



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 459
OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

FILED

10/03/2019 3:09 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Implement 2019 legislation impacting PERS.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/21/2019 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

Changes are necessary to bring the rules in line with changes or additions to statute made by the 2019 legislature.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Legislative bills are available online at: <https://olis.leg.state.or.us/liz/2019R1/Measures/list/>

Senate Bill 1049 (Chapter 355, Oregon Laws 2019)
Senate Bill 576 (Chapter 152, Oregon Laws 2019)
House Bill 2118 (Chapter 57, Oregon Laws 2019)
House Bill 2972 (Chapter 496, Oregon Laws 2019)
House Bill 3146 (Chapter 213, Oregon Laws 2019)

FISCAL AND ECONOMIC IMPACT:

There are no discrete costs attributable to the rules.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There are no anticipated costs to members, employers, or the PERS fund. There are no PERS administrative costs associated with the rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The rules do not affect small businesses and therefore small businesses were not involved in the development of the rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A public hearing will be held and the PERS Board solicits input on rules from any interested or affected parties.

RULES PROPOSED:

459-005-0525, 459-009-0070, 459-017-0060, 459-050-0001, 459-075-0300, 459-076-0045

AMEND: 459-005-0525

RULE SUMMARY: Senate Bill 1049 (2019) changed the definition of "salary" for PERS purposes, creating a new limitation on subject salary used for PERS benefit calculations and contributions. Currently, salary limits exist for all programs according to federal law. Tier Two and OPSRP salary is limited for all plan purposes (i.e. contributions and benefits); Tier One is limited only for contributions. SB 1049 establishes a salary limit for all programs that is lower than the federal limits. For calendar years beginning on or after January 1, 2020, the annual subject salary taken into account for purposes of determining contributions and calculating final average salary (FAS) for all PERS members may not exceed \$195,000 in a calendar year. The proposed modifications to OAR 459-005-0525 incorporate the salary limitation for calendar year 2020 and are necessary to ensure compliance with the statutory limits on the amount of annual salary allowed for determining contributions and for calculating final average salary.

CHANGES TO RULE:

459-005-0525

Ceiling on Compensation for Purposes of Contributions and Benefits ¶¶

(1) This administrative rule shall be construed consistently with the requirements of the Internal Revenue Code (IRC) Section 401(a)(17) relating to the limitation on annual compensation allowable for determining contribution and benefits under ORS Chapters 238 and 238A.¶¶

(2) For purposes of this rule:¶¶

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

(b) "Eligible participant" means a person who first becomes a member of PERS before January 1, 1996.¶¶

(c) "Employer" means a "public employer" as defined in ORS 238.005, for the purposes of this rule as it applies to Chapter 238. For the purposes of this rule as it applies to Chapter 238A, an "employer" means a "participating public employer" as defined in 238A.005.¶¶

(d) "Noneligible participant" means a person who first becomes a member of PERS after December 31, 1995.¶¶

(e) "Participant" means an active or inactive member of PERS.¶¶

(3) For eligible participants, the limit set forth in IRC Section 401(a)(17) shall not apply for purposes of determining the amount of employee or employer contributions that may be paid into PERS, and for purposes of determining benefits due under ORS Chapters 238 and 238A. The limit on annual compensation for eligible participants shall be no less than the amount which was allowed to be taken into account for purposes of determining contributions or benefits under former ORS 237.001 to 237.315 as in effect on July 1, 1993.¶¶

~~(4) For noneligible participants, the, for calendar years before 2020. Beginning in 2020, the limit on annual compensation taken into account for purposes of determining contributions or benefits under ORS Chapters 238 and 238A for eligible participants shall be measured on a calendar year basis, and shall not exceed \$280195,000 per calendar year beginning in 2019.¶¶~~

~~(a4) The limitation on annual compensation will be indexed by cost-of-living adjustments in subsequent years as~~

provided in IRC Section 401(a)(17)(B). For noneligible participants, the annual compensation taken into account for purposes of determining contributions or benefits under ORS Chapters 238 and 238A shall be measured on a calendar year basis, and shall not exceed \$195,000 per calendar year beginning in 2020. ¶

~~(b5)~~ A ~~noneligible~~ participant employed by two or more agencies or instrumentalities of a PERS participating employer in a calendar year, whether concurrently or consecutively, shall have all compensation paid by the employer combined for determining the allowable annual compensation under this rule. ¶

~~(e6)~~ PERS participating employers shall monitor annual compensation and contributions to assure that reports and remitting are within the limits established by this rule and IRC Section 401(a)(17). ¶

~~(57)~~ For a ~~noneligible~~ participant, Final Average Salary under ORS 238.005 with respect to Chapter 238 and under 238A.130 with respect to Chapter 238A shall be calculated based on the amount of compensation that is allowed to be taken into account under this rule. ¶

