1, 2015) among those whose benefits will be completely subject solely to the prior COLA rules and those who may receive some sort of blended COLA:

Effective Retirement Date	5/1/13 or earlier	6/1/13 or later
<b>COLA Formula</b>	+ 2%, tied to Portland CPI	Blended + 2% with SB 822/SB 861
<b># of benefit recipients as of 5/1/15</b>		
<b>Tier One / Tier Two</b>	120,389	9,734
<b>OPSRP</b>	871	825

**Q4: When will PERS restore the COLA amount?**

Consistent with the agency's mission to pay the right person the right benefit at the right time, our top priority is to restore benefits to the proper level as determined by the Court. To that end, a project team has been enlisted to accomplish these goals:

1. Pay a 2% COLA to all benefit recipients effective July 1, 2015 (payable on August 1, 2015). Although this COLA will not be the precisely correct amount, as it will be on the recipient's current benefit and not be allocated for those who will receive less than 2% COLA in the future, this takes a large step towards restoring recipients to the correct benefit amount.
2. Calculate the amount owed to those benefit recipients (~119,000) who retired on or before May 1, 2013, and are not affected by the legislation. Our goal is to pay that group by October 30, 2015. The method of payment would be consistent with that currently selected by each benefit recipient (automatic deposit or paper check). We will also be resetting each benefit recipient's compounded COLA and current year COLA so the benefit payment received beginning November 1, 2015 will be correct.
3. Calculate the amount owed to those benefit recipients (~10,000) who retired after May 1, 2013, and are affected to some degree by the legislation. Our goal is to pay that group by the end of February 2016, again using the same method of payment currently selected by each benefit recipient (automatic deposit or paper check). We will also recalculate the monthly payment (including COLA) for these benefit recipients so the benefit payment made going forward is correct.
4. Assess the need to recalculate retirement benefits for those who retired between January 1, 2014, and June 1, 2015, and chose a survivorship option as the actuarial equivalency factor (AEF) used a COLA assumption based on the legislation. About 4,000 retirements will need to be reviewed if the revised AEFs have a material effect on the benefit calculation.
5. Issue payments to those benefit recipients who are now deceased but are owed a restored COLA (~6,500).

**Q5: Will PERS pay interest on the COLA amount that was withheld by legislation?**

Statute (ORS 238.470) does not allow interest to be paid.