



**OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM
BOARD MEETING AGENDA**

Friday February 1, 2019 10:00 A.M.	PERS 11410 SW 68th Parkway Tigard, OR
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	ITEM	PRESENTER
A. Administration		
1.	December 7, 2018 Board Meeting Minutes	SHENOY
2.	Director's Report	OLINECK
	a. Forward-Looking Calendar	
	b. OPERF Investment Report	
	c. Budget Execution Report	
	d. Annual Report of Director's Financial Transactions	STANLEY
3.	OSGP Advisory Committee Appointments	SMITH
B. Administrative Rulemaking		
1.	Notice of Waiting Time Purchases Rule	VAUGHN
2.	Notice of Military Purchases Rule	
3.	Notice of IRC and Social Security Limitations Rules	
C. Action and Discussion Items		
1.	Legislative Preview/Update	TAYLOR
2.	SB 1566 Reporting Requirements	SOSNE
3.	Preliminary 2018 Earnings Crediting and Reserving	WILLIAMS, MARBLE
4.	Update Reflecting on Earnings through December 31, 2018	MILLIMAN

Public testimony will be taken on action items at the Chair's discretion.

Please contact 503.603.7785 to notify staff of your request to provide testimony at the meeting or submit written testimony to PERS.Board@state.or.us (three days in advance of the meeting is preferred.)

<http://www.oregon.gov/PERS/>

2019 Meetings: February 1 April 1* May 31 July 26* October 4 December 6* *Audit Committee

Stephen Buckley Steve Demarest Lawrence Furnstahl, Vice Chair Christelle deAsis Sadhana Shenoy, Chair Kevin Olineck, Director

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING MINUTES

December 7, 2018

Board members present:

Chair Sadhana Shenoy, Stephen Buckley, Christelle deAsis, and Steve Demarest were present.

Staff present:

Alyse Greer, Elizabeth Rossman, Jessica Williams, Janice Richards, Jason Stanley, Jordan Masanga, Katie Brogan, Kevin Olineck, Linda Barnett, Louise Plata, Marjorie Taylor, Matt Rickard, Neil Jones, Stephanie Vaughn, Yong Yang, Yvette Elledge-Rhodes

Others present:

Amy Lundy Crooks, Carol Samuels, Claire Havener, Deborah Grabler, Greg Hartman, Jeff Gudman, John Borden, Jennifer Cooperman, Josh Eggleston, Michelle Morrison, Nancy Brewer, Nate Carter, Ray Hubbell, Samantha Nalyan, Scott Preppernau, Scott Winkels, Tahni Fagerberg, Ted Sickinger, Tim Nesbitt

Chair Sadhana Shenoy called the meeting to order at 10:00 a.m.

ADMINISTRATION

A.1. MEETING MINUTES OF OCTOBER 5, 2018

Board member Buckley moved to approve the minutes submitted from the October 5, 2018 Board meeting. Board member Demarest seconded the approval of the minutes. The motion passed unanimously.

A.2. BOARD GOVERNANCE ASSIGNMENTS

Chair Shenoy moved to accept the proposed assignments as presented. Board member deAsis seconded the Governance Assignments. The motion passed unanimously.

A.3. DIRECTOR'S REPORT

Director Kevin Olineck presented the newly created Director's Report. The objective of the report is to highlight items that are not directly agenda items but are important to bring to the attention of Board members so that they have a more fulsome view of the agency.

Olineck presented the forward looking calendar. 2019 Board meetings will begin at 10:00am. John Skjervem, Chief Investment Officer for the Oregon Investment Council (OIC) will provide an update on the OPERF and OSGP funds at the April 1, 2019 PERS Board Meeting.

The Oregon Public Employees Retirement Fund (OPERF) returns for the period ending October 31, 2018 were 1.51% which is down significantly from the 4.63% previously presented.

Olineck presented the Budget Execution Report. The current projected positive variance is approximately 4% of the operations budget. There are some outstanding December Emergency Board requests that will bring down this variance.

Board member Buckley asked Director Olineck to speak about the budget requests that the board approved and the Governor's Recommended Budget. Olineck explained that the state reviews the budget after the board and then they recommend changes. The client relationship management system and personnel were items not included in the recommend budget. Going forward PERS will improve the business cases and provide additional facts and data. From an enterprise view,

Olineck expects to get approval for what is needed to ensure current service levels and some capital for improvements, including a study on enterprise architecture.

Matt Rickard and Jason Stanley of PERS' Outcome-Based Management System (POBMS) Council presented the Board Scorecard Report on Agency Performance Measures. The Agency Fundamentals Map is in the process of being updated to reflect changes in the agency since it was developed.

Rickard presented the Board Scorecard Report third quarter 2018, performance measures. 44 of the 73 measures are in the green range where performance is at or above acceptable levels. For all measures that were in the red two quarters in a row, action plans were developed. After a period of tracking these measures they are given a closer look to determine roadblocks.

The next scorecard will be presented May 31, 2019.

ADMINISTRATIVE RULEMAKING

No rules were presented.

ACTION AND DISCUSSION ITEMS

C.1. LEGISLATIVE UPDATE

Marjorie Taylor, Senior Policy Director, presented.

PERS will make two requests of the Emergency Board during Legislative Days next week. First, is a request to increase Other Funds limitation to address a reporting and contract change with the Oregon Savings Growth Plan (OSGP). Second, is a request for an increase in Other Funds limitation and the establishment of two full-time positions to address data privacy work and the Continuity and Disaster Recovery Program.

PERS has requested that the Governor pre-session file one agency bill Legislative Concept 565 (10/15/18) to resolve implementation issues with [Senate Bill 1566 \(2018\)](#). This may not be the last draft of this bill.

C.2. UNCLAIMED MORO ACCOUNTS

Yvette Elledge-Rhodes, Deputy Director, presented.

The *Moro* project ended last year. PERS originally reported that they would coordinate with Oregon Department of State Lands (DSL) to add the unclaimed *Moro* accounts to their unclaimed property program so potential recipients could still claim the payment through their process if they do not respond directly to PERS.

DSL reported that they are not able to take these types of accounts since the funds are not transferred to them. PERS has decided to make the list of unclaimed *Moro* deceased accounts available on the PERS website. There are 4,000-4,500 unclaimed accounts. Specific instructions for potential recipients to apply for these funds will be posted on the PERS website. There are also a number of unclaimed death benefits which may go online in the future.

Historically PERS has used DSL for Loss of Membership (LOM) accounts only. Going forward these accounts will not be transferred to them. Demarest asked if the DSL would post a link on their website directing them to the PERS website. PERS will make this request.

C.3. IAP TDF IMPLEMENTATION UPDATE

Yvette Elledge-Rhodes, Deputy Director, presented.

The OIC's move to Target-Date Funds (TDFs) continues to be integrated into IAP operations through project methodology. PERS has received daily files from Voya to reconcile the data.

PERS was granted one permanent, full-time Accountant 4 at the September Emergency Board. This position will implement the accounting foundation to support the IAP and act as the primary, senior investment accountant for the TDF reporting model. One additional full-time position has been requested in the proposed 2019-2021 budget to assist the Operations Division with reconciling data received from Treasury.

After reviewing technology requirements for implementation, it was determined that the \$200,000 PERS was allocated earlier this year is sufficient for operations.

PERS has planned and implemented a variety of communication strategies to keep members informed of the move to TDFs.

C.4. ACTUARIAL FINANCIAL MODELING PRESENTATION

Scott Preppernau of Milliman presented long-term financial modeling projections reflecting published investment results through October 31, 2018. These included system average contribution rates, system funded status, and system unfunded actuarial liability. No Board action was required.

Shenoy adjourned the Board meeting at 10:58 a.m.

Respectfully submitted,



Kevin Olineck, Director



OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM DIRECTOR'S REPORT

KEVIN OLINECK, DIRECTOR

AT A GLANCE

WELCOME TO 2019

Welcome to 2019 and the second edition of the PERS Director's Report. As noted, the intent of this report is to provide the PERS Board with a high level overview of work currently being undertaken by PERS staff, or issues that the board should be aware of that are not highlighted or discussed as distinct agenda items at this meeting.

In that vein, the primary purpose of this Director's Report is to provide information on a proposed reorganization within the agency.

PROPOSED AGENCY REORGANIZATION

As a new Director coming into this organization, I bring a new perspective on how to further refine the structure of this agency to best achieve its goals and objectives, and to positively impact our ability to deliver on the PERS Mission. Furthermore, given the addition of a Chief Financial Officer in September, and the shift to a more enterprise focused mandate for the Deputy Director, it is timely to make changes to the current organizational structure.

As Director, I believe we need to create an environment that enables staff to work to their best capacity with the resources we have available. In order to do so, it is imperative we take an enterprise view of the work we do, so that staff members' expertise and skill sets can be adopted consistently across the whole organization, and not remain in pockets, or silos. This is where the idea of Centers of Excellence comes into play, and establishing this model is the primary desired outcome of this reorganization.

The Centers of Excellence model is not a new concept. Many entities already employ this model in an effort to lead their organizations in specific focus areas toward predetermined goals. The goal of the process-driven reorganization of the Operations Division in 2014, and of this one, are much the same—to combine people and resources to improve expertise in certain areas. It also enables PERS to make the most of available skills and resources to help the agency improve. In fact, it is not a stretch to say that this reorganization supports and builds on the previous restructuring, as it expands these concepts beyond the Operations Division.

We have an ambitious Strategic Plan and our agency's structure is critical to supporting that strategy. We need to ensure all divisions have the appropriate focus on achieving success and understanding

their division's contribution to that success. To that end, we hope that the move to the Centers of Excellence model will enable us to create broad organizational efficiencies and support easier adoption of best practices and process improvements.

CENTERS OF EXCELLENCE STRUCTURE



This new structure will establish clear lines of responsibility and define the best pathways to enhance our processes, systems and service. As a result, outcomes on key goals should improve as the focus is sharper on where and how we can better deploy our efforts to fulfill our Mission and Vision.

Further, this new structure will enable us to better serve key stakeholders (plan members, employers, and staff) and strengthen accountability for end-to-end processes, while supporting better coordination of activities across the agency.

So what does this mean at the tactical and operational level?

At the Executive level, we will be splitting the current role of Deputy Director/Chief Operating Officer into two distinct positions while eliminating the current role of Chief Administrative Officer.

PROPOSED AGENCY REORGANIZATION, CTD
CHANGE MANAGEMENT

By the end of this biennium (June 30), there will be approximately 30 staff who will move between divisions and begin to form Centers of Excellence. Examples of the staff skill sets forming Centers of Excellence include information technology development, business analysis, policy and administrative rules development and maintenance, and portfolio and project management. The shift to combining communications staff already took place in August 2018 when Elizabeth Rossman became the Communications Officer within the Director's Office.

We have built out strong change management and communications plans to support this change. Management staff were advised of these changes in mid-January and will be followed by face-to-face sessions with staff of impacted areas. Human Resources Staff are working on updating relevant position descriptions while our facilities group is working through the logistics associated with the staff moves.

We are working with the Legislative Fiscal Office and the Department of Administrative Services Chief Finance and Corporate Human Resource Offices in preparing the appropriate documentation. These steps will facilitate obtaining approval as part of the 2019 Legislative Session processes with an effective date of July 1, 2019, the start of the 2019-21 biennium.

STAFF SUPPORTED EVENTS

MARINE CORPS RESERVE TOY DRIVE

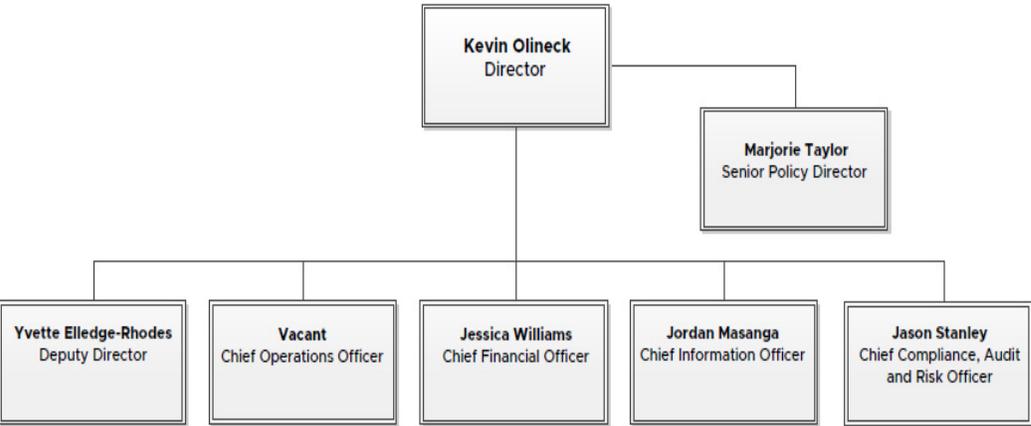
A long-standing tradition at PERS, staff showed overwhelming support by contributing over 200 toys to this year's Toys for Tots drive. We are grateful to the Drive coordinators in Tigard, Tualatin, and Salem who made this such a success.

CARING TREES SUPPORTING THE OREGON STATE HOSPITAL PATIENTS

There were Caring Trees located in both the PERS headquarters and Tualatin office. Each tree contained gift tags staff could remove to fill the wishes of patients in need at the Oregon State Hospital. If not for the generosity of PERS staff, patients at the hospital would not have received any gifts.

2018 SWEATSHIRT AND COAT DRIVE

Integrity Staffing in Tualatin sponsored their third-annual Sweatshirt Drive. These donations helped homeless people in the local areas of Beaverton, Canby, Tualatin, and Woodburn. Staff donated either new clothing or went through their closets donating any gently used winter clothing/outerwear sweatshirts, coats, mittens, sweaters, and hats for men, women, and children that they were no longer wearing. Please see attached link to understand the positive impact (which includes a few PERS staff): <https://www.youtube.com/watch?v=6my2D-nJICE>



A CULTURE OF COMMUNITY

In many ways, the culture of an organization is shaped by how staff come together to support others. A culture of community is one that seeks to improve both the internal "working" community as well as the external community within which we live and work. Below are a few examples of how this strong culture of community is embedded within the organization - highlighting activities that occurred as a build up to the holiday season to help the less fortunate.



PERS Board Meeting Forward-Looking Calendar

Monday, April 1, 2019*

Final 2018 Earnings Crediting and Reserving
2019 Legislative Session Update
Oregon Investment Council Performance Review - John Skjervem
Overview of Actuarial Methods & Economic Assumptions

Friday, May 31, 2019

2019 Legislative Session Update
Board Scorecard Report on Agency Performance Measures
OSGP Advisory Committee Appointments
2020 Retiree Health Insurance Plan Renewals and Rates
Overview of Actuarial Methods & Economic Assumptions

Wednesday, June 1, 2019 (Joint Meeting with OIC at Treasury)

Overview of Assumption Setting
Cash Flow Dynamics

Friday, July 26, 2019*

2019 Legislative Session Review
Strategic Plan Update
Adoption of Valuation Methods & Assumptions including Assumed Rate of Return
Adoption of Assumed Rate Oregon Administrative Rule

Friday, October 4, 2019

Member & Employer Survey Results
System Valuation Results – Advisory Employer Rates

Friday, December 6, 2019*

Board Scorecard Report on Agency Performance Measures
Valuation Update and Financial Modeling Results
Adoption of Actuarial Equivalency Factor Tables

*Audit Committee planned for post-Board meeting

Returns for periods ending DEC-2018

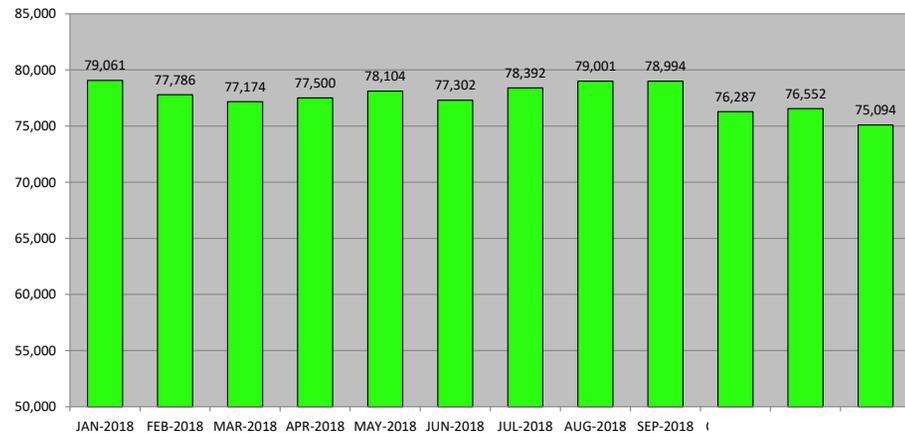
Oregon Public Employees Retirement Fund

OPERF	Regular Account			Historical Performance (Annual Percentage)								
	Policy ¹	Target ¹	\$ Thousands ²	Actual	Year-To-Date ³	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS	7 YEARS	10 YEARS
Public Equity	32.5-42.5%	37.5%	\$ 24,394,816	33.7%	(10.47)	(10.47)	5.56	6.95	4.71	4.43	9.17	10.39
Private Equity	13.5-21.5%	17.5%	\$ 16,037,715	22.1%	18.15	18.15	17.73	13.78	12.12	12.87	13.56	11.66
Total Equity	50.0-60.0%	55.0%	\$ 40,432,530	55.8%								
Opportunity Portfolio	0-3%	0%	\$ 1,637,031	2.3%	5.85	5.85	8.13	7.46	6.10	6.64	9.42	11.41
Total Fixed	15-25%	20.0%	\$ 15,293,214	21.1%	0.25	0.25	1.97	2.34	1.89	2.21	3.16	6.28
Real Estate	9.5-15.5%	12.5%	\$ 8,124,547	11.2%	8.03	8.03	9.03	8.65	8.96	9.98	10.90	7.70
Alternative Investments	0-12.5%	12.5%	\$ 6,720,344	9.3%	(2.44)	(2.44)	2.79	4.05	1.89	2.40	2.43	
Cash w/Overlay	0-3%	0%	\$ 249,308	0.3%	2.02	2.02	1.68	1.52	1.26	1.11	1.13	1.12
TOTAL OPERF Regular Account		100.0%	\$ 72,456,974	100.0%	0.48	0.48	7.68	7.49	6.09	6.33	8.72	9.46
OPERF Policy Benchmark					1.22	1.22	8.19	8.44	6.68	6.99	9.51	9.37
Value Added					(0.73)	(0.73)	(0.51)	(0.95)	(0.59)	(0.66)	(0.79)	0.09
Target Date Funds			2,169,445									
TOTAL OPERF Variable Account			\$ 467,522		(9.66)	(9.66)	6.00	6.91	4.67	4.57	8.84	10.02

Asset Class Benchmarks:

Russell 3000				(5.24)	(5.24)	7.14	8.97	6.78	7.91	12.46	13.18	
OREGON MSCI ACWI EX US IMI NET				(14.76)	(14.76)	4.38	4.39	2.07	0.85	5.07	6.97	
MSCI ACWI IMI NET				(10.08)	(10.08)	5.57	6.49	4.25	4.17	8.44	9.74	
RUSSELL 3000+300 BPS QTR LAG				21.06	21.06	21.64	20.54	15.75	16.83	20.33	15.66	
OREGON CUSTOM FI BENCHMARK				0.31	0.31	1.80	2.04	1.57	1.86	2.57	3.78	
OREGON CUSTOM REAL ESTATE BENCHMARK				7.71	7.71	7.20	7.76	9.16	9.58	9.98	6.42	
CPI +4%				5.98	5.98	6.08	6.11	5.77	5.57	5.60	5.83	
91 Day Treasury Bill				1.87	1.87	1.36	1.02	0.78	0.63	0.47	0.37	

Total OPERF NAV
(includes Variable Fund asset)
One year ending DEC-2018
(\$ in Millions)



¹OIC Policy revised June 2015.