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

~~(78)~~ With respect to ORS Chapter 238, creditable service, as defined in 238.005, shall be given for each month that an active member is paid salary or wages and allowable contributions have been remitted to PERS, or would be remitted but for the annual compensation limit in ~~IRC Section 401(a)(17)~~ this rule. With respect to Chapter 238A, retirement credit as determined in 238A.140, shall be given for each month that an active member is paid salary or wages and allowable contributions have been remitted to PERS, or would be remitted but for the annual compensation limit in ~~IRC Section 401(a)(17)~~ this rule. ¶

~~(89)~~ ~~The provisions of this rule are effective on January 1, 2004~~ Beginning in 2020, the limitation on annual compensation under sections (3) and (4) of this rule will be indexed by cost-of-living adjustments in subsequent years as provided in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

Statutory/Other Authority: ORS 238.630, 238.650, 238A.370, 238A.450

Statutes/Other Implemented: ORS 238, 238A

RULE SUMMARY: Currently, employers do not pay any PERS contributions on the amounts paid to reemployed retirees. As a financing modification under SB 1049, in addition to the employer contributions currently paid under ORS 238.225 based on active members' salary, public employers will be required to make an additional payment of employer contributions on the wages of any retired PERS member that they employ. The additional payment of employer contributions will be based on the same net employer contribution rate that employers pay for their active members.

These additional contribution payments made on the retiree's wages will benefit the public employer who is making those contributions, by helping to reduce the employer's projected future UAL. Net employer contribution rates are established for single employers, or for groups of employers who have been pooled for contribution rate purposes. This means additional contribution payments made by an individual employer will be applied to the employer's individual UAL, while additional contribution payments made by a pooled employer will be applied to the employer's rate pool's UAL.

CHANGES TO RULE:

459-009-0070

Actuarial Pooling of Employer Liability ¶¶

(1) Definitions. Definitions as used in this rule:¶¶

- (a) "Pooled" or "pooling" means the combining or grouping of public employers participating in PERS for the purposes of determining employer liability for retirement or other benefits under ORS Chapter 238.¶¶
 - (b) "Political subdivision" means any city, county, municipal or public corporation, any other political subdivision as provided in Oregon Law, or any instrumentality thereof, or an agency created by one or more political subdivisions to provide themselves governmental service. Political subdivision does not mean a school district or a community college.¶¶
 - (c) "Local government" shall have the same meaning as in subsection (1)(b) of this rule.¶¶
 - (d) "School district" means a common school district, a union high school district, or an education service district, including chartered schools authorized under Oregon law.¶¶
 - (e) "Liability" or "Liabilities" means any costs assigned by the Board to a specific employer or to a pool of employers to provide PERS benefits.¶¶
 - (f) "Actuarial Surplus" means the excess of the fair market actuarial value of assets over the actuarial liabilities.¶¶
 - (g) "Unfunded Actuarial Liabilities" or "UAL" means the excess of the actuarial liabilities over the fair market actuarial value of assets.¶¶
 - (h) "Transition Unfunded Actuarial Liabilities or Surplus" means the unfunded actuarial liability or actuarial surplus, attributed to an individual employer for the period of time the employer was not participating in a pool, prior to entry into the Local Government Rate Pool or the State and Local Government Rate Pool.¶¶
 - (i) "Consolidation" means the uniting or joining of two or more political subdivisions into a single new successor political subdivision.¶¶
 - (j) "Merger" means the extinguishment, termination and cessation of the existence of one or more political subdivisions by uniting with and being absorbed into another political subdivision.¶¶
- (2) Two employer pools. In accordance with ORS 238.225 and only for the purposes of determining the amounts that are actuarially necessary to adequately fund the benefits provided by the contributions of PERS participating employers, employers will be pooled as a single employer as follows:¶¶
- (a) The State and Local Government Rate Pool, which consists of the following employers:¶¶
 - (A) The State of Oregon, excluding the state judiciary under ORS 238.500;¶¶
 - (B) All community colleges; and¶¶
 - (C) All political subdivisions which elect to join the pool; or¶¶

