

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 009 – PUBLIC EMPLOYER**

459-009-0130

Contributions for Prior Periods

(1) When contributions under ORS 238.205, ORS 238A.330, ORS 238A.335, or ORS 238A.340 are determined by PERS to be required for salary paid in previous calendar years, or allocated to such years pursuant to ORS 238.005, 238A.005 or USERRA, PERS must notify both the employee and the employer of the amount of contributions required, the pay period and salary for which the contributions are to be paid, and the information relied upon by PERS in determining that the contributions are due. The employer must forward the required contributions to PERS.

(2) The notice provided under section (1) will also include a determination of the amount of earnings owed on the contributions, the amount of earnings the employer must pay, and any amount of earnings PERS will pay.

(a) In determining the amount of earnings the employer must pay, PERS will not include earnings attributable to periods after the date the employer submitted the contributions if:

(A) The employer submitted the contributions before PERS sent the notice that they were owed, and

(B) PERS returned or failed to accept the contributions.

(b) Notwithstanding subsection (a) of this section, when an employer is late with a contribution required under USERRA, PERS will charge the employer with earnings that would have been credited to a member's account if the contribution was timely made. For the purpose of applying earnings for prior periods, an employer is considered late if an employer submits a contribution required under USERRA after the later of:

(A) A date after when contributions are due under 20 CFR §1002.262; or

(B) A date after the annual earnings would have been credited to an employee's account for the calendar year of the member's reemployment.

(c) Any earnings paid by PERS will be charged to current year earnings in the year that the earnings are actually credited to the employee's account.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.200 & 238.705