²Includes impact of cash overlay management.

³For mandates beginning after January 1 (or with lagged performance), YTD numbers are "N/A". Performance is reflected in Total OPERF. YTD is not annualized.



Oregon

Kate Brown, 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.oregon.gov/pers

February 1, 2019

TO: Members of the PERS Board
FROM: Linda M. Barnett, Budget Officer
SUBJECT: February 2019 Board Report

2017-19 OPERATING BUDGET

Operating expenditures for November 2018 and preliminary expenditures for December 2018 were \$3,609,038 and \$3,839,702 respectively. Final expenditures for December closed in the Statewide Financial Management System (SFMS) on January 18, 2019, and will be included in the April 2019 report to the Board.

OPERATING BUDGET NOTES

- To date, through the first 18 months (or 75%) of the 2017-19 biennium, the agency has expended a total of \$67,732,200 or 66.7% of PERS' adjusted legislatively approved operations budget of \$101,577,721.
- The December Emergency Board approved the following:
 - A transfer of \$424,500 from the Operations Division to the Financial and Administrative Services Division for the administration of the Oregon Savings Growth Plan.
 - An increase in budget limitation in the amount of \$119,542, the establishment of two positions (0.50 FTE), and a transfer of \$500,000 of budget limitation between the Information Services and Compliance, Audit and Risk Divisions to facilitate completion of work on the agency's cybersecurity, business continuity, and disaster recovery programs.
- The Department of Administrative Services (DAS) has approved PERS' request from the September 2018 Emergency Board to schedule \$79,291 in the Financial and Administrative Services Division to cover costs associated with establishment of an Investment Accountant 4; this increase will impact limitation in January 2019.
- At this time, the agency's projected positive variance is \$4,282,267 or approximately 4.2% of the operating budget.

2017-19 NON-LIMITED BUDGET

The approved budget includes \$11,073,996,997 in total estimated non-limited budget expenditures. Non-limited budget expenditures include benefit payments, health insurance premiums, and third-party administration payments for both the PERS Health Insurance Program and the Individual Account Program (IAP).

Retirement benefits have exceeded estimated budget; this trend has been offset by an overestimation in health insurance premiums. PERS will request an increase in non-limited budget in March through the DAS Chief Financial Office and the Legislative Fiscal Office.

2019-21 GOVERNOR’S BUDGET

The 2019-21 Governor’s Budget includes a limitation of \$110,852,846 in Other Funds for the operation of PERS. This amount is allocated between the agency’s Divisions in the following manner:

<u>Division</u>	<u>Limitation</u>
Central Administration	\$ 4,692,802
Financial and Administrative Services	30,318,851
Information Services	26,711,780
Operations	40,466,650
Compliance, Audit and Risk	8,662,763
Total Other Funds Limitation	\$ 110,852,846

The Governor’s Budget also includes \$12,493,087,721 in Other Funds non-limited budget for payment of non-limited expenditures and \$100,000,000 from the State General Fund for deposit into the School Districts Unfunded Liability Fund established by section 24, chapter 105, Oregon Laws 2018.

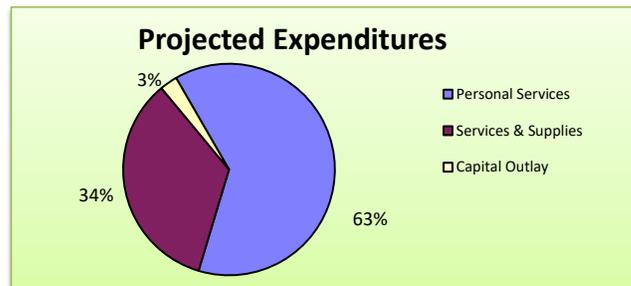
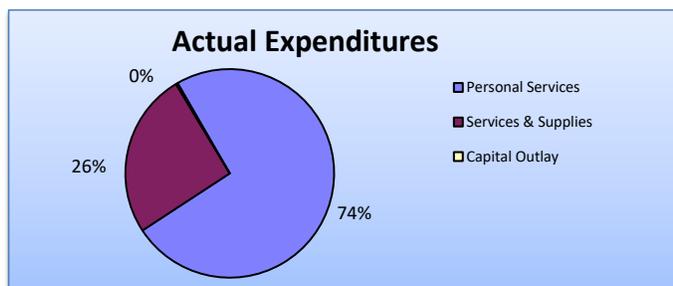
A.2.c. Attachment – 2017-19 Agency-wide Budget Execution Summary Analysis

**2017-19 Agency-wide Budget Execution
Summary Budget Analysis
Preliminary Summary For the Month of December 2018**

Limited - Operating Budget

2017-19 Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expenditures	2017-19 LAB	Variance
Personal Services	50,198,340	18,618,914	68,817,254	73,439,112	4,621,858
Services & Supplies	17,341,235	10,149,230	27,490,465	26,844,257	(646,208)
Capital Outlay	192,625	795,110	987,735	1,294,352	306,617
Total	67,732,200	29,563,254	97,295,454	101,577,721	4,282,267



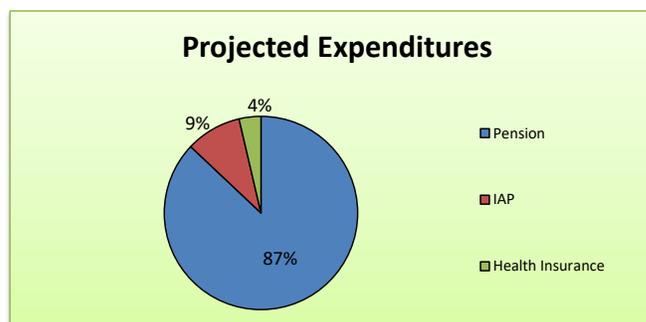
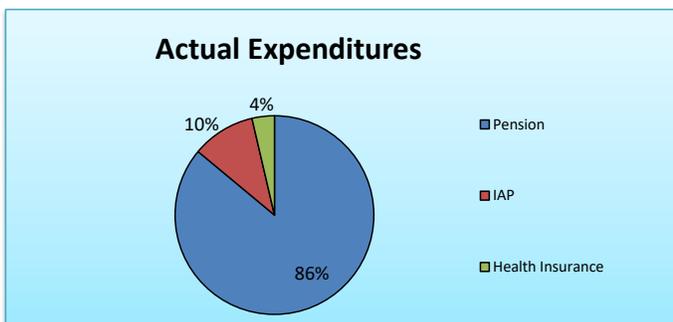
Monthly Summary

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Monthly Projected Exp.
Personal Services	2,917,978	3,078,270	160,292	2,788,797	3,103,152
Services & Supplies	921,724	1,009,628	87,904	963,402	1,691,538
Capital Outlay	0	0	0	10,701	132,518
Total	3,839,702	4,087,898	248,196	3,762,900	4,927,208

Non-Limited Budget

2017-19 Biennial Summary

Programs	Actual Exp To Date	Projected Expenditures	Total Est. Expenditures	Non-Limited LAB	Variance
Pension	6,747,277,609	2,813,648,659	9,560,926,268	9,122,000,000	(438,926,268)
IAP	808,635,981	300,882,740	1,109,518,721	1,056,900,000	(52,618,721)
Health Insurance	285,683,623	117,868,385	403,552,008	815,271,000	411,718,992
Total	7,841,597,213	3,232,399,784	11,073,996,997	10,994,171,000	(79,825,997)





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Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
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P.O. Box 23700
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(503) 598-7377
TTY (503) 603-7766
www.oregon.gov/pers

February 1, 2019

TO: Members of the PERS Board

FROM: Jason Stanley, Chief Compliance, Audit, and Risk Officer

SUBJECT: Review the Annual Report of Financial Transactions of the Executive Director for the fiscal year ended June 30, 2018

REQUESTED ACTION

In accordance with PERS policy and procedure, the Chair of the Audit Committee has reviewed the summary of salary, benefits, personnel expenses, travel, and other financial charges incurred by PERS Executive Director Steve Rodeman in the aggregate amount of \$298,135. This amount covers the period of July 1, 2017, through June 30, 2018. Details of this amount were provided at the December 7, 2018 Audit Committee meeting. The financial records supporting this summary are maintained in the Financial and Administrative Services Division (FASD).

BACKGROUND

Oregon Accounting Manual (OAM) policy number 10.90.00.PO requires boards and commissions to establish a formal structure to ensure the proper review and approval of the agency head's financial transactions. This is supported by PERS policy number 1.01.02.00.001.POL.

The policy requires the Chief Compliance, Audit, and Risk Officer or Chief Administration Officer to review and approve all financial transactions of the Executive Director, including monthly timesheets, travel claims (both in-state and out-of-state), Small Purchase Order Transaction System (SPOTS) card purchases, etc. The policy also requires that the Chair of the Audit Committee report to the Audit Committee, and the PERS Board, annually that they have reviewed the Executive Director's financial transactions, and that their review and approval be documented in the Board meeting minutes. This policy will be updated in 2019 to reflect changes to the organizational structure.

I reviewed and approved the detailed transactions (payroll time reports, travel expense reimbursement claims, and SPOTS card purchases) of the PERS Executive Director for the period of July 1, 2017, through fiscal year ended June 30, 2018, and found no exceptions or inappropriate transactions. During this period, the Executive Director had no exceptional performance leave, but did have a vacation payout upon his retirement effective May 31, 2018, in accordance with state policy.

The PERS Board minutes for this meeting will reflect receipt of this report on the Executive Director's financial transactions for the fiscal year ended June 30, 2018, as submitted by the Chief Compliance, Audit, and Risk Officer in compliance with OAM 10.90.00 PO.



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www.oregon.gov/pers

February 1, 2019

TO: Members of the PERS Board
FROM: Roger Smith, Deferred Compensation Plan Manager
SUBJECT: Advisory Committee Member Appointments for Oregon Savings Growth Plan

OVERVIEW

- Action: Appoint two new members to fill unexpired vacancies to the Oregon Savings Growth Plan (OSGP) Advisory Committee.
- Reason: The Advisory Committee consists of seven members appointed by the PERS Board for fixed terms, and each member serves at the pleasure of the PERS Board.

BACKGROUND

ORS 243.505 provides an Advisory Committee for OSGP that consists of seven members with knowledge of deferred compensation plans. According to that statute and OAR 459-050-0025 (attached), the Committee shall study and advise the Public Employees Retirement Board, upon request, on all aspects of the deferred compensation program, including but not limited to:

- a) The deferred compensation program fee structure and program procedures;
- b) State and federal legislative issues relative to the administration of deferred compensation;
- c) Administration of the catch-up and financial hardship provisions in Section 457 of the Internal Revenue Code;
- d) Ways and Means to inform and educate eligible employees about the deferred compensation program; and
- e) The expressed desires of eligible employees as to the deferred compensation program.

Advisory Committee members must be OSGP participants and have knowledge of the current program. One member shall be retired from state service. Two members shall be participants with separate local government plan sponsors who offer OSGP. Four members shall be employees of separate state agencies. No member shall be an employee of PERS during the term of appointment. No two members shall be employed by the same state agency or local government plan sponsor.

Appointment is for three years except in the case of a vacancy during an unexpired term, in which case the Board's appointment will become immediately effective for the unexpired term. A member is eligible for reappointment, but no person shall serve more than two consecutive full terms.

Currently, the Advisory Committee includes the following members:

OSGP Advisory Committee Appointments

02/01/2019

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Name	Employer/City	Term	Term Ends
Thomas Poon	Department of Consumer & Business Svcs	First	6/30/19
Richard Bailey	Oregon Institute of Technology	Second	6/30/19
Brady Boothe	Oregon State Police	Second	6/30/19
Mark Carlton, Chair	Retiree	Second	6/30/19
Celeste Van Cleave	Central Linn School District	First	6/30/20
Vacant	State position		6/30/19
Vacant	Local Government position		6/30/19

The criteria used in selecting Advisory Committee members includes:

1. Current participation in OSGP;
2. Meeting the qualifications for the vacancy to be filled;
3. Possessing a mixture of expertise, knowledge, and experience useful to the Advisory Committee;
4. Sincere interest in deferred compensation program; and
5. Willing and able to work in a group setting to review and recommend policies governing the program.

RECOMMENDED APPOINTMENTS

Staff recommends Mary Jo Evers from the Ontario School District and Michael Marostica from the Department of Corrections, to fill the vacancies.

BOARD ACTION

The Board's options for appointments to the OSGP Advisory Committee are:

1. Accept the recommendation to appoint Mary Jo Evers and Michael Marostica to fill the vacancies effective immediately.
2. Request staff to solicit further applications for review.

STAFF RECOMMENDATION

Staff recommends the Board adopt Option 1.

- Reason: Staff believe Mary Jo Evers and Michael Marostica meet the criteria and service needs of the Advisory Committee.

ORS 243.505 Deferred Compensation Advisory Committee

- (1) The Deferred Compensation Advisory Committee shall be appointed by the Public Employees Retirement Board, consisting of seven members with knowledge of deferred compensation plans.
- (2) At the direction of the board, the committee shall advise the Public Employees Retirement Board on policies and procedures and such other matters as the board may request.
- (3) The term of office of each member is three years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the board shall appoint a successor, whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.
- (4) A member of the Deferred Compensation Advisory Committee is entitled to compensation and expenses as provided in ORS 292.495.
- (5) The Deferred Compensation Advisory Committee shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the committee determines.
- (6) A majority of the members of the committee constitutes a quorum for the transaction of business.
- (7) The Deferred Compensation Advisory Committee may meet at a place, day and hour determined by the committee. The committee also may meet at other times and places specified by the call of the chairperson or of a majority of the members of the committee. [1991 c.618 §10; 1997 c.179 §19; 1999 c.406 §1]

OAR 459-050-0025

Deferred Compensation Advisory Committee

- (1) The seven members of the Deferred Compensation Advisory Committee provided for under ORS 243.505, shall be subject to the following qualifications and limitations:
 - (a) Each member shall be a participant in a deferred compensation plan established under ORS 243.401 to 243.507, and shall have knowledge of the Program.
 - (b) Four members shall be participants in the state deferred compensation plan.
 - (c) Two members shall be participants in a local government deferred compensation plan.
 - (d) One member shall be a retired deferred compensation plan participant.

(e) No two members may be employed by the same state agency or local government except that a member who transfers employment to the employer of another member may continue to serve on the Advisory Committee, but only for the balance of the term of appointment of the transferring member.

(f) No member may serve more than two consecutive full terms.

(g) No member may be an employee of PERS during the term of appointment.

(2) The Advisory Committee shall study and advise the Board on all aspects of the Program, including but not limited to:

(a) The Program fee structure and procedures;

(b) State and federal legislative issues relative to the administration of deferred compensation plans;

(c) The administration of the catch-up and the financial hardship provisions in Section 457 of the Internal Revenue Code;

(d) Ways and means to inform and educate eligible employees about the Program;

(e) The expressed desires of eligible employees as to the Program; and

(f) The actuarial characteristics of eligible employees.