- (b) The School District Pool, which consists of all school districts of the state.¶
- (3) The Local Government Rate Pool established as of January 1, 2000, and certified by the Board on June 12, 2001, for political subdivisions was dissolved as of December 31, 2001.¶
- (4) Political subdivision participation. Political subdivisions may elect to participate in the State and Local Government Rate Pool by the adoption of a resolution or ordinance by the governing body of the political subdivision and submitting a copy of the resolution or ordinance to the Board. The effective date of the election is established as follows:¶
- (a) If the election is received, in accordance with OAR 459-005-0220, by December 31, 2001, the political subdivision will join the pool effective January 1, 2002. Its liability as a member of the pool, from the effective date of entering the pool, will be based on the actuarial valuation period beginning on January 1, 2002; or¶
- (b) If the election is received, in accordance with OAR 459-005-0220, on or after January 1, 2002, the political subdivision will join the pool effective the first day of the next actuarial valuation period following the date of receipt of the election.¶
- (c) Prior to entering the pool, any unfunded actuarial liabilities or surplus of such employers will be actuarially accounted for as provided in section (910) of this rule.¶
- (d) Participation in the pool, as provided in this section (4) of this rule, is irrevocable by the employer.¶
- (e) Political subdivisions that do not elect to participate in the State and Local Government Rate Pool, as provided in this section (4) of this rule, shall be regarded as individual employers for actuarial purposes.¶
- (5) Employer rates. The basis for any actuarial computation required under ORS 238.225 or this rule will be the actuarial report on PERS prepared in accordance with ORS 238.605.¶
- (6) In determining the amounts to be paid to PERS by a public employer pooled as provided in section (2) of this rule, the PERS consulting actuary will express those amounts as a rate or percentage of PERS covered payroll.¶
- (7) In determining the amounts to be paid to PERS by employer participants in the Local Government Rate Pool, the State and Local Government Rate Pool, and the School District Pool, the PERS Board will issue rate(s) representing the amount necessary to provide benefits as provided in ORS 238.225, for all members of that pooled group. The rates, at a minimum, shall include:¶
- (a) Rates representing the amount necessary to provide benefits as provided in ORS 238.225, for all Tier One and Tier Two police officer and firefighter members of that pooled group.¶
- (b) Rates representing the amount necessary to provide benefits as provided in ORS 238.225, for all Tier One and Tier Two general service members of that pooled group.¶
- (c) In addition to the rate(s) in this section, the State of Oregon will be charged the additional amount necessary to fund the Retiree Health Insurance Premium Account as provided in ORS 238.415(5).¶
- (8) A public employer employing a retired member shall apply the employer's net contribution rate for its active members to the wages paid to the retired member, and shall make a payment to the Public Employees Retirement Fund. This payment is in addition to the employer's contribution required under ORS 238.225 or 238A.220.¶
- (a) Retired member wages will not be included in covered payroll for purposes of determining the employer's contribution rate.¶
- (b) The additional payment will be applied to the employer's rate pool's liabilities, including pension benefit costs and retiree medical benefit costs.¶
- (c) If the employer has a side account established under ORS 238.229, any side account rate offset that applies to the employer's contribution rate for its active members will be applied to the employer's contribution rate for its retired members.¶
- (9) For each participant in the State and Local Government Rate Pool:¶
- (a) Each employer's police officer and firefighter payroll as reported for the actuarial valuation will be multiplied times the rate described in subsection (7)(a) of this rule;¶
- (b) Each employer's general service payroll as reported for the actuarial valuation will be multiplied times the rate described in subsection (7)(b) of this rule.¶
- (c) By dividing the sum of the amounts in subsections (a) and (b) of this section by the employer's total payroll as reported for the actuarial valuation, a composite employer contribution rate is derived, which will be the basis for

the employer contributions.¶

(910) Unfunded actuarial liabilities or surplus.¶

(a) If a political subdivision elected to join the Local Government Rate Pool described in section (3) of this rule, any transition unfunded actuarial liabilities or surplus as of December 31, 1999, will remain part of the actuarial calculation of employer costs for the individual political subdivision, until fully amortized, and will not be pooled with other public employers. However, the political subdivision will continue to be pooled for the purpose of funding the resulting unfunded actuarial liabilities associated with the Local Government Rate Pool from January 1, 2000 to December 31, 2001.¶

(b) If a political subdivision elects to join the State and Local Government Rate Pool as provided in section (4) of this rule, any transition unfunded actuarial liabilities or surplus as of the day immediately preceding the effective date of entering the pool will remain part of the actuarial calculation of employer costs for each individual political subdivision, until fully amortized, and will not be pooled with other public employers in the State and Local Government Rate Pool.¶

(c) The pooled unfunded actuarial liability or surplus for the community colleges and the State of Oregon as of December 31, 2001, will remain part of the actuarial calculation of employer costs for community colleges and the State of Oregon combined until fully amortized, and will not be pooled with any political subdivision.¶

(d) Any unfunded actuarial liability or surplus for the State and Local Government Rate Pool that accrues during a valuation period occurring after December 31, 2001, will become part of the actuarial calculation of employer costs for only those employers who participated in the pool during that valuation period.¶

(e) Any unfunded actuarial liabilities or surplus of individual employers being amortized as provided for in subsection (9)(a), (9)(b), or (9)(c) of this rule, will be amortized based on the Board's adopted assumed earnings rate and amortization period. If at the end of the amortization period a surplus remains, the surplus will continue to be amortized as determined by the Board.¶

(f) If the PERS Board should change the assumed earnings rate, as it applies to ORS 238.255, in effect at the time of the amortization provided for in subsection (9)(a), (9)(b), or (9)(c) of this rule, the actuary will recalculate the remaining liability or surplus being amortized using the new assumed earnings rate. The amortization period provided in subsection (9)(e) of this section will not change due to this recalculation.¶

(101) Employer UAL lump-sum payment. If an employer elects to make a UAL lump-sum payment to offset the unfunded actuarial liabilities under subsection (910)(a), (9)(b), (9)(c), or (9)(d) of this rule, or as provided under ORS 238.225(8), the payment shall be made in accordance with ORS 238.225 and OAR 459-009-0084.¶

