



# Oregon

Tina Kotek, Governor

## Public Employees Retirement System

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April 1, 2024

TO: Members of the PERS Board

FROM: Anne Marie Vu, Research Policy Coordinator, Policy Analysis and Compliance Section  
Stephanie Vaughn, Manager, Policy Analysis and Compliance Section

SUBJECT: Adoption/Repeal of Rules to Implement HB 2740 (2023):  
OAR 459-010-0012 *Membership of Community College Employees (Repeal)*  
OAR 459-005-0012 *Membership of Academic Employees of Community Colleges and Public Universities (Adopt)*

### OVERVIEW

- Action: Adopt OAR 459-005-0012 to implement HB 2740 (2023); repeal OAR 459-010-0012.
- Reason: Implement HB 2740 (2023).
- Policy Issue: None identified.

### BACKGROUND

During the 2023 legislative session, House Bill (HB) 2740 was passed amending ORS 238.074 and 238A.142. Prior to HB 2740's passage, these statutory provisions provided a special method to calculate hours used to determine PERS membership eligibility for academic employees of community colleges. They allowed community colleges to convert an academic employee's full-time equivalency (FTE) to hours. Such converted hours were subsequently reported to PERS and used to determine whether the academic employee has worked the requisite 600 hours in a calendar year to be considered employed in a "qualifying position," entitling them to any PERS benefits that require 600 hours of service in the calendar year. These statutory provisions previously did not apply to employees of public universities.

HB 2740 became effective January 1, 2024, and made three specific changes to the statute. First, HB 2740 removed the general FTE hour conversion method and replaced it with a new method that only converts hours of lecture or classroom time worked by an academic employee. Each assigned hour of lecture time or hour of classroom time is multiplied by 2.67. Second, HB 2740 limits the multiplier conversion method *only* to hours of lecture or classroom time. Other hours of employment are reported without any conversion. Lastly, HB 2740 expanded the special conversion method to apply to academic employees of public universities (who previously were not covered under ORS 238.074 or 238A.142) as well as community colleges. These proposed rule amendments clarify how the revised statutory provisions work, providing guidance to employers on their reporting obligations.

As part of rulemaking, PERS is presenting this clarification in a new rule in Division 5, because the rule applies to all PERS programs including Chapter 238 Programs (Tier One and Tier Two), and the Oregon Public Service Retirement Plan (OPSRP). The existing rule (OAR 459-010-0012) is a part of Division 10 and only applies to the Chapter 238 Programs. As such, it will be repealed to avoid any potential confusion.

### CHANGES MADE SINCE NOTICE

None.

### PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely on February 20, 2024, at 2:00 p.m. The public comment period ended February 29, 2024, at 5:00 p.m. No public comment was received.

### LEGAL REVIEW

The attached rules were submitted to the Department of Justice for legal review and any comments or changes are incorporated in the rules as presented for adoption.

### IMPACT

Mandatory: No.

Benefit: Provides clarification on PERS administration of revised ORS 238.074 and 238A.142.

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

### RULEMAKING TIMELINE

February 1, 2024	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
February 1, 2024	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice was sent to employers, legislators, and interested parties. Public comment period began.
February 2, 2024	PERS Board notified that staff began the rulemaking process.
February 20, 2024	Rulemaking hearing was held remotely at 2:00 p.m.
February 29, 2024	Public comment period ended at 5:00 p.m.
April 1, 2024	Board may adopt the rule modifications.

### BOARD OPTIONS

The PERS Board may:

1. Pass a motion to “adopt OAR 459-005-0012 and repeal OAR 459-010-0012 to Implement HB 2740 (2023), as presented.”
2. Direct staff to make other changes to the rules or explore other options.

### STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

B.1. Attachment 1 – OAR 459-010-0012  
B.1. Attachment 2 – OAR 459-005-0012

*Membership of Community College Employees*  
*Membership of Academic Employees of*  
*Community Colleges and Public Universities*