(3) Upon the request of the OIC, the Advisory Committee shall study and advise the Board on the following:

(a) Investment programs, including options and providers; and

(b) Information furnished by the OIC or the State Treasurer concerning the types of available investments, the respective balance of risk and return of each investment, and the administrative costs associated with each investment.

(4) The Advisory Committee shall meet at least four times during a calendar year.

(5) A majority of the Advisory Committee shall constitute a quorum for transacting business. However, the Advisory Committee may establish such other procedures for conducting business that it deems necessary.

(6) Pursuant to the Public Meetings Law, ORS 192.610 to 192.690, the Deferred Compensation Manager shall distribute to the Advisory Committee, and other interested parties, an agenda for a regular meeting a reasonable time prior to the meeting.

(7) Nominations of candidates for the Advisory Committee shall be made as follows:

(a) Notice of a position on the Advisory Committee expected to become vacant upon the expiration of a term of appointment shall be published not later than April 15 of each calendar year.

(b) Persons interested in serving on the Advisory Committee must apply in writing to the Manager not later than May 15 following the publication of a vacancy.

(c) The Manager shall review the written applications of interested persons for completeness, accuracy, and satisfaction of the minimum requirements of the vacant position on the Advisory Committee.

(d) A committee consisting of the Manager and two members of PERS executive or managerial staff designated by the PERS Executive Director shall review the acceptable applications and recommend to the Board candidates for appointment to the Advisory Committee that:

(A) Reflect a cross section of state agencies, participating local governments, and classification levels;

(B) Reflect a mixture of expertise, knowledge, and experience useful to the Advisory Committee;

(C) Appear to have a sincere interest in the Program; and

(D) Appear to be willing and able to work in a group setting to review and recommend policies governing the Program.

(e) In the event of a vacancy for an unexpired term, the Manager may select applications from the most recent list of interested persons established under subsection (c) of this section and the applications of other persons as deemed appropriate for consideration. A committee consisting of the Manager and two members of PERS executive or managerial staff designated by the PERS Executive Director shall review the selected applications and recommend to the Board candidates for appointment to the Advisory Committee. The appointment shall be immediately effective for the remainder of the unexpired term. If no candidate is recommended or appointed, the vacancy must be filled under the provisions of subsections (a) through (d) of this section.

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.505

Hist.: PERS 2-1993, f. & cert. ef. 9-23-93; PERS 2-1995, f. 10-13-95, cert. ef. 11-1-95; PERS 5-2000, f. & cert. ef. 8-11-00; PERS 3-2007, f. & cert. ef. 1-23-07; PERS 11-2014, f. & cert. ef. 7-25-14



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Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

February 1, 2019

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Notice of Rulemaking for Waiting Time Purchases Rule:
OAR 459-011-0050, *Forfeiture and Restoration of Service Rights*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Clarify that purchase of waiting time employment segment is only allowed if member also purchases the associated forfeited time.
- Policy Issue: None identified.

BACKGROUND

To establish membership in the PERS Chapter 238 Program, Oregon Revised Statutes (ORS) 238.015 requires public employees to first complete a six-month probationary period of employment in a qualifying position (“waiting time”).¹ Chapter 238 Tier One and Tier Two members have the option of purchasing the six-month waiting time at retirement under ORS 238.125 (“waiting time purchase”). This proposed rule amendment clarifies when the waiting time purchase is available if the member has multiple waiting times due to one or more member account withdrawals. Specifically, it clarifies that if a Chapter 238 member terminates membership by member account withdrawal under ORS 238.265, the right to purchase the waiting time associated with that terminated membership is also forfeited, unless the associated forfeited time is restored by voluntary redeposit (238.105) or forfeited time purchase (238.115).

Forfeiture of Membership Rights by Member Account Withdrawal

After completion of the waiting time and establishment of Tier One or Tier Two membership, accounts are created for new members (“member account”). Employee contributions are made to these accounts for the member’s benefit. A member may withdraw their member account and receive all contributions and earnings credited to that account; however, ORS 238.265 provides that members who withdraw their member account terminate their PERS membership.

Membership thus terminated ends all of the member’s rights in the system, including the right to claim credit for any employment before the withdrawal.

Because the waiting time served prior to the withdrawal is forfeited by the withdrawal, if the former member is later employed with a PERS participating employer in a qualifying position,

¹ The opportunity to establish membership in the PERS Chapter 238 Program closed for employees hired on and after August 29, 2003.

the person must serve a new six-month waiting time in order to establish membership. For this reason, in cases where a member terminates their membership and later reestablishes membership, a member would have two or more waiting times because each time membership is terminated, a new six-month waiting time must be completed before the person becomes a member.

Restoration of Membership Rights and Waiting Time Purchase Eligibility

Historical Background

Previously, if the member had multiple waiting times, PERS did not require the member to restore the forfeited membership rights in order to purchase the associated waiting time. The past administration of waiting time purchases (238.125) did not take into account other PERS statutory provisions involving termination of membership (238.095), voluntary redeposit (238.105), forfeited time purchase (238.115), and withdrawals (238.265). Members were permitted to make purchases of waiting time associated with forfeited membership segments without being required to restore the forfeited membership. Some individuals making such a purchase were also provided with tax remedy if the waiting time purchased was prior to 1996. This practice resulted in certain persons receiving membership benefits for periods of employment that they had expressly forfeited when they withdrew their member account and terminated their membership without first restoring that membership.

Change in Administration

Upon closer review of the termination of membership and withdrawal provisions of ORS 238.095(1) and 238.265, staff determined that, because the waiting time served before the withdrawal was “employment before withdrawal,” the right to retirement credit for this period of employment could not be purchased unless the forfeited rights were first restored. By operation of PERS statutes, the right to claim credit for employment before the withdrawal, including the right to claim credit for the waiting period completed prior to the withdrawal, remains forfeited unless the forfeited rights for the membership segment are restored by voluntary redeposit or purchase of forfeited time at retirement. If such membership restoration does not occur, the statutory prohibition against claiming credit for all employment before the withdrawal should bar a member from purchasing credit for the associated waiting time. This administration is more consistent with statute and does not lead to the anomaly where some members receive membership benefits to which they are not entitled under other provisions of PERS law.

PERS Notice to Impacted Members

Estimates previously provided to members did not break out the different waiting time purchases if a member had multiple waiting times. Staff delayed implementation of the policy change to allow members relying on information provided by PERS sufficient time to complete any purchases based on the estimates they previously received.

In August 2018, staff sent policy clarification letters to all members who could be adversely impacted by the change in policy. The letters were sent to members identified as having multiple waiting times, who had received purchase and benefit estimate letters that did not specify that the waiting time purchases for employment preceding a withdrawal could only be made if the

forfeited membership segment was also restored. The notice informed members that the policy disallowing stand-alone waiting time purchases would be applied to all effective retirement dates on and after February 1, 2019. This six-month advance notice allowed members time to plan their retirement accordingly. Staff has also modified the purchase and benefit estimate letters sent to eligible members to explain that if a member does not make a forfeited time purchase, they cannot purchase the waiting period attributable to the non-restored membership segment.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held February 26, 2019, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends March 8, 2019, at 5:00 p.m.

LEGAL REVIEW

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

IMPACT

Mandatory: No, the Board need not adopt the rule modifications.

Impact: Clarification of procedures and administration will benefit members and staff.

Cost: There are no discrete costs attributable to the rule.

RULEMAKING TIMELINE

January 30, 2019	Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State.
February 1, 2019	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
February 1, 2019	PERS Board notified that staff began the rulemaking process.
February 26, 2019	Rulemaking hearing to be held at 2:00 p.m. at PERS in Tigard.
March 8, 2019	Public comment period ends at 5:00 p.m.
April 1, 2019	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A rulemaking hearing will be held February 26, 2019, at 2:00 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the April 1, 2019 Board meeting.

B.1. Attachment 1 - 459-011-0050, *Forfeiture and Restoration of Service Rights*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 011 – RETIREMENT CREDIT**

1 **459-011-0050**

2 **Forfeiture and Restoration of *[Service]* Membership Rights**

3 (1) A member who, pursuant to ORS 238.265, withdraws the amount credited to the
4 member's account ceases to be a PERS Chapter 238 Program member and forfeits all
5 membership rights accrued under ORS Chapter 238 before the effective date of
6 withdrawal, including *[any service rights attributable to]* the right to claim credit for
7 any employment before the effective date of withdrawal.

8 (2) Any such person may elect to restore *[credit]* membership rights and creditable
9 service forfeited by the withdrawal of the member account as provided in ORS 238.105 or
10 238.115.

11 (3) Pursuant to ORS 238.105, any such person who reenters the service of a
12 participating employer in a qualifying position within five years from the date of the last
13 separation from employment in a qualifying position that preceded the member's
14 withdrawal may, at any time during the one-year period immediately following the date of
15 reemployment, repay to PERS, in a single lump sum payment, an amount equal to the
16 amount withdrawn plus the earnings the amount withdrawn would have accumulated from
17 the effective date of withdrawal to the date of repayment.

18 (a) Upon repayment as described in section (3) of this rule, the PERS Chapter 238
19 Program membership *[and service]* rights and creditable service forfeited by the
20 withdrawal will be restored. The former member will reestablish membership in the PERS
21 Chapter 238 Program *[on the first day of the month following the date of the repayment.*
22 *Service by the former member]* from the date of reemployment *[to the date membership is*

1 *reestablished shall be attributed to the PERS Chapter 238 Program*]. The withdrawn
2 member account will be reestablished in the amount of the repayment.

3 (b) An employee who is terminated from employment, withdraws the member account
4 under ORS 238.265, and is reinstated to employment in connection with a retroactive
5 payment made under ORS 238.008(2) may restore membership *[and service]* rights and
6 creditable service within the time period described in section (3) of this rule or within one
7 year from the date the employee actually returns to employment, whichever is later. A
8 retroactive payment must be allocated pursuant to ORS 238.008(3). So allocated, the
9 payment must be used in the determination of employee and employer contributions and in
10 the calculation of benefits.

11 (4) Pursuant to ORS 238.115, a person described in section (1) of this rule who
12 reenters the service of a participating employer in a qualifying position and serves as an
13 active member for 10 years after such reentry may obtain restoration of creditable service
14 forfeited by the withdrawal if the member repays to PERS, in a single lump sum payment,
15 an amount equal to the amount withdrawn plus 7.5% interest on the amount withdrawn
16 compounded annually for each year or portion of a year after the effective date of
17 withdrawal and before the effective date of retirement, for the period of creditable service
18 restored.

19 (5) Restoration of credittable service forfeited by withdrawal of the member account
20 under section (4) of this rule is not available to persons who already restored membership
21 *[and service rights]* under section (3) of this rule.

22 (6) Beginning with January 1, 2018 effective retirement dates, a person whose
23 membership is terminated under ORS 238.095(2) may not restore forfeited credit under
24 ORS 238.115.

1 (7) Beginning with February 1, 2019 effective retirement dates, a member may
2 not purchase retirement credit for the waiting period of employment completed prior
3 to the effective date of withdrawal unless the membership rights and creditable
4 service for the associated forfeited period of employment have been restored under
5 ORS 238.105 or 238.115. If a member has multiple withdrawals, this requirement
6 applies to each forfeited period of employment associated with each withdrawal.

7 ~~[(7)]~~(8) Notwithstanding the provisions of this rule, a member who withdraws
8 pursuant to ORS 238.265 and receives an additional amount pursuant to section 2, chapter
9 276, Oregon Laws 2003, may not reestablish membership under ~~[section (3) of]~~ this rule.

10 Stat. Auth.: ORS 238.650

11 Stat. Implemented: ORS 238.008, 238.095, 238.105, 238.115, 238.125, 238.265 &

12 2003 OL Ch. 276



Oregon

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Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

February 1, 2019

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Notice of Rulemaking for Military Purchases Rule:
OAR 459-011-0115, *Military Full Cost Purchase*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Update rule to conform with SB 200 (2017), which removed the exclusion of periods of service for “active duty for training” from purchase eligibility, and made any type of “active service” eligible for the purchase, for members retiring after August 2, 2017.
- Policy Issue: None identified.

BACKGROUND

Senate Bill 200 was approved during the 2017 legislative session, amending Oregon Revised Statutes (ORS) 238.157 relating to full cost military purchase eligibility. The statutory amendment removed the exclusion of periods of service for “active duty for training” from purchase eligibility, and made any type of “active service” eligible for the purchase (including training duty), for members retiring after August 2, 2017. Staff has updated the rule to reflect these changes, which became effective August 2, 2017.

Staff has also made other amendments to simplify the rule. The definition of “Effective Retirement Date” was removed from subsection (1)(c) because that definition is already provided in OAR 459-005-0001(11). The provision relating to members of a reserve component of the Armed Forces was removed because the scenario described in that paragraph is specifically governed by 10 United States Code Section 12731, and technically fits within the new section (3) of the rule. Section (6) was modified to align it with PERS administration of the purchase payment requirements as provided in OAR 459-011-0150.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held February 26, 2019, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends March 8, 2019, at 5:00 p.m.

LEGAL REVIEW

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

IMPACT

Mandatory: Yes, otherwise the administrative rule is in conflict with statute.

Impact: Clarification of full cost military purchase eligibility will benefit members and staff.

Cost: There are no discrete costs attributable to the rule.

RULEMAKING TIMELINE

January 30, 2019	Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State.
February 1, 2019	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
February 1, 2019	PERS Board notified that staff began the rulemaking process.
February 26, 2019	Rulemaking hearing to be held at 2:00 p.m. at PERS in Tigard.
March 8, 2019	Public comment period ends at 5:00 p.m.
April 1, 2019	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A rulemaking hearing will be held February 26, 2019, at 2:00 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the April 1, 2019 Board meeting.

B.2. Attachment 1 - 459-011-0115, *Military Full Cost Purchase*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 011 – RETIREMENT CREDIT**

1 **459-011-0115**

2 **Military Full Cost Purchase**

3 (1) For the purposes of this rule:

4 *[(a) “Active Duty for Training” means periods of active service where the member*
5 *engages in training only.]*

6 *[(b)](a)* “Armed Forces” means the Army, Navy, Air Force, Marine Corps and the
7 Coast Guard and the reserve components thereof.

8 *[(c) “Effective retirement date” means the date the member is eligible to retire and*
9 *has indicated on their retirement application.]*

10 *[(d)](b)* “Full cost” means the actual cost to the system of the retirement credit for
11 military service being purchased, including any applicable administrative fee.

12 *[(e)](c)* “Military service” means qualifying service as described under section (2) of
13 this rule.

14 (2) *[An eligible]* **A** member who served **on active duty** in the Armed Forces prior to
15 becoming a member of PERS may purchase up to four years of retirement credit for
16 military service if they:

17 (a) Were other than dishonorably discharged from the Armed Forces; **and**

18 (b) Entered or reentered active service after January 1, 1950, or were in active service
19 on January 1, 1950[;].

20 *[(c) Were on active duty for other than active duty for training; and]*

21 *[(d) Except as provided in section (3) of this rule,]*

1 (3) [t]The member *[must be neither]* may not purchase retirement credit for any
2 period of service for which the person is receiving, *[nor]* or is eligible to receive, a
3 pension or retirement for service in the Armed Forces at the time of their effective
4 retirement date.

5 *[(3) If member is or was a member of a reserve component of the Armed Forces and*
6 *would be entitled to a pension or retirement for service in the military, the purchase or*
7 *retirement credit must be made prior to member reaching age 60.]*

8 (4)(a) If the member has reached earliest retirement age, the purchase may be made
9 within 90 days before *[and]* or after the member’s effective retirement date.

10 (b) If the member has not reached earliest retirement *[date]* age, the purchase may be
11 made only in the 90 day period immediately before the member’s effective retirement date.

12 (5) A member electing to make a full cost purchase may elect to have the service
13 retirement allowance determined under any calculation for which the member is eligible
14 for under ORS 238.300 even if the calculation does not produce the highest retirement
15 allowance.

16 (6) If the *[full]* cost of the purchase is *[not known at the time the payment is required]*
17 adjusted and requires an additional payment, PERS will notify the member of the
18 balance due. [t]The member must pay the remainder of the full cost purchase by the later
19 of the date set by PERS or the member’s effective retirement date. If the member does
20 not pay the *[entire full]* remaining cost, the *[member’s full cost]* purchase request will be
21 *[rejected]* canceled and PERS will return any payment received to date, subject to the
22 provisions of OAR 459-005-0580.

1 (7) To verify military service, a copy of the member's form DD-214 or other
2 acceptable military discharge or service records must be submitted to PERS with the full
3 cost purchase request.

4 Stat. Auth.: ORS 238.650

5 Stats. Implemented: ORS 238.157



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February 1, 2019

TO: Members of the PERS Board

FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section

SUBJECT: Notice of Rulemaking for IRC and Social Security Limitations Rules:
 OAR 459-005-0525, *Ceiling on Compensation for Purposes of Contributions and Benefits*
 OAR 459-005-0545, *Annual Addition Limitation*
 OAR 459-017-0060, *Reemployment of Retired Members*
 OAR 459-080-0500, *Limitation on Contributions*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Update rules to reflect the 2019 Internal Revenue Code (IRC) and Social Security annual compensation limitations for retirement contributions and benefits.
- Policy Issue: None identified.

BACKGROUND

The Internal Revenue Service revises various dollar limits annually based on cost-of-living adjustments. These revisions are used throughout the PERS plan statutes and rules, but revisions to the limits must be adopted by the legislature or PERS Board to be effective.