(112) New employers and integrations. Political subdivisions entering PERS, as provided in ORS 238.015(3), 238.035, or 238.680, will be pooled upon election to join the State and Local Government Rate Pool as follows:¶

(a) To join the pool upon entering PERS, the election as well as the methods and effective date of entry, must be included in the coverage agreement or contract of integration. If the election is made after the effective date of joining PERS, the political subdivision will join the pool effective the first day of the next actuarial valuation period following the date of receipt of the election.¶

(b) An election completed by an integrating employer or a partially integrated employer will apply to all current and future groups of employees who are integrated into PERS by the employer. Upon entering the respective pool, any unfunded actuarial liabilities or surplus of such employers will be actuarially accounted for as provided in section (910) of this rule.¶

(123) Dissolution of an employer or non-participating employer. In the event a public employer is dissolved, no longer has PERS eligible employees, or is no longer eligible to participate in PERS, the employer or its successor will be required to make the contributions necessary to fund any remaining unfunded actuarial liability, as provided for in subsection (910)(a), (9)(b), or (9)(c) of this rule, for PERS benefits. The Board will determine the method and amount of funding this unfunded actuarial liability or the return of any surplus, as well as the determination of the employer's successor.¶

(134) Consolidation of political subdivisions. In the event a political subdivision consolidates with another political subdivision, the succeeding employer will determine the status in the pool by election into the pool.¶

(a) If the succeeding employer has not elected to join the pool as of the effective date of the consolidation, the

following will occur:¶¶

- (A) The pooled and non-pooled assets, liabilities, and employees of the former employers will continue as they were prior to the consolidation;¶¶
- (B) Any unfunded actuarial liability or surplus of the former employers as of the effective date of the consolidation will be combined and assumed by the succeeding employer;¶¶
- (C) New hires will not be pooled; and¶¶
- (D) If the succeeding employer consists of pooled and non-pooled employees, separate payrolls must be maintained for each and reported to PERS.¶¶
- (E) At any time after the consolidation, the succeeding employer may elect to join the pool and the effective date will be the first day of the next actuarial valuation period following the date of receipt of an election.¶¶
- (b) If the succeeding employer elects to join the pool as of the effective date of the consolidation, the following will occur:¶¶

- (A) Any non-pooled assets, liabilities, and employees of the former employers will be added to the pool;¶¶
- (B) Any unfunded actuarial liability or surplus of the former employers as of the effective date of the consolidation will be combined and assumed by the succeeding employer and provided for as in subsection (910)(a) or (9)(b) of this rule; and¶¶
- (C) New hires will be pooled.¶¶
- (c) The succeeding employer must join the pool as of the effective date of the consolidation if it consists of only pooled employers. Any unfunded actuarial liability or surplus of the former employers as of the effective date of the consolidation will be combined and assumed by the succeeding employer.¶¶

(145) Merger of political subdivisions. In the event a political subdivision merges with another political subdivision, the status of the surviving employer in the pool depends on its status prior to the merger.¶¶

- (a) If the surviving employer was not in the pool and has not elected to join the pool as of the effective date of the merger, the following will occur:¶¶

- (A) The pooled and non-pooled assets, liabilities, and employees of the former employers will continue as they were prior to the merger;¶¶
- (B) Any unfunded actuarial liability or surplus of the former employers as of the date of the merger will be transferred to the surviving employer;¶¶
- (C) New hires will not be pooled; and¶¶
- (D) If the surviving employer consists of pooled and non-pooled employees, separate payrolls must be maintained for each and reported to PERS.¶¶
- (E) At any time after the merger, the surviving employer may elect to join the pool and the effective date will be the first day of the next actuarial valuation period following the date of receipt of an election.¶¶
- (b) If the surviving employer was in the pool as of the effective date of the merger, the following will occur:¶¶
- (A) Any non-pooled assets, liabilities, and employees of the former employers will be added to the pool as of the effective date of the merger;¶¶
- (B) Any unfunded actuarial liability or surplus of the former employers as of the effective date of the merger will be transferred to the surviving employer and provided for in subsection (910)(a) or (9)(b) of this rule; and¶¶
- (C) New hires will be pooled.¶¶

(156) In the event of any legal mandates or changes adopted by the Board:¶¶

- (a) If the change provides for an increased or decreased benefit to police officer and firefighter members, but is not applicable to general service members, the PERS Board will direct the actuary to attribute the cost or savings of the change to the rate indicated in subsection (7)(a) of this rule.¶¶
- (b) If the change provides for an increased or decreased benefit to general service members, but is not applicable to police officer or firefighter members, the PERS Board will direct the actuary to attribute the cost or savings of the change to the rate indicated in subsection (7)(b) of this rule.¶¶

(17) Section (8) of this rule is repealed effective January 2, 2025.

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: 2005 OL, Ch. 808, Sec. (12), (13), (14), ORS 238.225, 238.605, 2019 OL, Ch. 355,

RULE SUMMARY: Current PERS statutes allow retired members to return to work for a PERS-participating employer so long as they work less than a certain number of hours during a calendar year (less than 1,040 hours for Tier One and Tier Two retirees, or 600 hours for OPSRP retirees). As retired members, such persons continue to receive PERS retirement benefits, but do not accrue any new retirement benefits for post-retirement employment. However, if the retiree meets or exceeds the maximum hours of retiree employment in a calendar year, PERS will cancel the member's retirement and return the retiree to active member status.

Over time, special statutory exceptions to these hour limits have been adopted that allow qualifying Tier One/Tier Two retirees who work for certain employers or in certain positions to exceed those limits and work unlimited hours. However, currently, no statutory exceptions exist for OPSRP retirees, requiring different treatment of members depending on their membership. SB 1049 (2019) simplifies the current "work after retirement" framework by allowing retirees in all programs to work unlimited hours for PERS-participating employers during calendar years 2020-2024, while continuing to receive their retirement benefits. The bill effectively lifts the 1,040-hour limit for Tier One/Tier Two retirees, and the 600-hour limit for OPSRP retirees during the five-year period. Note that SB 1049's unlimited hours provision does not apply to early retirees unless they are hired by a PERS-participating employer more than six months after their effective retirement date. An early retiree is a member who retires before they reach normal retirement age, usually on a reduced service retirement allowance. If an early retiree does not meet the bona fide retirement requirement, then they are not allowed to work unlimited hours for a PERS-participating employer and remain subject to the current hourly limits and exceptions.

Senate Bill 576 (Chapter 152, Oregon Laws 2019), is effective May 24, 2019. SB 576 created a new work after retirement exemption that allows a Tier One or Tier Two retired member to work unlimited hours as a special campus security officer commissioned by a public university, or a security officer for a community college, without impacting their retired member status. For calendar years 2020 to 2024, the use of this new statutory exception will not be necessary, because a retiree who qualifies for this narrow exception would also qualify for SB 1049's broader allowance. However, as a permanent statutory amendment, this exception will apply to calendar years in which SB 1049 does not apply.

House Bill 2972 (Chapter 496, Oregon Laws 2019), became effective upon passage on June 25, 2019. HB 2972 created a new work after retirement exemption that allows a Tier One or Tier Two retired member who is employed by the Harney County Health District as a person licensed, registered, or certified to provide health services to work unlimited hours without impacting their status as a retired member. For calendar years 2020 to 2024, the use of this new statutory exception will not be necessary, because a retiree who qualifies for this narrow exception would also qualify for SB 1049's broader allowance. However, as a permanent statutory amendment, this exception will apply to calendar years in which SB1049 does not apply.

CHANGES TO RULE:

459-017-0060

Reemployment of Retired Members ¶¶

(1) For purposes of this rule, "retired member" means a member of the PERS Chapter 238 Program who is retired for service.¶¶

- (2) A retired member may be employed under ORS 238.082 by a participating employer without loss of retirement benefits provided:¶¶
- (a) The period or periods of employment with one or more participating employers total less than 1,040 hours in a calendar year; or¶¶
- (b) If the retired member is receiving retirement, survivors, or disability benefits under the federal Social Security Act, the period or periods of employment total less than either 1,040 hours in a calendar year, or the total number of hours in a calendar year that, at the retired member's specified hourly rate of pay, would cause the annual compensation of the retired member to exceed the following Social Security annual compensation limits, whichever is greater.¶¶
- (A) For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is \$17,640; or¶¶
- (B) For the calendar year in which the retired member reaches full retirement age under the Social Security Act and only for compensation for the months before reaching full retirement age, the annual compensation limit is \$46,920.¶¶
- (3) The limitations on employment in section (2) of this rule do not apply if the retired member has reached full retirement age under the Social Security Act.¶¶
- (4) The limitations on employment in section (2) of this rule do not apply if:¶¶
- (a) The retired member meets the requirements of ORS 238.082(4), (5), (6), (7) or (8), and did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2) or (3);¶¶
- (b) The retired member retired at a reduced benefit under ORS 238.280(1), (2) or (3), is employed in a position that meets the requirements of ORS 238.082(4), the date of ~~employment~~hire is more than six months after the member's effective retirement date, and the member's retirement otherwise meets the standard of a bona fide retirement;¶¶
- (c) The retired member is employed by a school district or education service district as a speech-language pathologist or speech-language pathologist assistant and:¶¶
- (A) The retired member did not retire at a reduced benefit under the provisions of ORS 238.280(1) or (3); or¶¶
- (B) If the retired member retired at a reduced benefit under the provisions of ORS 238.280(1) or (3), the retired member is not so employed until more than six months after the member's effective retirement date and the member's retirement otherwise meets the standard of a bona fide retirement;¶¶
- (d) The retired member meets the requirements of section 2, chapter 499, Oregon Laws 2007, as amended by section 1, chapter 108, Oregon Laws 2015;¶¶
- (e) The retired member meets the requirements of section 2, chapter 475, Oregon Laws 2015;¶¶
- (f) The retired member is employed for service during a legislative session under ORS 238.092(2);¶¶
- (g) The retired member meets the requirements of ORS 238.088(2), and did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2) or (3); or¶¶
- (h) The retired member is on active state duty in the organized militia and meets the requirements under ORS 399.075(8).¶¶
- (i) The retired member is employed as a special campus security officer commissioned by a public university and meets the requirements under section 5, chapter 152, Oregon Laws 2019.¶¶
- (j) The retired member is employed as a security officer for a community college and meets the requirements under section 5, chapter 152, Oregon Laws 2019.¶¶
- (k) The retired member is employed by Harney County Health District as a person licensed, registered or certified to provide health services and meets the requirements under section 2, chapter 496, Oregon Laws 2019.¶¶
- (5) For purposes of population determinations referenced by statutes listed in this rule, the latest federal decennial census shall first be operative on the first day of the second calendar year following the census year.¶¶
- (6) For purposes of ORS 238.082(6), a retired member replaces an employee if the retired member:¶¶
- (a) Is assigned to the position of the employee; and¶¶
- (b) Performs the duties of the employee or duties that might be assigned to an employee in that position.¶¶
- (7) If a retired member is reemployed subject to the limitations of ORS 238.082 and section (2) of this rule, the