The proposed rule modifications incorporate these federal adjustments for calendar year 2019 and are necessary to ensure compliance with the federal limits on the amount of annual compensation allowed for determining contributions and benefits.

Also, under ORS 238.082, a Tier One or Tier Two retired member who is receiving Social Security benefits and who returns to PERS-covered employment may continue to receive their PERS retirement benefits so long as they work less than 1,040 hours or do not exceed any related Social Security annual compensation limits. The proposed modifications to OAR 459-017-0060 adopt the 2019 Social Security earnings limitations. For these increases to be effective, the PERS Board must adopt these rule modifications.

In addition to updating the IRC and Social Security limitations, other clarifying edits were made. In OAR 459-005-0545, subsection (5)(b) was removed to avoid potential confusion with subsection (5)(a), which more clearly states how payments are allocated. A similar edit was made to OAR 459-080-0500(3). Also in 459-080-0500, the definition of “compensation” was removed to avoid conflict with subsection (3)(b), which clarifies how compensation is determined for the purpose of contributions for a period of military service. Lastly, changes were made to formatting for consistency with other PERS rules.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held February 26, 2019, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends March 8, 2019, at 5:00 p.m.

LEGAL REVIEW

The attached draft rules were submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rules are presented for adoption.

IMPACT

Mandatory: Yes, statute requires the Board to update its rules to reflect revisions by the IRS and Social Security Administration.

Impact: Clarifies the limits for contributions and benefits under federal law for calendar year 2019.

Cost: There are no discrete costs attributable to the rules.

RULEMAKING TIMELINE

January 30, 2019	Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State.
February 1, 2019	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
February 1, 2019	PERS Board notified that staff began the rulemaking process.
February 26, 2019	Rulemaking hearing to be held at 2:00 p.m. at PERS in Tigard.
March 8, 2019	Public comment period ends at 5:00 p.m.
April 1, 2019	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A rulemaking hearing will be held February 26, 2019, at 2:00 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the April 1, 2019 Board meeting.

- B.3. Attachment 1 - 459-005-0525, *Ceiling on Compensation for Purposes of Contributions and Benefits*
- B.3. Attachment 2 - 459-005-0545, *Annual Addition Limitation*
- B.3. Attachment 3 - 459-017-0060, *Reemployment of Retired Members*
- B.3. Attachment 4 - 459-080-0500, *Limitation on Contributions*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 005 – ADMINISTRATION**

1 **459-005-0525**

2 **Ceiling on Compensation for Purposes of Contributions and Benefits**

3 (1) *[The purpose of t]* This administrative rule *[is]* shall be construed
4 consistently with the requirements of the *[to assure compliance of the Public*
5 *Employees Retirement System (PERS) with]* Internal Revenue Code (IRC) Section
6 401(a)(17) relating to the limitation on annual compensation allowable for determining
7 contribution and benefits under ORS Chapters 238 and 238A.

8 (2) *[Definitions]* For purposes of this rule:

9 (a) “Annual compensation” means “salary,” as defined in ORS 238.005 and 238.205
10 with respect to Chapter 238 and in 238A.005 with respect to Chapter 238A paid to the
11 member during a calendar year or other 12-month period, as specified in this rule.

12 (b) “Eligible participant” means a person who first becomes a member of PERS
13 before January 1, 1996.

14 (c) “Employer” means a “public employer” as defined in ORS 238.005, for the
15 purposes of this rule as it applies to Chapter 238. For the purposes of this rule as it
16 applies to Chapter 238A, an “employer” means a “participating public employer” as
17 defined in 238A.005.

18 (d) “Noneligible participant” means a person who first becomes a member of PERS
19 after December 31, 1995.

20 (e) “Participant” means an active or inactive member of PERS.

21 (3) For eligible participants, the limit set forth in IRC Section 401(a)(17) shall not
22 apply for purposes of determining the amount of employee or employer contributions that

1 may be paid into PERS, and for purposes of determining benefits due under ORS
2 Chapters 238 and 238A. The limit on annual compensation for eligible participants shall
3 be no less than the amount which was allowed to be taken into account for purposes of
4 determining contributions or benefits under former ORS 237.001 to 237.315 as in effect
5 on July 1, 1993.

6 (4) For noneligible participants, the annual compensation taken into account for
7 purposes of determining contributions or benefits under ORS Chapters 238 and 238A
8 shall be measured on a calendar year basis, and shall not exceed ~~[\$275,000]~~ \$280,000 per
9 calendar year beginning in ~~[2018]~~ 2019.

10 (a) The limitation on annual compensation will be indexed by cost-of-living
11 adjustments in subsequent years as provided in IRC Section 401(a)(17)(B).

12 (b) A noneligible participant employed by two or more agencies or instrumentalities
13 of a PERS participating employer in a calendar year, whether concurrently or
14 consecutively, shall have all compensation paid by the employer combined for
15 determining the allowable annual compensation under this rule.

16 (c) PERS participating employers shall monitor annual compensation and
17 contributions to assure that reports and remitting are within the limits established by this
18 rule and IRC Section 401(a)(17).

19 (5) For a noneligible participant, Final Average Salary under ORS 238.005 with
20 respect to Chapter 238 and under 238A.130 with respect to Chapter 238A shall be
21 calculated based on the amount of compensation that is allowed to be taken into account
22 under this rule.

1 (6) Notwithstanding sections (4) and (5) of this rule, if the Final Average Salary as
2 defined in ORS 238.005 with respect to Chapter 238 and as defined in 238A.130 with
3 respect to Chapter 238A is used in computing a noneligible participant's retirement
4 benefits, the annual compensation shall be based on compensation paid in a 12-month
5 period beginning with the earliest calendar month used in determining the 36 months of
6 salary paid. For each 12-month period, annual compensation shall not exceed the amount
7 of compensation that is allowable under this rule for the calendar year in which the 12-
8 month period begins.

9 (7) With respect to ORS Chapter 238, creditable service, as defined in 238.005, shall
10 be given for each month that an active member is paid salary or wages and allowable
11 contributions have been remitted to PERS, or would be remitted but for the annual
12 compensation limit in IRC Section 401(a)(17). With respect to Chapter 238A, retirement
13 credit as determined in 238A.140, shall be given for each month that an active member is
14 paid salary or wages and allowable contributions have been remitted to PERS, or would
15 be remitted but for the annual compensation limit in IRC Section 401(a)(17).

16 (8) The provisions of this rule are effective on January 1, 2004.

17 Stat. Auth.: ORS 238.630, 238.650, 238A.370 & 238A.450

18 Stats. Implemented: ORS chapters 238 & 238A

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 005 – ADMINISTRATION**

1 **459-005-0545**

2 **Annual Addition Limitation**

3 (1) *[Applicable Law.]* This administrative rule shall be construed consistently with
4 the requirements of the Internal Revenue Code (IRC) Section 415(c) and the Treasury
5 regulations and Internal Revenue Service rulings and other interpretations issued
6 thereunder.

7 (2) *[Annual Addition Limitation.]* Except as otherwise provided in this rule, a
8 member’s annual additions to PERS for any calendar year after *[2017]* 2018 may not
9 exceed *[\$55,000]* \$56,000 (as adjusted under IRC Section 415(d)).

10 (3) *[Annual Additions.]* For purposes of this rule, the term “annual additions” has the
11 same meaning as under IRC Section 415(c)(2).

12 (4) *[Permissive Service Credit.]* The following special rules shall apply with respect
13 to purchases of permissive service credit, as defined in OAR 459-005-0540, Permissive
14 Service Credit:

15 (a) If a member’s after-tax contributions to purchase permissive service credit are
16 included in the member’s annual additions under section (3) of this rule, the member
17 shall not be treated as exceeding the limitation under section (2) of this rule solely
18 because of the inclusion of such contributions.

19 (b) With respect to any eligible participant, the annual addition limitation in section
20 (2) of this rule shall not be applied to reduce the amount of permissive service credit to an
21 amount less than the amount that could be purchased under the terms of the plan as in

1 effect on August 5, 1997. As used in this subsection, the term “eligible participant”
2 includes any individual who became an active member before January 1, 2000.

3 (5) *[Purchase of Service in the Armed Forces Under ORS 238.156 or 238A.150.]* If
4 a member makes a payment to PERS to purchase retirement credit for service in the
5 Armed Forces pursuant to 238.156(3)(c) or 238A.150 and the service is covered under
6 Internal Revenue Code Section 414(u), the following special rules shall apply for
7 purposes of applying the annual addition limitation in section (2) of this rule:

8 (a) The payment shall be *[treated]* allocated as an annual addition *[for]* to the
9 calendar year to which it relates; and

10 *[(b) The payment shall not be treated as an annual addition for the calendar year in*
11 *which it is made; and]*

12 *[(c)]*(b) The member shall be treated as having received the following amount of
13 compensation for the period of service in the Armed Forces to which the payment relates:

14 (A) The amount of compensation the member would have received from a
15 participating employer had the member not been in the Armed Forces; or

16 (B) If the amount in paragraph (A) of this subsection is not reasonably certain, the
17 member’s average compensation from the participating employer during the 12-month
18 period immediately preceding the period of service in the Armed Forces (or, if shorter,
19 the period of employment immediately preceding the period of service in the Armed
20 Forces).

21 (6) The provisions of this rule are effective on January 1, 2004.

22 Stat. Auth.: ORS 238.630, 238.650, 238A.370 & 238A.450

23 Stats. Implemented: ORS 238.005 - 238.715, 238A.370

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

1 **459-017-0060**

2 **Reemployment of Retired Members**

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

5 (2) *[Reemployment under ORS 238.082.]* A retired member may be employed under
6 ORS 238.082 by a participating employer without loss of retirement benefits provided:

7 (a) The period or periods of employment with one or more participating employers
8 total less than 1,040 hours in a calendar year; or

9 (b) If the retired member is receiving retirement, survivors, or disability benefits
10 under the federal Social Security Act, the period or periods of employment total less than
11 either 1,040 hours in a calendar year, or the total number of hours in a calendar year that,
12 at the retired member’s specified hourly rate of pay, would cause the annual
13 compensation of the retired member to exceed the following Social Security annual
14 compensation limits, whichever is greater.

15 (A) For retired members who have not reached full retirement age under the Social
16 Security Act, the annual compensation limit is *[\$17,040]* \$17,640; or

17 (B) For the calendar year in which the retired member reaches full retirement age
18 under the Social Security Act and only for compensation for the months before reaching
19 full retirement age, the annual compensation limit is *[\$45,360]* \$46,920.

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

22 (4) The limitations on employment in section (2) of this rule do not apply if:

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

4 (b) The retired member retired at a reduced benefit under ORS 238.280(1), (2) or
5 (3), is employed in a position that meets the requirements of ORS 238.082(4), the date of
6 employment is more than six months after the member’s effective retirement date, and
7 the member’s retirement otherwise meets the standard of a bona fide retirement;

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

10 (A) The retired member did not retire at a reduced benefit under the provisions of
11 ORS 238.280(1) or (3); or

12 (B) If the retired member retired at a reduced benefit under the provisions of ORS
13 238.280(1) or (3), the retired member is not so employed until more than six months after
14 the member’s effective retirement date and the member’s retirement otherwise meets the
15 standard of a bona fide retirement;

16 (d) The retired member meets the requirements of section 2, chapter 499, Oregon
17 Laws 2007, as amended by section 1, chapter 108, Oregon Laws 2015;

18 (e) The retired member meets the requirements of section 2, chapter 475, Oregon
19 Laws 2015;

20 (f) The retired member is employed for service during a legislative session under
21 ORS 238.092(2);

22 (g) The retired member meets the requirements of ORS 238.088(2), and did not
23 retire at a reduced benefit under the provisions of ORS 238.280(1), (2) or (3); or

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

3 (5) For purposes of population determinations referenced by statutes listed in this
4 rule, the latest federal decennial census shall first be operative on the first day of the
5 second calendar year following the census year.

6 (6) For purposes of ORS 238.082(6), a retired member replaces an employee if the
7 retired member:

8 (a) Is assigned to the position of the employee; and

9 (b) Performs the duties of the employee or duties that might be assigned to an
10 employee in that position.

11 (7) If a retired member is reemployed subject to the limitations of ORS 238.082 and
12 section (2) of this rule, the period or periods of employment subsequently exceed those
13 limitations, and employment continues into the month following the date the limitations
14 are exceeded:

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

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

17 (i) If the member is receiving a monthly service retirement allowance, the last
18 payment to which the member is entitled is for the month in which the limitations were
19 exceeded.

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

1 (iii) If the member received a single lump sum payment under ORS 238.305(4) or
2 238.315, the member is entitled to the payment provided the payment was dated on or
3 before the last day of the month in which the limitations were exceeded.

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

6 (B) The member will reestablish active membership the first of the calendar month
7 following the month in which the limitations were exceeded.

8 (C) The member's account must be rebuilt in accordance with the provisions of
9 section (9) of this rule.

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

11 (A) PERS will cancel the member's retirement effective the date the member was
12 reemployed.

13 (B) All retirement benefits received by the member must be repaid to PERS in a
14 single payment.

15 (C) The member will reestablish active membership effective the date the member
16 was reemployed.

17 (D) The member account will be rebuilt as of the date that PERS receives the single
18 payment. The amount in the member account must be the same as the amount in the
19 member account at the time of the member's retirement.

20 (8) For purposes of determining period(s) of employment in section (2) of this rule:

21 (a) Hours of employment are hours on and after the retired member's effective
22 retirement date for which the member receives wages, salary, paid leave, or other
23 compensation.

1 (b) Hours of employment that are performed under the provisions of section (4) of
2 this rule on or after the later of January 1, 2004, or the operative date of the applicable
3 statutory provision, are not counted.

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

7 (a) PERS will cancel the member’s retirement effective the date the member is
8 reemployed.

9 (b) The member will reestablish active membership on the date the member is
10 reemployed.

11 (c) If the member elected a benefit payment option other than a lump sum option
12 under ORS 238.305(2) or (3), the last monthly service retirement allowance payment to
13 which the member is entitled is for the month before the calendar month in which the
14 member is reemployed. Upon subsequent retirement, the member may choose a different
15 benefit payment option.

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

18 (B) Amounts from the Benefits-In-Force Reserve (BIF) credited to the member’s
19 account under the provisions of paragraph (A) of this subsection will be credited with
20 earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement
21 to the date of active membership.

22 (d) If the member elected a partial lump sum option under ORS 238.305(2), the last
23 monthly service retirement allowance payment to which the member is entitled is for the

1 month before the calendar month in which the member is reemployed. The last lump sum
2 or installment payment to which the member is entitled is the last payment due before the
3 date the member is reemployed. Upon subsequent retirement, the member may not
4 choose a different benefit payment option unless the member has repaid to PERS in a
5 single payment an amount equal to the lump sum and installment benefits received and
6 the earnings that would have accumulated on that amount.

7 (A) The member’s account will be rebuilt as required by ORS 238.078 effective the
8 date active membership is reestablished.

9 (B) Amounts from the BIF credited to the member’s account under the provisions of
10 paragraph (A) of this subsection, excluding any amounts attributable to repayment by the
11 member, will be credited with earnings at the BIF rate or the assumed rate, whichever is
12 less, from the date of retirement to the date of active membership.

13 (e) If the member elected the total lump sum option under ORS 238.305(3), the last
14 lump sum or installment payment to which the member is entitled is the last payment due
15 before the date the member is reemployed. Upon subsequent retirement, the member may
16 not choose a different benefit payment option unless the member has repaid to PERS in a
17 single payment an amount equal to the benefits received and the earnings that would have
18 accumulated on that amount.

19 (A) If the member repays PERS as described in this subsection the member’s
20 account will be rebuilt as required by ORS 238.078 effective the date that PERS receives
21 the single payment.

1 (B) If any amounts from the BIF are credited to the member’s account under the
2 provisions of paragraph (A) of this subsection, the amounts may not be credited with
3 earnings for the period from the date of retirement to the date of active membership.

4 (f) If the member received a lump sum payment under ORS 238.315:

5 (A) If the payment was dated before the date the member is reemployed, the member
6 is not required or permitted to repay the benefit amount. Upon subsequent retirement:

7 (i) The member may choose a different benefit payment option.

8 (ii) The member’s retirement benefit will be calculated based on the member’s
9 periods of active membership after the member’s initial effective retirement date.

10 (B) If the payment was dated on or after the date the member is reemployed, the
11 member must repay the benefit amount. Upon subsequent retirement:

12 (i) The member may choose a different benefit payment option.

13 (ii) The member’s retirement benefit will be calculated based on the member’s
14 periods of active membership before and after the member’s initial effective retirement
15 date.

16 (iii) The member’s account will be rebuilt as described in ORS 238.078(2).

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

19 (10) *[Reemployment under ORS 238.078(2).]* If a member has been retired for less
20 than six calendar months and is reemployed in a qualifying position by a participating
21 employer under the provisions of 238.078(2):

22 (a) PERS will cancel the member’s retirement effective the date the member is
23 reemployed.

1 (b) All retirement benefits received by the member must be repaid to PERS in a
2 single payment.

3 (c) The member will reestablish active membership effective the date the member is
4 reemployed.

5 (d) The member account will be rebuilt as of the date that PERS receives the single
6 payment. The amount in the member account must be the same as the amount in the
7 member account at the time of the member's retirement.

8 (e) Upon subsequent retirement, the member may choose a different benefit payment
9 option.

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

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

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

20 (a) Upon request by PERS, a participating employer must certify to PERS that a
21 retired member has not exceeded the number of hours allowed under ORS 238.082 and
22 section (2) of this rule.