period or periods of employment subsequently exceed those limitations, and employment continues into the month following the date the limitations are exceeded.¶¶

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) If a member has been retired for service for more than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(1):¶¶

(a) PERS will cancel the member's retirement effective the date the member is reemployed.¶¶

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

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

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

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

(d) If the member elected a partial lump sum option under ORS 238.305(2), the last monthly service retirement allowance payment to which the member is entitled is for the month before the calendar month in which the member is reemployed. The last lump sum or installment payment to which the member is entitled is the last payment due before the date the member is reemployed. Upon subsequent retirement, the member may not choose a different benefit payment option unless the member has repaid to PERS in a single payment an amount equal to the lump sum and installment benefits received and the earnings that would have accumulated on that amount.¶¶

(A) The member's account will be rebuilt as required by ORS 238.078 effective the date active membership is

reestablished.¶¶

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) If a member has been retired for less than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(2):¶¶

(a) PERS will cancel the member's retirement effective the date the member is reemployed.¶¶

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

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

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

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

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

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

(13) A participating employer that employs a retired member must notify PERS in a format acceptable to PERS under which statute the retired member is employed.¶¶

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

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

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

the request.¶¶

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

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

(16) Subsection (4)(e) of this rule is repealed effective June 30, 2023.¶¶

(17) A member who is retired for service maintains their status as a retired member of the system, and does not accrue additional benefits during the period of employment. A retired member may not participate in the pension program or the Individual Account Program as an active member, except as provided by ORS 238.092(1) or 237.650.¶¶

(18) For calendar years 2020 through 2024, a public employer employing a retired member shall apply the employer's net contribution rate for its active members to the wages paid to the retired member, and shall make a payment to the Public Employees Retirement Fund. This payment is in addition to the employer's contribution required under ORS 238.225. The additional payment will be applied to the employer's liabilities, including pension benefit costs and retiree medical benefit costs. If the employer is a member of a pool established under ORS 238.227, the additional payment will be applied to the employer's rate pool's liabilities.¶¶

(19) For calendar years 2020 through 2024, the limitations on employment in section (2) of this rule do not apply to a retired member unless the retired member retired under the provisions of ORS 238.280(1), (2), or (3), and the member's date of hire is less than six months from the member's effective retirement date as provided under section 35, chapter 355, Oregon Laws 2019.¶¶

(20) For calendar years 2020 through 2024, if the member retired under the provisions of ORS 238.280(1), (2), or (3), and the member's date of hire is less than six months after the member's effective retirement date, the member is subject to the limitations on employment in section (2) of this rule, unless the retired member is employed by the Legislative Assembly or the State Police during a legislative session pursuant to ORS 238.092(2).¶¶

(21) Sections (18), (19), and (20) of this rule are repealed effective January 2, 2025.

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: ORS 238.078, ORS 238.082, ORS 238.088, ORS 238.092, ORS 399.075, 2007 OL Ch. 499 & 774, 2015 OL Ch. 108 & 475, 2018 OL Ch. 48, 2019 OL Ch. 355

RULE SUMMARY: House Bill 3146 (Chapter 213, Oregon Laws 2019), is effective January 1, 2020. HB 3146 replaced the term "inmate" with "adult in custody" throughout Oregon laws. One use of the term is updated in OAR 459-050-0001(21).

CHANGES TO RULE:

459-050-0001

Definitions ¶¶

The words and phrases used in this Division have the same meaning given them in ORS 243.401 - 243.507 and ORS 293.701 - 293.820. Specific and additional terms are defined as follows unless the context requires otherwise.¶¶

- (1) "Advisory Committee" means the committee established pursuant to ORS 243.505 and appointed by the Board.¶¶
- (2) "Alternate Payee" shall have the same meaning as provided in ORS 243.507(9)(a).¶¶
- (3) "Alternate Payee Account" means a separate account created under ORS 243.507 in the name of an alternate payee pursuant to a court order.¶¶
- (4) "Alternate Payee's Award" is the portion of a participant's Deferred Compensation Account, Designated Roth Account, or a combination of both, awarded to an alternate payee by a court order, and includes the creation of separate account(s) in the fund in the name of the alternate payee.¶¶
- (5) "Alternate Payee Release" means a written statement signed by the alternate payee and received by the Deferred Compensation Program. An alternate payee release may pertain to any of the matters set forth in subsections (5)(a) through (5)(c) of this rule, may authorize the release of information, and direct the Deferred Compensation Program to send information to a named person at a specified address.¶¶
 - (a) Pertaining to the alternate payee's interest in the participant's Deferred Compensation Account and the Designated Roth Account;¶¶
 - (b) Pertaining to the alternate payee's account(s) and distribution(s) if separate account(s) have been created in the name of the alternate payee; or¶¶
 - (c) Pertaining to award information contained in any draft or final court order in regard to the alternate payee on record with the Deferred Compensation Program.¶¶
- (6) "Board" shall have the same meaning as provided in ORS 243.401(1).¶¶
- (7) "Committee" shall have the same meaning as provided in section (1) of this rule.¶¶
- (8) "Court Order" means a court decree or judgment of dissolution of marriage, separation, or annulment, or the terms of any court order or court approved marital property settlement agreement, incident to any court decree or judgment of dissolution of marriage, separation, or annulment.¶¶
- (9) "Deferred Compensation Account" means the participant's individual account in the Deferred Compensation Plan as defined in ORS 243.401(5) that is made up of pre-tax employee contributions and earnings.¶¶
- (10) "Deferred Compensation Advisory Committee" shall have the same meaning as provided in section (1) of this rule.¶¶
- (11) "Deferred Compensation Contract" shall have the same meaning as provided in ORS 243.401(3).¶¶
- (12) "Deferred Compensation Investment Program" shall have the same meaning as provided in ORS 243.401(4).¶¶
- (13) "Deferred Compensation Manager" means the person appointed by the Director to serve as the Manager of the Deferred Compensation Program of the Public Employees Retirement System.¶¶
- (14) "Deferred Compensation Plan" shall have the same meaning as provided in ORS 243.401(5).¶¶
- (15) "Deferred Compensation Program" means a program established by the State of Oregon and administered under policies established by the Public Employees Retirement Board that has as its purposes the deferral of compensation to eligible employees.¶¶
- (16) "Designated Roth Account" means a participant's individual account in the Deferred Compensation Program that is made up of Designated Roth Contributions, eligible rollovers and earnings.¶¶

- (17) "Designated Roth Contribution" means any elective deferral which would otherwise be excludable from gross income of an employee under section 457(b) of the Internal Revenue Code and the employee designates as not being so excludable under section 402A of the Internal Revenue Code.¶¶
- (18) "Disclosure Statement" means the statement, required by ORS 243.450, that describes the probable income and probable safety of money deferred.¶¶
- (19) "Domestic Relations Order" means a judgment, decree or court order made pursuant to a state's domestic relations law that creates or recognizes the existence of an alternate payee's right, or assigns to an alternate payee the right, to receive all or a portion of a participant's Deferred Compensation Account, Designated Roth Account, or a combination of both, or benefit payments.¶¶
- (20) "Draft Court Order" means an Order as described in section (8) of this rule which contains proposed language for the division of a Deferred Compensation Account, Designated Roth Account, or a combination of both, and has been prepared but not approved or signed by the court or has not been filed with the court clerk.¶¶
- (21) "Eligible Employee" shall have the same meaning as ORS 243.401(6) for an employee of the state, or as provided in the plan description of a local government deferred compensation plan, and shall exclude persons who are inmates ~~adults in custody~~ of any prison or detention facility operated by the state or local government, and persons who are employed by contract with a private sector business.¶¶
- (22) "Enrollment Form" means a contract between the eligible employee and the plan sponsor which defines the circumstance, responsibilities and liabilities of both parties relating to the participation of the employee in the Deferred Compensation Program.¶¶
- (23) "Estimate" means a projection of distributions prepared by staff. An estimate is not a guarantee or promise of actual distributions that eventually may become due and payable.¶¶
- (24) "Final Court Order" means a court order or judgment that has been signed by a judge and shows the stamp of the court clerk or trial court administrator, indicating the order is a certified copy of the original record on file with the court.¶¶
- (25) "Fund" shall have the same meaning as provided in ORS 243.401(7).¶¶
- (26) "Local Government" shall have the same meaning as provided in ORS 243.401(8).¶¶
- (27) "Local Government Deferred Compensation Contract" means a written contract between a local government and an eligible employee of that local government that provides for deferral of income for service currently rendered, as defined in the established policy of the local government.¶¶
- (28) "Local Government Deferred Compensation Plan" shall have the same meaning as provided in ORS 243.401(9).¶¶
- (29) "Manager" shall have the same meaning as provided in section (13) of this rule.¶¶
- (30) "OIC" means the Oregon Investment Council created by ORS 293.706.¶¶
- (31) "Participant" means a person defined in either ORS 243.401(10) or 243.401(13) participating in one or more deferred compensation plans under ORS 243.401 to 243.507, either through current or past deferrals or compensation.¶¶
- (32) "Participant's Release" means a written statement signed by a deferred compensation plan participant and received by the Deferred Compensation Program. A participant's release may pertain to any of the matters set forth in subsections (a) through (c) of this section, may authorize the release of information, and direct the Deferred Compensation Program to send information to a named person at a specified address.¶¶
- (a) Pertaining to the participant's Deferred Compensation Account and Designated Roth Account;¶¶
- (b) Pertaining to the participant's distribution(s); or¶¶
- (c) Pertaining to award information contained in any draft or final court order in regard to the participant on record with the Deferred Compensation Program.¶¶
- (33) "Participating Local Government" shall have the same meaning as provided in ORS 243.401(11).¶¶
- (34) "Payroll Disbursing Officer" means:¶¶
- (a) The person authorized by the state to disburse moneys in payment of salaries and wages of employees of a state agency; or¶¶
- (b) The person authorized by a local government to disburse money in payment of salaries and wages of