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

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

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

9 (15) Subsections (4)(c) and (4)(d) of this rule are repealed effective January 2, 2026.

10 (16) Subsection (4)(e) of this rule is repealed effective June 30, 2018.

11 Stat. Auth.: ORS 238.650

12 Stats. Implemented: ORS 238.078, 238.082, 238.088, 238.092, 399.075, 2007 OL
13 Ch. 499 & 774, 2015 OL Ch. 108 & 475

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 080 – OPSRP INDIVIDUAL ACCOUNT PROGRAM**

1 **459-080-0500**

2 **Limitation on Contributions**

3 (1) *[Definitions.]* For purposes of this rule, *[:]*

4 *[(a)]* “[A] annual addition” has the same meaning given the term in 26 U.S.C.

5 415(c)(2).

6 *[(b)]* “*Compensation*” has the same meaning given the term in 26 U.S.C.

7 *415(c)(3)(A).]*

8 (2) *[Annual addition limitation.]* Except as otherwise provided in this rule, the

9 annual addition to a member account for any calendar year may not exceed *[\$55,000]*

10 \$56,000 effective January 1, *[2018]* 2019.

11 (3) *[Payment for military service.]* If a payment of employee contributions for a
12 period of military service is made under OAR 459-080-0100:

13 (a) The payment shall be *[treated]* allocated as an annual addition *[for]* to the
14 calendar year(s) of military service to which it relates; and

15 *[(b)]* *The payment shall not be treated as an annual addition for the calendar year in*
16 *which it is made; and]*

17 *[(c)]* (b) For the purpose of *[allocating payments]* determining the amount of the
18 payment under this section, the member’s compensation shall be *[the amount described*
19 *in]* determined under OAR 459-080-0100(3)(d).

20 Stat. Auth.: ORS 238A.450

21 Stats. Implemented: ORS 238A.370



Oregon

Kate Brown, 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.oregon.gov/pers

February 1, 2019

TO: Members of the PERS Board
FROM: Marjorie Taylor, Senior Policy Director
SUBJECT: Legislative Update

2019 REGULAR LEGISLATIVE SESSION

The 2019 Regular Legislative Session convened Tuesday, January 22. Organizational Days were held January 14-16 for the purpose of swearing in members, naming committees, and introducing almost 1,500 bills for consideration. More bills will be introduced by late February, and through the end of session – each one will be reviewed for impact to the PERS system or agency. Most committees will hold work sessions on first chamber bills no later than Tuesday, April 9. Second chamber work sessions on most bills are scheduled to end by Friday, May 24. The Constitutional deadline for the end of session is Sunday, June 30.

LEGISLATION IMPACTING PERS STATUTES, RETIREMENT, or refer to PERS

Through January 24, 2019, more than 1,600 bills have been introduced for consideration during session. Of those, we found 36 that directly impact PERS statutes or refer to PERS. Other bills may have an impact on various aspects of agency operations (public records, administrative rules, procurement, human resources, etc.) During session, our highest priority will be to monitor bills that impact the PERS plan directly by amending or adding to ORS Chapters 238 and 238A, refer to “retirement”, or include incidental reference to PERS in non-PERS statutes.

As of January 24, 2019, the following 36 bills currently qualify for close monitoring. Official information about all legislation is available on the legislative website:

<https://www.oregonlegislature.gov/>

Bill	Bills impacting PERS statutes or refer to PERS
HB 2118	Relating to consumer price index
HB 2133	Relating to tax credits for pension income
HB 2155	Relating to connection to federal tax law; prescribing an effective date
HB 2288	Relating to revenues from sports betting
HB 2335	Relating to reemployment of retired members of the Public Employees Retirement System
HB 2417	Relating to death benefits under the Public Employees Retirement System
HB 2616	Relating to payments under the Public Employees Retirement System subject to Oregon person income tax; declaring and emergency
HB 2646	Relating to salary under Public Employees Retirement System
HB 2647	Relating to the status in the Public Employees Retirement System of police officers commissioned by universities
HB 2648	Relating to public safety at community colleges
HB 2756	Relating to police officers under the Public Employees Retirement System
HB 2785	Relating to members of the Public Employees Retirement System employed by the Oregon State Hospital
HB 2786	Relating to the status of district attorneys in the Public Employees Retirement System
SB 4	Relating to higher education

SB 29	Relating to public health; declaring an emergency
SB 75	Relating to employer contributions to PERS; declaring an emergency
SB 148	Relating to public employee retirement; declaring an emergency
SB 149	Relating to public employee retirement
SB 187	Relating to judicial marshals; prescribing an effective date
SB 198	Relating to tax credits for pension income
SB 213	Relating to connection to federal tax law; prescribing an effective date
SB 343	Relating to employee contributions to the Public Employees Retirement System; declaring an emergency
SB 355	Relating to correction of erroneous material in Oregon law
SB 531	Relating to public employee retirement; declaring an emergency
SB 532	Relating to contributions to the individual account program of the Public Employees Retirement System
SB 533	Relating to redirection of the employee contribution under the Public Employees Retirement System; declaring and emergency
SB 550	Relating to a contract preventing contributions to the Oregon Retirement Savings Plan from being combined with moneys in the Public Employees Retirement Fund; declaring an emergency
SB 551	Relating to public employee retirement
SB 554	Relating to the calculation of final average salary under the Public Employees Retirement System
SB 555	Relating to distributions under the individual account program of the Public Employees Retirement System
SB 576	Relating to campus security officers
SB 601	Relating to education; declaring an emergency
SB 610	Relating to bonding by education districts
SB 617	Relating to itemized pay statements provided by public bodies
SB 634	Relating to salary of employees of public charter schools under OPSRP
SB 641	Relating to public employee retirement; declaring an emergency

PERS POLICY PAPERS

In recent legislative sessions, we prepared policy papers on several topics that are of general interest to legislators and stakeholders and reflect a variety of legislative proposals. We revised the papers for 2019 and they are provided with this memo for reference.

PERS BUDGET BILL

The PERS budget bill is House Bill 5032. We anticipate that our initial discussion with the Ways and Means Subcommittee on General Government will occur in late February. Four of five House members of the subcommittee were assigned to General Government in 2017, however the three Senate members are new to the subcommittee this session. We look forward to answering their questions about PERS, the system, and PERS, the agency.

Attachments:

- a. 2019 PERS Policy Paper – Defined Contribution Plans
- b. 2019 PERS Policy Paper – IAP Target Date Fund Member Choice
- c. 2019 PERS Policy Paper – “Police & Fire” Classification
- d. 2019 PERS Policy Paper – Public Employment After Retirement
- e. 2019 PERS Policy Paper – Tax Remedy Payments



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PERS Policy Paper – Defined Contribution Plans

Background

There are two main types of retirement plans: “Defined Benefit” (DB), which generally provides a lifetime benefit consisting of a monthly pension payment that is derived from the plan member’s length of employment, salary, etc.; and “Defined Contribution” (DC), which provides an account balance in an individual account that receives contributions from the employer and/or the member and any earnings generated by the investment of those contributions. Both types of plans are regulated under state and federal laws, and have distinct features and characteristics which are explored more fully below.

The PERS programs, Tier One, Tier Two, and OPSRP, are a hybrid of both plan types. Members are paid a monthly pension for life upon retirement (funded mostly from employer contributions and investment returns) and they receive the accumulated account balance in the Individual Account Program (IAP), which is funded over the member’s career by contributing 6% of the member’s salary (either by the member or by their employer on their behalf) which then receives annual earnings or losses until the member retires or withdraws the account.

The National Association of State Retirement Administrators maintains [a web page](#) that curates studies and other resources that other states have considered in deciding which plan type will best meet their stakeholders’ objectives. This paper attempts to address some policy issues that would arise if Oregon were to consider abandoning its hybrid plan and move entirely to a DC plan, either for new employees only or for the future public service of all current PERS members after the new plan is adopted.

Policy Issue – Cost Comparison

Would a DC Plan cost less than PERS’ currently projected employer rates for the DB Plan?

Not appreciably. Here’s why:

- PERS employer contribution rates have two components: Normal Cost and Unfunded Actuarial Liability (UAL). The Normal Cost is the “price” for additional benefits earned each year for current employees; the UAL rate amortizes, or pays off over time, the deficit between accrued benefits and the assets available to pay them. (For PERS, that deficit was \$22.3 billion as of the December 31, 2017 system valuation, the most recent available). Moving to a DC plan would not save employers much money because:
 1. Normal Cost for general OPSRP members is 8.49% of payroll (projected July 1, 2019 rates based on the 2016 system valuation). If a DC plan was adopted that provided for an employer contribution of 8%, for example, the only savings would be the .49% of payroll (more would be saved if the employer contribution was lower, or if Tier One/Two and OPSRP Police and Fire members were also put into the DC plan for future service, as they have a higher Normal Cost).
 2. The UAL rate of 14.21% of payroll (also projected for July 1, 2019 based on the 2016 system valuation) would still need to be paid, even if a DC-only plan were implemented, because that rate represents the costs for benefits already accrued (the \$25.3 billion UAL mentioned above). Shifting current PERS members to a DC plan for future service will not reduce that cost at all, because PERS employers are obligated to pay for the benefits accrued by their employees in prior years. The cost of these benefits does not go away simply by switching to a new type of retirement plan.
- Per dollar of benefit paid, DB Plans are 48% more cost efficient than DC Plans, [according to a national study](#). Generally, these cost savings occur because:
 1. DB plan investments cost less and perform better, because professionals can manage the plan for lower costs and with a longer investment horizon than an individual DC plan member.

2. Longevity and other actuarial risks are spread over the plan's entire population, so an individual member doesn't need to protect against those risks on their own.

Policy Issue – Effectiveness of DC or DB Plans

Would a DC Plan be better than a DB Plan for PERS employers and members?

Because of their design, DB plans and DC plans present different characteristics that may work better for some employers and members, but not for others. Here are some issues to consider:

- *Investment Risk Exposure* – The current PERS plan allocates investment risk between employers and members. Employers bear all the investment risk for the pension component (i.e., if investments don't return enough to fund the defined benefit, employers have to contribute more). Members in the Individual Account Program (IAP) bear the investment risk for that component of their benefit package as their contribution of 6% of salary accumulates market earnings and losses. As the PERS plan is designed today, if investments do not perform as assumed, the employer's cost for their portion of the benefit will rise and members will not receive as much as they might have expected from the IAP. A DC plan puts all of that investment risk on the member, and takes all of it away from the employer. The employer has no risk of their costs changing with investment fluctuations as their contribution to the plan is defined (fixed by the plan's terms); members bear all the investment risk since those returns will directly affect their account balance.
- *Portability and Longevity* – PERS pension benefits are not "portable" if the member leaves public employment for the private sector. While the member may withdraw their IAP balance, they do not receive any benefit from the employer contributions to their pension unless they are vested, leave their account with PERS and retire when eligible. In a DC plan, the member could roll their entire accumulated account to a new employer's plan (if they offer one) or to an outside financial service provider. On the other hand, a DB plan becomes more valuable the longer that the member remains in public service. For positions where experience is valued, a DB plan would provide a greater incentive to stay with an employer than a DC plan would.
- *Administrative Considerations* – If a new DC plan is implemented, consider that many features of the current PERS plan will need to be assessed, such as: 1) whether the complicated eligibility criteria (expected to work 600 hours for one or more PERS employers in a calendar year) should be changed; 2) whether members will have choice in their investments and who manages those choices; 3) cash flow implications of member and employer contributions no longer flowing into the PERS Fund (which is currently cash-flow negative without those new moneys coming in); and 4) how to address special PERS provisions like disability benefits and police & fire classifications.

The Economic Policy Institute published [a comprehensive paper](#) in March 2015 to address the question of whether switching government employees to a DC Plan would save taxpayers money. Their conclusions were that such conversions fail on three important points:

1. **They do not help states save money.** Traditional defined-benefit pensions are more efficient than DC plans and most hybrid plans due to economies of scale, risk pooling, and other factors. Moreover, changing plan type introduces transition costs. Thus, states that switched to DC and hybrid plans did not save money except to the extent that they simply cut benefits or required workers to contribute more toward their retirement.
2. **They create more workforce management problems than they solve.** For example, many such plans provide the biggest benefits to job leavers, promoting high turnover in public-sector jobs which require a high level of skill and experience.
3. **They increase retirement insecurity.** Individual account-type plans, frequently discussed in states around the country, threaten the retirement security of young and old alike. While a well-designed hybrid plan could theoretically help younger workers without undermining the retirement security of midcareer and older workers, none of the plans offered in the current political climate have done so.



Oregon

Kate Brown, Governor

Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

PERS Policy Paper – IAP Member Choice

Background

The 2003 PERS Reform legislation directed that all PERS members who worked since January 1, 2004, have **two components** to their PERS retirement: a **monthly pension benefit** (Tier One, Tier Two, or Oregon Public Service Retirement Plan [OPSRP]); and an **account-based benefit** (the Individual Account Program [IAP]). Members contribute six percent of covered salary into the IAP; their IAP account is then adjusted for investment earnings or losses every year (with no guaranteed minimum investment return).

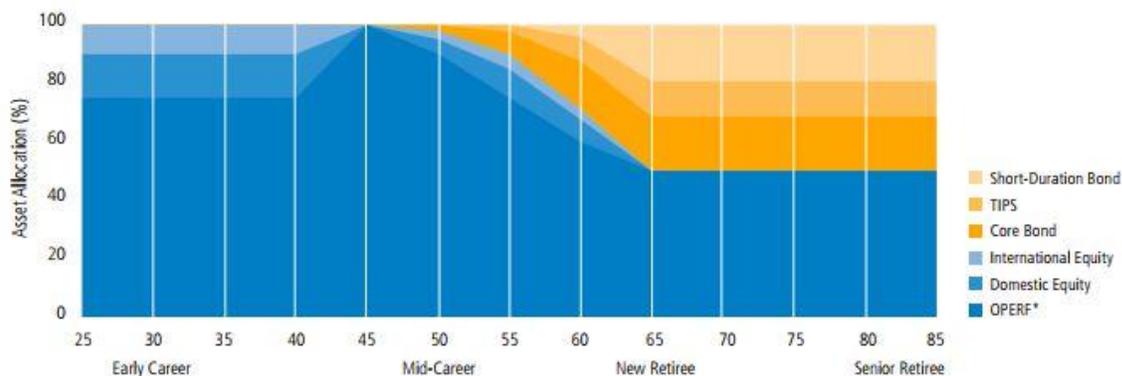
The IAP accounts (as well as all other PERS investments) are under the direction of the Oregon Investment Council (OIC) and managed by the Oregon State Treasury. Since the IAP began, member accounts have been co-invested in the Oregon Public Employees Retirement Fund (OPERF); IAP members have no choice in how their IAP account is invested.

In September 2017, the OIC adopted a new investment policy (effective January 1, 2018) to shift IAP member account investments to a custom Target-Date Fund (TDF) model, where the account's investment allocation is based on the member's age. ORS 238A.050(3) gives the OIC sole discretion to invest the IAP and allows them to do so differently than the rest of OPERF.

Target-Date Fund Model

The shift to a TDF model is intended to reduce investment risk and volatility as members age. In a member's early career, the strategy is to maximize the potential for account growth while the member has time to recover from occasional downturns in the market. As members move toward retirement, the investment strategy gradually evolves to a more conservative allocation that will reduce the probability of large losses from market fluctuations. The following chart shows this investment allocation evolution as members age:

Investments Become More Conservative over Time



*OPERF is managed by the OST and contains a mix of the following asset classes: public and private equity, fixed income, alternatives and real estate. For more information, please refer to the OST website.

Beginning January 1, 2018, each member's IAP account investment allocation was changed to a TDF based on the member's birth year (within a five-year range, see the chart below). The result is a series of TDFs that culminate in the Retirement Allocation Fund (for members age 65 or older, or any member who retires and elects to receive their IAP in installment payments).

BIRTH YEAR	TARGET-DATE FUND
In 1993 or after	IAP 2060 Target-Date Fund
Between 1988 and 1992	IAP 2055 Target-Date Fund
Between 1983 and 1987	IAP 2050 Target-Date Fund
Between 1978 and 1982	IAP 2045 Target-Date Fund
Between 1973 and 1977	IAP 2040 Target-Date Fund
Between 1968 and 1972	IAP 2035 Target-Date Fund
Between 1963 and 1967	IAP 2030 Target-Date Fund
Between 1958 and 1962	IAP 2025 Target-Date Fund
Between 1953 and 1957	IAP 2020 Target-Date Fund
In 1952 or before	Retirement Allocation Fund

Under this new TDF investment policy, earnings will continue to only be credited annually (unless the member retires or withdraws their IAP during the calendar year). For calendar year 2018, the PERS Board will need to determine an earnings crediting rate for each TDF; members will begin to receive their annual statements in spring 2019 and, for the first time, receive earnings based on their age, which may be different than the crediting rate for younger or older co-workers.

During the 2018 calendar year, if a member retires, withdraws, or dies, an IAP payment will be based on the member's total balance at the time PERS processes the payment. At retirement, members will still have the option to roll over their IAP balance into another qualified plan or receive payments over various time periods.

IAP Member Choice: Policy Considerations

Though members have never had a choice in how their IAP account was invested, the concept of “member choice” is to allow members to exercise some direction over their IAP account, directing that their account be invested in a TDF other than the one assigned by birth year or even choose to opt-out of TDFs entirely and have their accounts invested solely in OPERF.¹ The following policy issues arise from considering whether to allow IAP member choice:

1. Earnings Crediting and Financial Reporting – The change to a TDF investment policy has required PERS to develop a new IAP administration model: instead of a single earnings rate for IAP accounts, PERS must now derive earnings rates across 10 TDFs. A member choice model would add the complexity of moving accounts from one TDF to another at designated intervals (preferably, only on calendar years) and aligning investment returns to shifting balances.

2. Member Education and Communication – Giving members an investment choice will require informing them about that choice, capturing their elections if they choose to make one, and then tracking their preferences over time as they choose (or not) to shift their investment mix further. This effort will require basic education on TDFs and, perhaps, licensed investment advisors if members seek direction on their individual choices.

3. Technology – PERS currently uses a third-party administrator (TPA) to provide payment processing and recordkeeping services for the IAP program. Member choice will require PERS to re-negotiate with the TPA, perhaps folding in assistance with member communications and payment processing, to implement a member choice option in a short timeframe.

4. Other IAP Changes – During the 2017 legislative session, Senate Bill 1068 proposed redirecting a portion of the IAP contributions to a pension-funding account. That program change, if approved in the future, may affect members' investment choices and, perhaps, the OIC's investment policy as a whole.

¹ Any investment choices beyond these elections could well involve complications that would require a complete shift in how the IAP is invested and administered.



Oregon

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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.oregon.gov/pers

PERS Policy Paper – “Police & Fire” Classification

Background

PERS members who work in positions that meet the definitions for “Police Officer” and “Firefighter” (P&F) are eligible for special benefit provisions such as retiring at an earlier age and calculating their retirement benefit with a higher statutory factor. Frequently, legislation is introduced to expand the definition of “Police Officer” to afford P&F status to a broader range of positions. Recent proposed expansions have included dog control officers, physicians and nurses at Oregon State Hospital, juvenile detention workers, and community college police.

Policy Issue

What should determine whether a position is re-defined as a “Police Officer” in PERS statutes?

Discussion

1. Compliance with Federal Tax Law

The Internal Revenue Code (IRC) has several different definitions for P&F which affect different areas of federal taxation. For example, for purposes of an exception from the additional 10% tax on early retirement (IRC 72(t)), a “Qualified Public Safety Employee” is defined as any employee of a state or political subdivision of a state who provides police protection, firefighting services, or emergency medical services. Only those individuals who meet that specific definition would qualify for the exception when taking distributions from the PERS Individual Account Program (IAP) prior to age 59½. Another example would be under IRC 415(b), which separately defines P&F to mean “a full-time employee of any police department or fire department that is organized and operated by the state, Indian tribal government, or political subdivision...” who’s credited with at least 15 years of service as a full-time employee. This definition depends on whether the employer is a police department or fire department, rather than the job classification of the individual participant. Also, whether the employer is a police department or fire department is based on the function of an organization rather than on the name of the organization. Only those individuals who meet the definition under IRC 415(b) would qualify to retire prior to age 62 without having the IRC annual defined benefit limitation adjusted downward.

In other words, members who do not conform to the federal tax law definitions, regardless of the classification of their position as P&F in the Oregon PERS plan, may have federal tax problems. The whole PERS plan could incur federal compliance concerns if members do not qualify for these special federal tax provisions.

2. Cost for P&F Benefits

PERS P&F members are eligible to retire at an earlier age and their retirement benefit is calculated using a higher factor. These enhanced benefits (as well as some other provisions) mean that P&F status raises the cost of the benefits members earn while in that status by 4-5% of payroll. Those costs increase further if existing General Service (non-P&F) members move into the P&F classification.

For example, if a 55-year-old Tier One member is in a position that is reclassified as P&F, that member can take full retirement immediately instead of waiting until the General Service normal retirement age of 58. Normally, retiring three years “early” would reduce that member’s benefit by about 24%. Retiring as P&F with an unreduced benefit at age 55 increases the system’s costs for that member’s benefits earned from General Service because the pay-out will be longer than previously expected.

3. Alternate Benefit Structure

Proponents of bills to expand PERS’ “Police Officer” definition generally describe the jobs in question as having high physical demands or high stress levels. These characteristics are similar to traditional P&F classifications; members in such positions generally have shorter careers. Given the federal tax law concerns, however, expanding the “Police Officer” definition is not the most appropriate solution for members who are not in positions that principally engage in the custody, control, or supervision of individuals convicted of, or arrested for, a criminal offense or confined to a place of incarceration or detention.

A model for enhanced benefits exists in PERS for “high risk, high stress” jobs. ORS 238.280(2) has a special retirement eligibility rule for telecommunicators, otherwise known as 911 operators. Members with 25 years of service in those positions can retire earlier than General Service members. Their benefit is actuarially reduced and the member does not receive a cost of living adjustment until reaching age 55. These special provisions were added in recognition of the demanding nature of those positions, but modified to limit the cost increase of allowing these members to retire early. Similar limitations and adjustments could be made for other “high risk, high stress” jobs.

Policy Recommendation

Proposals to expand the PERS definition of “Police Officer” should use the same criteria as that classification has in federal tax law. Differences between the state and federal definition put PERS members at risk for federal tax consequences and may subject the overall plan to additional scrutiny of its tax qualified status.

Positions that fall outside the federal tax law definition could be afforded special provisions similar to telecommunicators, in light of their shortened expected careers, but similarly modified to reduce the cost impacts of a reclassification.



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11410 S.W. 68th Parkway, Tigard, OR
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PERS Policy Paper – Public Employment After Retirement

Background

Public employers face a complicated statutory framework if they employ a member who has retired and receives a PERS benefit. If the retiree returns to employment as an active member – the member’s retirement benefit payments are stopped, additional credit towards retirement benefits begins to accrue, and contributions are assessed to the member and employer. However, if the retiree returns as a retired member – the member’s benefit payments continue, additional credit towards retirement benefits does not accrue, and no contributions are assessed to the member and employer. To maintain retired member status while working after retirement, retirees must comply with the prescribed hour limits, unless any statutory exceptions apply. If the retiree exceeds the limits and no exceptions apply, then PERS must return them to active membership.

Hour Limits for Retired Members

Generally, a retired Tier One or Tier Two member may work less than 1,040 hours in a calendar year; while retired OPSRP members are limited to less than 600 hours in the calendar year that they retire. These restrictions only apply to public employment; a PERS retired member can work in the private sector without limitation after retirement.

Exceptions to Hour Limits

In addition to the hour limitations described above, specific statutory exceptions allow certain Tier One and Tier Two members to work unlimited hours without affecting their retired member status (see Appendix A). The exceptions vary by the type of employer, geographic location, population of the employer’s city or county, type of position, and other factors. No exceptions apply to retired OPSRP members.

Challenges to Compliance with Hour Limit Exceptions

Statutory exceptions that allow retirees to work without hour limitation have been adopted over time with no consistent policy direction. Consequently, the complicated framework requires members and employers to carefully monitor the number of hours worked, and any of the various other conditions that must be met to qualify for any particular exception (i.e., population changes or whether an emergency declaration is still in effect).

The complicated framework leads to disparate results as PERS members are allowed to “double dip” to varying degrees. “Double dipping” refers to when a public employee receives a salary and a pension benefit while employed by a public employer. However, public employees do not accrue additional retirement benefits while employed as a retired member. Some proponents believe the practice creates cost savings because additional pension liability does not accrue for the retired member, as it does for an active non-retired member.

Retired members who meet the various exceptions are allowed unlimited double dipping; while other members who don’t fit one of these exceptions are limited to the number of hours allowed according to their membership program, i.e., 1,040 or 600 hours.

The complicated framework also leads to frustration and financial consequences when the employer and retired member mistakenly believe the member qualifies for an exception, only to

discover that the member does not qualify and must repay any retirement benefits received while working as an active member. Employers also face the cost of paying contributions for the active member's increased pension liability that is recalculated at the subsequent retirement.

Policy Issue

Should public employers be allowed to employ members who have retired and receive a PERS benefit without affecting the member's retired status? If so, under what conditions?

Discussion

The ability of retirees to “work after retirement” has been allowed under Oregon law since 1953. In 1997, the work after retirement limit was raised from 600 to 1,040 hours; each legislative session since then has considered proposals to add or extend exceptions to that limit. This piecemeal approach has led to inconsistent expectations and results for various PERS employers and members. The following perspectives should be considered:

1. Public Employer Workforce Management

Employers have a variety of reasons to retain or employ a PERS member after that person has retired. These employees have served a significant portion of their career in public service and a fair amount of their skills and abilities have been developed while working for Oregon's taxpayers. The current reemployment restrictions mean that a large segment of the potential workforce is either foreclosed from a public employer's consideration, or subject to complicated restrictions, depending on that employer's appetite to navigate the existing maze. Appendix B shows the number of members who worked after retirement and the associated salary in 2017.

2. Administrative Challenges

When a retired member appears to exceed the limit, PERS compiles the number of hours worked, based on reports filed by their employer(s). Then, the employer(s) are engaged to evaluate whether any exceptions apply to that member's particular employment (or to part of their employment, as they could be working for multiple public employers). If reports confirm that the member has exceeded the limits and no exception applies, PERS cancels the member's retirement and returns the member to active member status. PERS invoices the member for any benefits received and the employer(s) for contributions (and associated earnings, if any) that are owed. As employer reports can sometimes lag behind for months, these situations are not always discovered promptly. This unwinding process can occur several months after the limit was exceeded, increasing the financial consequences for members and employers.

3. Federal law considerations

PERS must maintain its status under federal tax law as a qualified retirement plan. Generally, that law requires that benefits only be paid when the member has a “bona-fide” retirement – a term that is not defined, but can include starting benefits only after the member has reached normal retirement age, or in cases of early retirement age, been absent from employment for a certain period of time (e.g., six months). Any policy decision to relax (or eliminate) post-retirement work restrictions must consider these federal standards so that policy is in line with, or more restrictive, than federal law allows.

PERS Recommendation

Due to the challenges of administering a complicated statutory framework, PERS has recommended that new exceptions should be narrowly tailored to meet an identified workforce shortage and should sunset within a reasonable period for that shortage to be remedied. In fact, SL1

the shortages associated with the exceptions that have been enacted have not been resolved, and proponents are perpetually seeking renewal of those that would sunset. The workforce shortages giving rise to exception requests seem to be systemic, rather than temporary. Creating or extending hour limit exceptions does not solve the core workforce management problems that have given rise to the demand. Instead, the current work after retirement limits lead to uncertainty and confusion for members and employers as to whether an exception applies, or may be amended to continue into the future.

A retired PERS member may work for any private employer in the state of Oregon, or public or private employer outside the state, without limitation or constraint, and have no effect on the PERS benefit they earned through their public service in Oregon. An Oregon public employer can hire any qualified person to work for them, but if that person happens to be a retired PERS member, that employment decision has to be balanced against the employer's appetite for negotiating the current maze of hour limits or exceptions.

Conversely, allowing a retired member to continue employment prevents another person from filling that position. Also, some critics don't believe that people should be able to receive both a retirement benefit and a salary at the same time.

The "middle ground" that has been shifting since the first "crack" of exceptions was enacted in 1997 has led to frustrated member and employer expectations and serial proposals to expand that crack. Oregon's public employers would be better served by a clear and consistent standard on one side of the question or the other.

APPENDIX A – Exceptions to 1,040 Hour Limit for Tier One and Tier Two (ORS 238.082)

- As an administrator or teacher by a school district or educational service district that has its administrative office located in a county of 35,000 or less population:
 - 1) As an administrator or teacher by a school district or community college district located in a county of 35,000 or less population; or
 - 2) As an administrator or teacher by an education service district and the retired member's primary work duties are performed in a county of 35,000 or less population.
- By the sheriff of a county with less than 75,000 population.
- By the municipal police department of a city with less than 15,000 population.
- By the state or a county for work in a correctional institution in a county of less than 75,000 population.
- By the Oregon State Police for work in a county of less than 75,000 population.
- As a temporary replacement for an employee called to active duty in the National Guard or an Armed Forces Reserve component.
- By a road assessment district organized under ORS 371.405-.535.
- By Black Butte Ranch R.F.P.D., the Black Butte Ranch Service District, or the Sunriver Service District.
- As a deputy director or assistant director of the Department of Human Services (exception must be approved by the Governor).
- As a deputy director or assistant director of the Oregon Health Authority (exception must be approved by the Governor).
- As a teacher of career and technical education (licensed by the Teacher Standards and Practices Commission to instruct any career and technical education course or program in any career and technical education field).
- As a nurse or for the purpose of teaching nursing, provided the retiree is a nurse. This exception is only available during a nursing workforce shortage declared by the Legislative Assembly or the Governor (a nursing workforce shortage was declared when this exception was passed into law).
- As a nursing instructor (the retiree must be a registered nurse).
- By the Department of Public Safety Standards and Training to provide training.
- By a school district or education service district as a speech-language pathologist or speech-language pathologist assistant.
- Is on state active duty with the National Guard and has reached "normal" retirement age (ORS 399.075(8)) (available to early retiree only if the retiree has reached normal retirement age).
- By the Legislative Assembly or the Oregon State Police for service during a legislative session. (ORS 238.092(2)).

APPENDIX B – Retired Member Hours Worked and Salary Paid in Calendar Year 2017

Tier One and Tier Two Members

Hours	State Agencies		Local Governments		School Districts		All Employers	
	Members	Salary	Members	Salary	Members	Salary	Members	Salary
< 200	274	\$841,072	1,282	\$4,244,390	3,085	\$8,345,713	4,641	\$13,431,174
200 – 400	205	\$2,046,846	622	\$7,008,136	1,486	\$12,769,857	2,313	\$21,824,839
401 – 600	194	\$3,253,783	466	\$8,297,639	1,019	\$15,102,528	1,679	\$26,653,949
601 – 800	182	\$4,460,622	320	\$8,134,730	726	\$15,363,636	1,228	\$27,958,988
801 – 1039	238	\$7,646,327	448	\$16,268,965	924	\$28,809,182	1,610	\$52,724,474
> 1039	182	\$9,967,466	431	\$30,341,585	1,269	\$87,709,575	1,882	\$128,018,626
TOTAL	1,275	\$28,216,116	3,569	\$74,295,445	8,509	\$168,100,490	13,353	\$270,612,051

OPSRP Members

Hours	State Agencies		Local Governments		School Districts		All Employers	
	Members	Salary	Members	Salary	Members	Salary	Members	Salary
< 200	19	\$64,489	77	\$271,989	134	\$315,991	230	\$652,469
200 – 400	15	\$143,605	38	\$419,225	54	\$437,624	107	\$1,000,454
401 – 600	10	\$156,748	23	\$365,476	37	\$508,780	70	\$1,031,004
601 – 800	3	\$49,591	6	\$133,319	16	\$274,341	25	\$457,252
801 – 1039	0	\$0	3	\$82,359	3	\$78,228	6	\$160,588
> 1039	0	\$0	3	\$137,271	10	\$358,849	13	\$496,119
TOTAL	47	\$414,433	150	\$1,409,639	254	\$1,973,814	451	\$3,797,885

All Members

Hours	State Agencies		Local Governments		School Districts		All Employers	
	Members	Salary	Members	Salary	Members	Salary	Members	Salary
< 200	293	\$905,560	1,359	\$4,516,378	3,219	\$8,661,705	4,871	\$14,083,643
200 – 400	220	\$2,190,451	660	\$7,427,361	1,540	\$13,207,481	2,420	\$22,825,293
401 – 600	204	\$3,410,532	489	\$8,663,114	1,056	\$15,611,307	1,749	\$27,684,953
601 – 800	185	\$4,510,213	326	\$8,268,050	742	\$15,637,977	1,253	\$28,416,240
801 – 1039	238	\$7,646,327	451	\$16,351,324	927	\$28,887,410	1,616	\$52,885,062
> 1039	182	\$9,967,466	434	\$30,478,856	1,279	\$88,068,424	1,895	\$128,514,746
TOTAL	1,322	\$28,630,549	3,719	\$75,705,084	8,763	\$170,074,304	13,804	\$274,409,936



Oregon

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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.oregon.gov/pers

PERS Policy Paper – Tax Remedy Payments

Background

Until the late 1980s, PERS benefit payments were exempt from state income taxes, while federal retirement benefits were partially exempt. A 1989 United States Supreme Court ruling directed that states must tax federal and state retirement benefits in the same manner. In 1991, the Oregon legislature passed a law to subject PERS benefits to state income tax. Imposing that tax on PERS benefits was challenged to the Oregon Supreme Court, which held that the legislature's imposition violated the benefit contract for PERS members.

Senate Bill 656 (1991) and House Bill 3349 (1995) were passed to establish "tax remedy" payments to mitigate the effect of subjecting PERS benefits to state income tax. SB 656 was found by the Oregon Supreme Court to be an inadequate remedy, and HB 3349 was enacted as a settlement of the litigation. As a result, eligible members receive the higher of the two tax remedy payments. The tax remedy formula under SB 656 is based on the member's total service time. Under HB 3349, the tax remedy is based on the amount of the member's service time before the tax was imposed.

Eligibility for Tax Remedy Payments

Tier Two and OPSRP members are NOT eligible for tax remedy payments. Tier One members who established membership before July 14, 1995, and have either service time before October 1, 1991, or at least 10 years of creditable service, are eligible.

Recent Legislation

Legislation approved in 2011 (House Bill 2456) eliminated the HB 3349 tax remedy payment for members retiring on or after January 1, 2012, who do not pay Oregon income taxes on their PERS benefits because they are not residents of Oregon. In 2013, Senate Bill 822 eliminated both tax remedy payments for all benefit recipients who do not pay Oregon Income taxes on their PERS benefits because they are not residents of Oregon, regardless of when the benefit payments began. This expansion was challenged, and in 2015 the Oregon Supreme Court upheld the Legislature's elimination of the tax remedy under SB 822 (the *Moro* decision), which reduced employer costs by \$55 million in the 2015-17 biennium because system liability was reduced by over \$400 million, based on the December 31, 2013 system valuation.

Elimination or Restoration of Tax Remedy Payments

ORS 238.372-384 establishes two ways for PERS to determine a benefit recipient's residency: 1) based on income tax filing information received from the Oregon Department of Revenue (DOR); or 2) based on the benefit recipient self-certifying, under penalty of perjury, that their benefit is subject to Oregon income taxes. This determination is limited to these two methods because other indications of residency (address on file, driver's license, or voter registration) do not always correlate to whether the recipient actually pays Oregon income taxes on their PERS benefit.

In mid-October each year, PERS works with the DOR to determine whether a benefit recipient filed an Oregon income tax return as a resident for the prior calendar year. If PERS cannot determine that the recipient did so, PERS sends a letter to the recipient asking them to certify residency status, either by returning a form to PERS or going online to certify residency. If the

recipient did not file an Oregon income tax return and does not certify Oregon residency before the end of that calendar year, the statute directs PERS to stop paying the tax remedy benefit for the next calendar year. A second letter is sent to those recipients who have not certified, explaining that the tax remedy payment will be removed for the next calendar year. If the recipient certifies after December 31, that their benefit is subject to Oregon income tax, the tax remedy payment is restored for the next calendar year.

Tax Remedy Payment Data

Year Processed (following CY payment affected)	2013	2014	2015	2016	2017
# of Payment Recipients Submitted to DOR	112,707	109,374	116,469	118,202	118,234
# DOR Reported as Tax Filing Residents in Prior Year	92,810	93,964	96,061	97,608	95,508
# DOR Reported as NOT Filing Taxes	19,897	15,410	20,408	20,592	19,887
# Accounts Tax Remedy Turned OFF for Next Year	17,208	1,362	2,518	1,597	1,883
Amount Turned OFF Each Month	\$2,280,670	\$170,015	\$240,121	\$189,983	\$209,145

Policy Considerations

1. *Administrative Challenges.* PERS’ determination that the recipient is not eligible for the tax remedy payment, because the recipient did not file an Oregon resident tax return with the DOR nor separately certify their residency status, can be challenged through the administrative review process. The following table shows the number of administrative appeals and contested case hearings that have resulted from this process over the last five years:

Year Processed (following calendar year payment affected)	2013	2014	2015	2016	2017
# of Tax Remedy Administrative Appeals Filed	841	76	119	114	69
# of Contested Case Hearings From Those Appeals	22	9	17	10	10
# of Tax Remedy Appeals Not Filed Timely	44	13	12	12	15

After 2013, the first year of the program, the number of challenges dropped significantly - to less than 1% of the tax remedy benefit tested each year. Anecdotal complaints about the process are not a significant share of those who are reviewed each year. The once-a-year reporting and payment cycle in the statute was established to make this process administratively feasible and is designed to account for people coming in and people leaving Oregon over the course of time.

2. *Cost Savings.* Eliminating the tax remedy payment for those who do not pay Oregon income taxes on their PERS benefits saved PERS employers millions of dollars per biennium, and those savings will persist so long as those benefits are not restored, either by relaxing controls or requiring restoration to those recipients who do not timely re-certify when prompted.

3. *Judicial Review.* Importantly, the Oregon Supreme Court has already reviewed the statute and found it to be constitutional. Modifications to the tax remedy eligibility determination process could only could impact system-wide savings but also open the door to another round of judicial review.

Policy Recommendation

The significant employer cost savings from eliminating tax remedy payments for those recipients who do not pay Oregon income taxes on their PERS benefits because they do not reside in Oregon should remain in place. PERS will continue to seek to improve its communication and processes to ensure recipients who need to certify their eligibility understand the importance of doing so, and have simple and efficient ways to provide that certification. Those few members who have failed to file their tax returns or provide their certifications timely are not indications that wholesale changes to the current system are warranted at this time.



Oregon

Kate Brown, 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.oregon.gov/pers

February 1, 2019

TO: Senator Betsy Johnson, Co-Chair
Senator Elizabeth Steiner-Hayward, Co-Chair
Representative Dan Rayfield, Co-Chair
Joint Committee on Ways and Means

FROM: Kevin Olineck, Director, Public Employees Retirement System

SUBJECT: Senate Bill 1566 Status Report

Purpose

As required by Senate Bill 1566(28), the Public Employees Retirement System (PERS) is providing an update on the status of the Employer Incentive Fund, the School Districts Unfunded Liability Fund, and the Unfunded Actuarial Liability Resolution Program, as of January 2019.

Program Review

Employer Incentive Fund

The Employer Incentive Fund (EIF) provides up to a 25% match for employers who make a qualifying lump-sum payment to a side account.

The PERS Board may not accept applications for participation in the EIF until there are sufficient moneys in the fund. At this time, the sole source of revenue for EIF is directed by Senate Bill 1529(2018) and those funds are expected after July 1, 2021. However, Section (2)(c)(A) of SB 1566 requires the application process to close by December 31, 2019. Because funds will not be available in the EIF in 2019, PERS cannot accept applications before the required application close date. To remedy this conflict, PERS has requested Senate Bill 75(2019) to, among other changes, allow the Board to approve EIF applications as long as EIF moneys are projected to be available.

School Districts Unfunded Liability Fund

The School Districts Unfunded Liability Fund (SDULF) is a pooled side account that will provide rate relief to all public school districts, public charter schools, and education service districts. The SDULF has five defined revenue sources: interest on unclaimed property from the Department of State Lands; proceeds from debt collection; proceeds from estate taxes; proceeds from capital gains taxes; and a one-time payment, as prescribed in Senate Bill 1529(2018).

PERS will establish the SDULF with Treasury and expects to receive the first transfer of funds, \$11,539,471 from interest on unclaimed property from the Department of State Lands in 2019. The Department of Administrative Services has reported that transfers are not expected from debt collection, capital gains or estate taxes this biennium. However, the Governor's

Recommended Budget includes an appropriation of \$100 million for the SDULF in the PERS agency budget bill, House Bill 5032.

PERS does not anticipate applying a rate offset to the School Districts Pool this biennium. In order to achieve a one percent rate offset for the School Districts Pool, the SDULF would require at least \$435 million.

Unfunded Actuarial Liability Resolution Program

The Unfunded Actuarial Liability Resolution Program provides information and resources to assist employers as they develop plans to improve their funded status and manage projected rate changes. Employers who receive matching funds from the EIF are required to participate in the program.

PERS surveyed employers to determine what tools and resources the employers need to better manage their UAL and the majority of employers requested a tool like the [Employer Rate Projection Tool](#). PERS updated the Employer Rate Projection Tool with assumptions and data from the December 31, 2017 valuation and posted it to the Employers' website in January 2019. Employers also requested additional information and resources to help them understand and explain the information received in actuarial valuations. PERS is in the process of creating a series of informational pieces that will explain key actuarial concepts and how employers can leverage that information to assist with budget planning. PERS will create a new webpage on the PERS website to ensure easy access to this information.

Summary

Uncertainty surrounding revenue streams for the EIF and SDULF create challenges in planning for the amount and timing of rate relief that employers may receive through these programs. The administrative processes are in place, or have been outlined and are ready for deployment as soon as revenue is available, to ensure employers receive rate relief at the earliest opportunity.



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www.oregon.gov/pers

February 1, 2019

TO: George Naughton, Chief Financial Officer, Department of Administrative Services
Ken Rocco, Legislative Fiscal Officer, Legislative Fiscal Office

FROM: Kevin Olineck, Director, Public Employees Retirement System

SUBJECT: Senate Bill 1566-School Districts Unfunded Liability Fund Distribution Report

Purpose

Senate Bill 1566(24)(5) requires PERS to report to the Department of Administrative Services (DAS) and the Legislative Fiscal Officer (LFO), no later than February 2nd of each odd-numbered year, an estimate of how moneys in the School Districts Unfunded Liability Fund (SDULF) will be distributed in the following biennium.

Background

The SDULF is a side account for all public school districts, public charter schools and education service districts to receive employer rate relief through the School Districts Pool. As of the December 31, 2017 actuarial valuation, the School Districts Pool is 73.9% funded (excluding existing side accounts) and has an unfunded actuarial liability of \$7 billion. The weighted average collared pension base rate for the School Districts in the 2019-2021 biennium will be 28.93%, excluding side accounts.

Funding Sources 2019-2021

Senate Bill 1566 provides that the SDULF shall be credited annually with revenue from interest on unclaimed property, biennially from proceeds on capital gains and estate taxes, from debt collection starting in 2020 and, as defined in Senate Bill 1529(2018), repatriated corporate income in 2021. Additionally, the Governor's Recommended Budget includes a \$100 million General Fund appropriation for this fund.

DAS reports that no revenue is expected from capital gains, estate taxes or debt collection this biennium. However, the SDULF expects to receive the first transfer of funds from interest on unclaimed property in 2019, in the amount of \$11,539,471.

Biennium Distribution

With current estimates, PERS does not anticipate distribution from the SDULF to the School Districts Pool this biennium. A 1% rate offset to the School Districts Pool would require a SDULF balance of approximately \$435,000,000. The current balance of \$11.5 million provides an estimated rate offset of less than 0.01%.



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(503) 598-7377
TTY (503) 603-7766
www.oregon.gov/pers

February 1, 2019

TO: Members of the PERS Board

FROM: Jessica Williams, Chief Financial Officer
Amanda Marble, Financial Reporting Manager

SUBJECT: 2018 Preliminary Earnings Crediting and Reserving

OVERVIEW

- Action: Preliminarily allocate 2018 earnings.
- Reason: ORS 238.670(5) requires PERS to submit a preliminary proposal to the appropriate legislative committee at least 30 days before making a final decision on earnings crediting.
- Subject: Crediting earnings for calendar year 2018 to the PERS Fund's accounts and reserves.

The PERS Board is charged with crediting the earnings from the PERS Fund each calendar year. Some of those allocations are directed by statute or rule; the balance is at the PERS Board's discretion.

EARNINGS ALLOCATIONS DIRECTED BY STATUTE OR RULE

The following reserves and accounts are allocated earnings by applicable statute or rule. In compliance with these restrictions, the preliminary earnings allocation reflects the following:

1. **Administrative Expenses:** PERS administrative costs are funded by earnings when they are sufficient, as they were in 2018 (ORS 238.610(1)). As directed by House Bill 4155 (2014), the administrative costs to comply with Governmental Accounting Standards Board (GASB) 68 and 75 reporting standards were \$150,179, and will be recovered from earnings on employer's contributions.
2. **Health Insurance Accounts:** These accounts are created as part of the PERS Fund and directed by statute to be credited with actual earnings or losses, less the expense related to the administration of the programs (ORS 238.410(7); 238.415(4); 238.420(4)). For 2018, the preliminary crediting rate for these accounts is estimated to be 0.28% for RHIA, -0.72% for RHIPA, and 1.14% for SRHIA (invested in the Treasury Short-Term Fund).
3. **Employer Lump Sum Payment Accounts:** These accounts are credited with actual earnings or losses of the PERS Fund Regular Account less administrative expenses, as authorized by ORS 238.225. For 2018, the preliminary crediting rate for these accounts is estimated to average 0.39%.
4. **Variable Annuity Account:** This account is credited with earnings and losses on its distinct asset allocation of the PERS Fund. The Variable Annuity Account is only invested in equities and therefore its earnings are discrete from those of the more diversified PERS Fund Regular Account. As there are insufficient Variable Annuity Account 2018 earnings to pay for administrative expenses, per OAR 459-007-0005, those expenses will be charged to the Regular Account 2018 earnings. For 2018, preliminary Variable Annuity Account earnings are estimated to be -10.03%.

5. **Individual Account Program (IAP):** These member accounts are credited with actual earnings or losses of the PERS Fund Regular Account as required by ORS 238A.350 (1). The overall Preliminary IAP earnings for 2018 are estimated to be -0.72% after deducting IAP expenses.
6. **Tier One Rate Guarantee Reserve:** This reserve, established under ORS 238.255(1), is used to fund crediting of the assumed rate to Tier One member regular accounts when earnings are less than the assumed rate. A transfer of \$255.9 million from the existing reserve will be credited to Tier One member regular accounts for 2018 earnings crediting, resulting in a remaining balance of \$254.6 million.

CONTINGENCY RESERVE ALLOCATION

ORS 238.670 (1) to limit the Board's crediting of funds to the Contingency Reserve; specifically, "...the board may not credit further amounts to the reserve account if the amounts in the reserve account exceed \$50 million."

The current balance of the Contingency Reserve is \$50 million, with \$2.5 million earmarked for resolving employer insolvencies. The staff recommends no additional allocation at this time.

2018 PRELIMINARY ALLOCATIONS

The PERS Board's Annual Earnings Crediting rule (see OAR 459-007-0005, Attachment 3) directs the crediting to the Judge and Tier Two member regular accounts, as well as the OPSRP Pension Program, Benefits-in-Force, and Employer reserves. Staff recommends the following allocations be adopted preliminarily by the PERS Board:

Non-Discretionary Allocations

Credit administrative expenses, health insurance accounts, employer lump sum accounts, variable annuity accounts, and accounts in the Individual Account Program in the manner described above. Credit Tier One member regular accounts with the assumed earnings rate (7.20%) in effect during 2018.

Judge Member Accounts

Credit Judge Member Accounts with the assumed earnings rate (7.20%) in effect during 2018.

Tier Two Member Regular Accounts

Tier Two member regular accounts usually are credited with a proportional share of available PERS Fund Regular Account earnings, which will result in a preliminary rate of 0.20%.

OPSRP Pension Plan Member Accounts

OPSRP member accounts usually are credited with a proportional share of available PERS Fund Regular Account earnings, which will result in a preliminary rate of 0.22%.

Benefits-in-Force and Employer Reserves

Credit the Benefits-in-Force and Employer Reserves evenly with the remaining available PERS Fund Regular Account earnings. The preliminary crediting rate to those accounts is 0.20%.

BOARD ACTION – PRELIMINARY EARNINGS CREDITING

The Board's options for 2018 preliminary earnings crediting include:

1. Pass a motion to “adopt the preliminary crediting of earnings as presented for calendar year 2018, subject to final adoption at the April 1, 2019 PERS Board meeting.”
2. Pass a motion preliminarily allocating 2018 earnings in a different proportion, subject to final adoption at the April 1, 2019 PERS Board meeting.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

NEXT STEPS

Preliminary Earnings Crediting: Once the Board makes its preliminary allocation, staff will prepare and present the required report to the Joint Legislative Committee on Ways and Means. Any comments received from the committee will be presented to the Board prior to the final crediting decision at its meeting on April 1, 2019.

This preliminary action and the resulting report to the Legislature do not prohibit the PERS Board from changing its final decision, such as if new information becomes available. If the Board makes a significant change from its preliminary decision, staff will report the Board's actions to the Legislature.

Attachments:

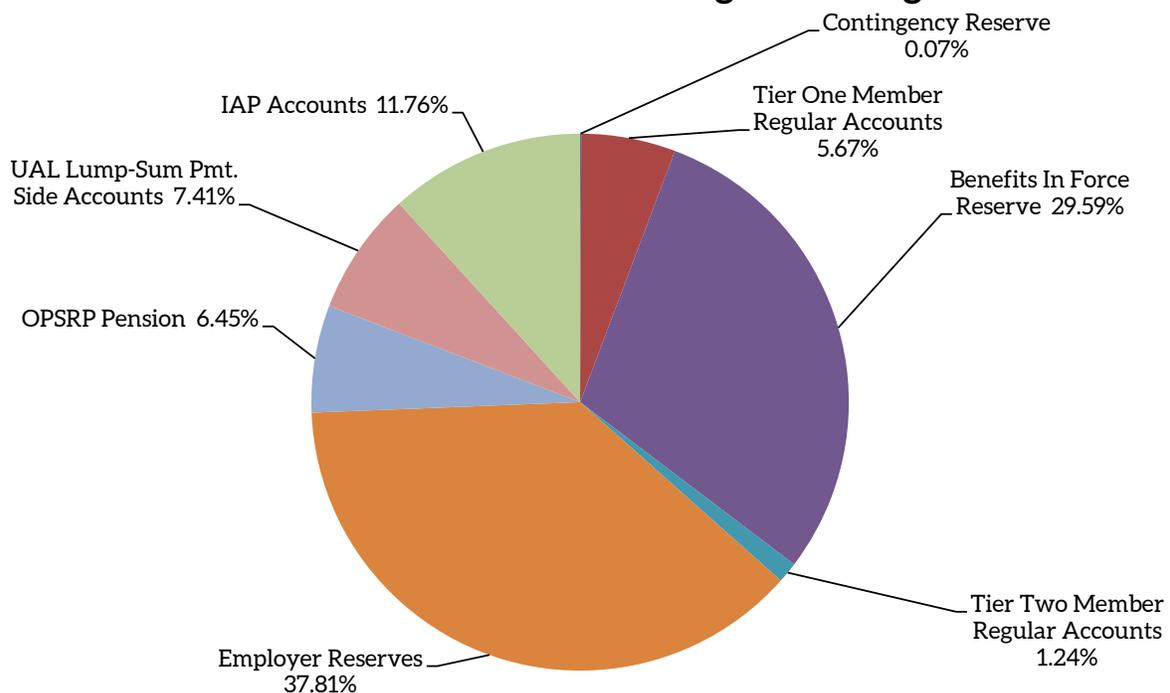
- C.3. Attachment 1 – Preliminary 2018 Accounts and Reserves Crediting
- C.3. Attachment 2 – ORS 238.670 – Reserve Accounts in Fund
- C.3. Attachment 3 – OAR 459-007-0005 – Annual Earnings Crediting Rule

Oregon Public Employees Retirement System Preliminary 2018 Crediting and Reserving

(All dollar amounts in millions)

	Reserves Before Crediting	2018 Crediting	Reserves After Crediting	2018 Rates
Contingency Reserve	\$50.0	-	\$50.0	N/A
Tier One Member Regular Accounts	3,674.5	264.6	3,939.1	7.20%
Tier One Rate Guarantee Reserve	510.5	(255.9)	254.6	N/A
Benefits In Force Reserve	21,840.0	45.3	21,885.3	0.20%
Tier Two Member Regular Accounts	919.2	1.9	921.1	0.20%
Employer Reserves	27,904.0	58.2	27,962.2	0.20%
OPSRP Pension	4,763.3	10.9	4,774.2	0.22%
*UAL Lump-Sum Pmt. Side Accounts	5,460.3	21.7	5,482.0	Various
*IAP Accounts, as a whole	8,758.8	(63.2)	8,695.6	-0.72%
Total	\$73,880.6	\$83.5	\$73,964.1	

2018 Reserve Balances After 2018 Earnings Crediting



*Informational only. Not affected by Board reserving or crediting decisions.

IAP accounts receiving installments have already received 2018 earnings.

**Oregon Public Employees Retirement System
Preliminary IAP TDF Earnings**

(All dollar amounts in thousands)

TDF Fund	Reserves Before Crediting	2018 Crediting	Reserves After Crediting	2018 Rates
RET Fund	\$370,324.9	(2,870.80)	\$367,454.1	-0.77%
2020 Fund	955,906.3	1,958.8	957,865.1	0.20%
2025 Fund	1,457,058.4	(10,107.6)	1,446,950.8	-0.69%
2030 Fund	1,563,190.9	(12,344.6)	1,550,846.3	-0.78%
2035 Fund	1,606,194.6	(3,594.6)	1,602,600.0	-0.22%
2040 Fund	1,304,221.8	(5,380.4)	1,298,841.4	-0.41%
2045 Fund	913,972.8	(18,547.3)	895,425.5	-2.02%
2050 Fund	436,609.8	(9,015.9)	427,593.9	-2.06%
2055 Fund	132,624.1	(2,877.2)	129,746.9	-2.16%
2060 Fund	18,680.8	(409.3)	18,271.5	-2.19%
Total	\$8,758,784.4	-\$63,188.9	\$8,695,595.5	

ORS 238.670 Reserve accounts in fund. (1) At the close of each calendar year in which the earnings on the Public Employees Retirement Fund equal or exceed the assumed interest rate established by the Public Employees Retirement Board under ORS 238.255, the board shall set aside, out of interest and other income received through investment of the Public Employees Retirement Fund during that calendar year, such part of the income as the board may deem advisable, not exceeding seven and one-half percent of the combined total of such income, which moneys so segregated shall remain in the fund and constitute therein a reserve account. The board shall continue to credit the reserve account in the manner required by this subsection until the board determines that the reserve account is adequately funded for the purposes specified in this subsection. Such reserve account shall be maintained and used by the board to prevent any deficit of moneys available for the payment of retirement allowances, due to interest fluctuations, changes in mortality rate or, except as provided in subsection (3) or (4) of this section, other contingency. In addition, the reserve account may be used by the board for the following purposes:

(a) To prevent any deficit in the fund by reason of the insolvency of a participating public employer. Reserves under this paragraph may be funded only from the earnings on employer contributions made under ORS 238.225.

(b) To pay any legal expenses or judgments that do not arise in the ordinary course of adjudicating an individual member's benefits or an individual employer's liabilities.

(c) To provide for any other contingency that the board may determine to be appropriate.

(2) At the close of each calendar year, the board shall set aside, out of interest and other income received during the calendar year, after deducting the amounts provided by law and to the extent that such income is available, a sufficient amount to credit to the reserves for pension accounts and annuities varying percentage amounts adopted by the board as a result of periodic actuarial investigations. If total income available for distribution exceeds those percentages of the total accumulated contributions of employees and employers, the reserves for pensions and annuities shall participate in such excess.

(3) The board may set aside, out of interest and other income received through investment of the fund, such part of the income as the board considers necessary, which moneys so segregated shall remain in the fund and constitute one or more reserve accounts. Such reserve accounts shall be maintained and used by the board to offset gains and losses of invested capital. The board, from time to time, may cause to be transferred from the reserve account provided for in subsection (1) of this section to a reserve account provided for in this subsection such amount as the board determines to be unnecessary for the purposes set forth in subsection (1) of this section and to be necessary for the purposes set forth in this subsection.

(4) The board may provide for amortizing gains and losses of invested capital in such instances as the board determines that amortization is preferable to a reserve account provided for in subsection (3) of this section.

(5) At least 30 days before crediting any interest and other income received through investment of the Public Employees Retirement Fund to any reserve account in the fund, the board shall submit a preliminary proposal for crediting to the appropriate legislative review agency, as defined in ORS 291.371 (1), for its review and comment. [Formerly 237.281; 2001 c.945 §5]

OAR 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), Retiree Health Insurance Premium Account (RHIPA) or Retirement Health Insurance Account (RHIA) 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 238.229 shall be credited to the accounts from which they were derived.
- (5) Member variable accounts. 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 annual earnings from the Variable Annuity Account are insufficient to pay for the pro rata share of administrative expenses, those administrative expenses shall be paid from earnings on other accounts within the Public Employees Retirement Fund (PERF), if available. If earnings from those accounts within the PERF are insufficient to pay for the administrative expenses, those expenses shall be paid from employer accounts as required by ORS 238.610. All remaining earnings or losses attributable to the Variable Annuity Account shall be credited to the participants of that account, as provided under 238.260(6) and (7)(b).
- (6) Individual Account Program accounts. Earnings on the Individual Account Program accounts shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238A.350(1). Losses on Individual Account Program target date funds shall be increased by a pro rata share of administrative expenses. After administrative expenses, each Individual Account Program account shall be credited with the earnings or losses of the specific target date fund to which the account is allocated.
- (7) Administrative expenses. Earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two member regular accounts, judge member regular accounts, the OPSRP Pension Program reserve, 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.
- (8) 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, Judge member regular accounts, the OPSRP Pension Program reserve, the 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.

(9) Tier One Member Rate Guarantee Reserve. All remaining earnings attributable to Tier One regular accounts, the Tier One Member Rate Guarantee Reserve, Judge member regular accounts, 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).

(10) Capital Preservation Reserve. Remaining earnings attributable to the Tier Two member regular accounts, Judge member regular accounts, OPSRP Pension Program reserve, 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.

(11) 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.

(12) Judge member regular accounts. All remaining earnings attributable to Judge member regular accounts shall be credited to all active and inactive Judge member regular accounts at the Judge member rate. Crediting under this subsection shall be funded first by all remaining earnings attributable to the Judge member regular accounts and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

(13) 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.

(14) OPSRP Pension Program Reserve. Remaining earnings attributable to the OPSRP Pension Program Reserve, the Contingency Reserve, and the Capital Preservation Reserve may be used to credit the OPSRP Pension Program reserve.

(15) 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).

(16) Employer contribution accounts. All remaining earnings attributable to employer contribution accounts shall be credited to employer contribution accounts.

(17) Remaining earnings. Any remaining earnings shall be credited to accounts and reserves in the Fund at the Board's discretion.

Statutory/Other Authority: ORS 238.650 & 238A.450

Statutes/Other Implemented: ORS 238 & 238A.350

History:

PERS 2-2018, amend filed 02/02/2018, effective 02/02/2018

PERS 7-2017, temporary amend filed 12/01/2017, effective 12/01/2017 through 05/29/2018

PERS 9-2012, f. & cert. ef. 5-24-12

PERS 4-2009, f. & cert. ef. 4-6-09

PERS 1-2006, f. & cert. ef. 2-1-06

PERS 18-2005(Temp), f. & cert. ef. 10-26-05 thru 4-19-06

PERS 8-2004, f. & cert. ef. 4-15-04



UPDATED VALUATION RESULTS ESTIMATES

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

Presented by:

Matt Larrabee, FSA, EA

Scott Preppernau, FSA, EA

February 1, 2019

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Backward-looking calendar

- October: Employer-specific 2019-2021 contribution rates
 - Based on the December 31, 2017 actuarial valuation
- December: Long-term financial modeling projections reflecting published investment results through October 31
 - System average contribution rates
 - System funded status
 - System unfunded actuarial liability (UAL)
- Today: Preliminary estimate of system-wide December 31, 2018 results
 - Based on financial model presented in December, updated for:
 - Year-end 2018 returns published by Oregon State Treasury
 - Alternative illustrative “what if” results for actual 2018 returns
 - Actual December 31, 2018 valuation results will reflect updated member data and any assumption changes from experience study

System-wide weighted pension-only rates

2009-2011 rates set prior to economic downturn

2011-2013 rates first to reflect -27% return in 2008

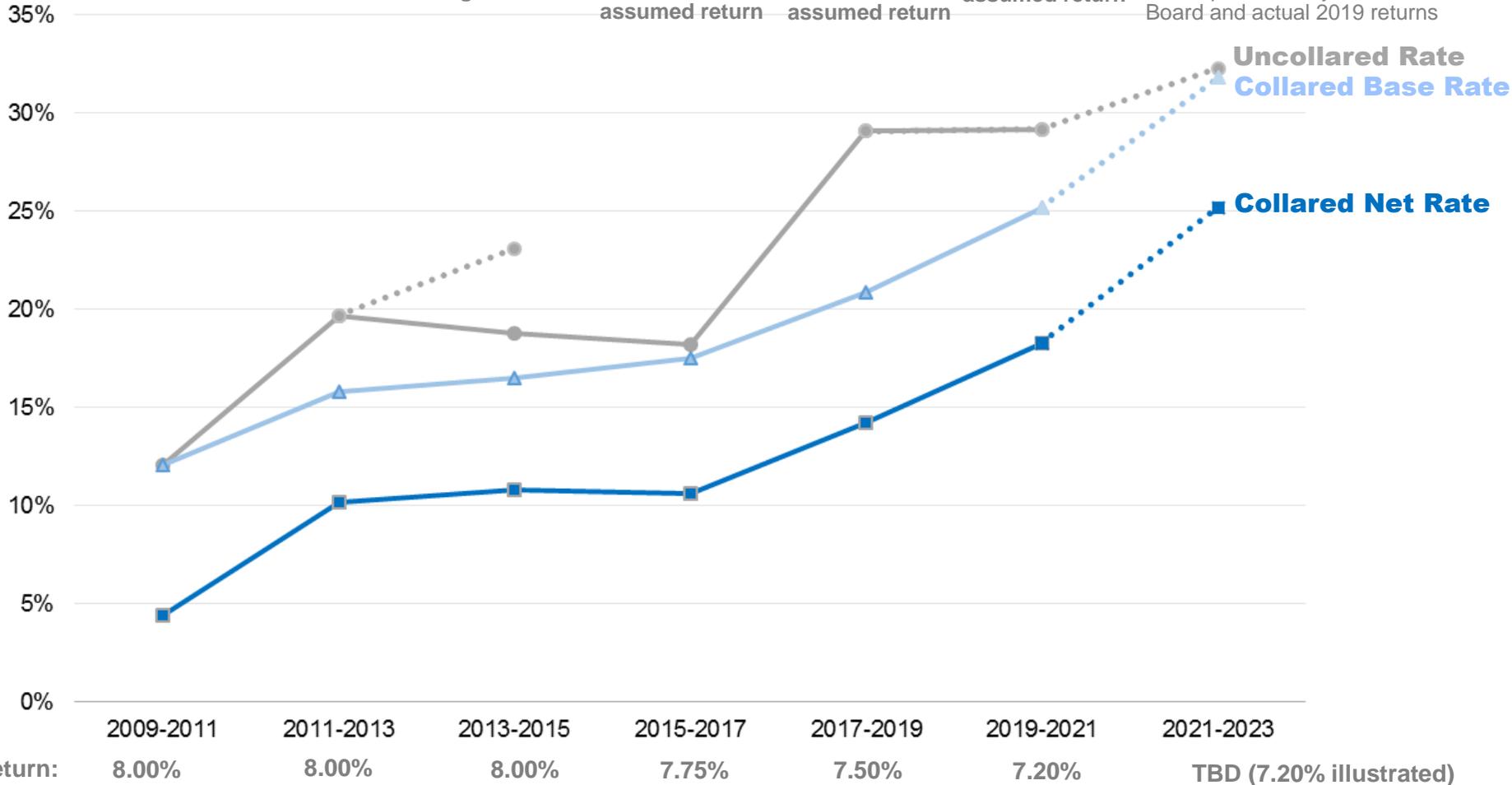
2013-2015 shown before (dotted line) and after (solid line) legislated changes

2015-2017 set pre-Moro reflecting 2012 (+14.3%) & 2013 (+15.6%) returns, first decrease in assumed return

2017-2019 set post-Moro, reflecting 2015 return (+2.1%) and second decrease in assumed return

2019-2021 reflects +15.4% return in 2017 and third decrease in assumed return

2021-2023 are preliminary estimates, based on published 2018 return of +0.48% and assumed 2019 return of 7.2%, final rates will depend on assumptions set by PERS Board and actual 2019 returns



Assumed return: 8.00% 8.00% 8.00% 7.75% 7.50% 7.20% TBD (7.20% illustrated)



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Estimated 12/31/18 actuarial valuation results

- Private equity (over 20% of fund assets) is **always** reported on a three-month lag in the valuation, so Q4's effect on private equity is not reflected in the published +0.48% return which will be used to calculate advisory rates
- The lag reporting's effect is material this year, with it serving as a headwind for the TBD 2019 returns which will help set final rates next year
- To illustrate sensitivity, slides 3 and 4 show results with a -4.0% 2018 return

Actual 2018 Investment Return	Excluding Side Accounts		Including Side Accounts	
	UAL	Funded Status	UAL	Funded Status
Published + 0.48%	\$26.6	69%	\$21.6	75%
Illustrative - 4.00%	\$29.2	66%	\$24.5	72%

Preliminary estimated 2021-2023 system-wide rates

- Estimates on this slide model:
 - Upcoming valuations using a 7.2% assumed return
 - Published investment return in 2019 of 7.2%
 - Published and alternate illustrative 2018 returns as discussed on prior slide

Actual 2018 Investment Return	Estimated 2021-2023 pension-only rates		
	Uncollared	Collared Base	Collared Net
Published + 0.48%	32.3%	31.8%	25.2%
Illustrative - 4.00%	34.1%	33.6%	27.4%



Appendix

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Certification

This presentation summarizes a limited update to deterministic modeling for the Oregon Public Employees Retirement System (“PERS” or “the System”) initially presented to the PERS Board in December 2018. Updates since December 2018 consists solely of changes to modeled 2018 investment returns as noted in the body of this presentation, including a modeled -9.66% 2018 return on Tier 1/Tier 2 member variable accounts. The December 2018 presentation should be referenced for additional detail on the assumptions, methods, and plan provisions underlying these results.

In preparing this report, we relied, without audit, on information (some oral and some in writing) supplied by the System’s staff. This information includes, but is not limited to, statutory provisions, employee data, and financial information. We found this information to be reasonably consistent and comparable with information used for other purposes. The valuation results depend on the integrity of this information. If any of this information is inaccurate or incomplete our results may be different and our calculations may need to be revised.

All costs, liabilities, rates of interest, and other factors for the System have been determined on the basis of actuarial assumptions and methods which are individually reasonable (taking into account the experience of the System and reasonable expectations); and which, in combination, offer our best estimate of anticipated experience affecting the System.

Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements. The PERS Board has the final decision regarding the appropriateness of the assumptions.

Actuarial computations presented in this report are for purposes of determining the recommended funding amounts for the System. The computations prepared for other purposes may differ as disclosed in our report. The calculations in the enclosed report have been made on a basis consistent with our understanding of the System’s funding requirements and goals.

Certification

The calculations in this report have been made on a basis consistent with our understanding of the plan provisions described in the appendix of this report. Determinations for purposes other than meeting these requirements may be significantly different from the results contained in this report. Accordingly, additional determinations may be needed for other purposes.

Milliman's work is prepared solely for the internal business use of the Oregon Public Employees Retirement System. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work product.

No third party recipient of Milliman's work product should rely upon Milliman's work product. Such recipients should engage qualified professionals for advice appropriate to their own specific needs.

The consultants who worked on this assignment are pension actuaries. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

The signing actuaries are independent of the System. We are not aware of any relationship that would impair the objectivity of our work.

On the basis of the foregoing, we hereby certify that, to the best of our knowledge and belief, this report is complete and accurate and has been prepared in accordance with generally recognized and accepted actuarial principles and practices. We are members of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.