employees of that local government.¶¶

(35) "PERS" shall have the same meaning as provided in ORS 243.401(14).¶¶

(36) "Plan Sponsor" means a public employer that establishes an eligible deferred compensation plan as defined in Section 457 of the Internal Revenue Code and which enters into an agreement with PERS to participate in the Deferred Compensation Program.¶¶

(37) "Program" shall have the same meaning as provided in section (15) of this rule.¶¶

(38) "Public Employees Retirement Board" shall have the same meaning as provided in ORS 243.401(1).¶¶

(39) "Public Employer" means the state or a local government as defined in ORS 243.401(8).¶¶

(40) "Qualified Domestic Relations Order" or "QDRO" means a domestic relations order that has been reviewed and determined to be qualified by the Deferred Compensation Program Manager.¶¶

(41) "Solicitation of Offers from Vendors" means a notice to potential vendors of investment services prepared by the OIC informing the potential vendor of the needs of the Deferred Compensation Investment Program and notice that the OIC will accept offers from qualified vendors to sign a contract with the State of Oregon providing for the vendors' acceptance of deposits under the terms and conditions of the contract.¶¶

(42) "Staff" means any employee of the Public Employees Retirement System, who has been appointed in accordance with ORS 238.645.¶¶

(43) "State Agency" means every state officer, board, commission, department or other activity of state government.¶¶

(44) "State Deferred Compensation Plan" shall have the same meaning as provided in ORS 243.401(12).¶¶

(45) "Vendor" means an entity offering investment or other service related to investment of deferred compensation pursuant to a contract with the State of Oregon.¶¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 243.470

Statutes/Other Implemented: ORS 243.401 - 243.507

RULE SUMMARY: SB 1049 (2019) simplifies the current “work after retirement” framework by allowing retirees in all programs to work unlimited hours for PERS-participating employers during calendar years 2020-2024, while continuing to receive their retirement benefits. The bill effectively lifts the 1,040-hour limit for Tier One/Tier Two retirees, and the 600-hour limit for OPSRP retirees during the five-year period. Note that SB 1049’s unlimited hours provision does not apply to early retirees unless they are hired by a PERS-participating employer more than six months after their effective retirement date. An early retiree is a member who retires before they reach normal retirement age, usually on a reduced service retirement allowance. If an early retiree does not meet the bona fide retirement requirement, then they are not allowed to work unlimited hours for a PERS-participating employer and remain subject to the current hourly limits and exceptions.

Currently, employers do not pay any PERS contributions on the amounts paid to reemployed retirees. As a financing modification under SB 1049, in addition to the employer contributions currently paid under ORS 238.225 based on active members’ salary, public employers will be required to make an additional payment of employer contributions on the wages of any retired PERS member that they employ. The additional payment of employer contributions will be based on the same net employer contribution rate that employers pay for their active members.

These additional contribution payments made on the retiree’s wages will benefit the public employer who is making those contributions, by helping to reduce the employer’s projected future UAL. Net employer contribution rates are established for single employers, or for groups of employers who have been pooled for contribution rate purposes. This means additional contribution payments made by an individual employer will be applied to the employer’s individual UAL, while additional contribution payments made by a pooled employer will be applied to the employer’s rate pool’s UAL.

CHANGES TO RULE:

459-075-0300

Reemployment of a Retired Member of the OPSRP Pension Program ¶¶

- (1) If a retired member of the OPSRP Pension Program who is receiving monthly pension payments is employed by a participating public employer in a qualifying position:¶¶
 - (a) The member's retirement is canceled effective the first of the month in which the member was hired.¶¶
 - (b) The last pension payment the member is entitled to receive is for the month before the calendar month in which the member was hired. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.¶¶
 - (c) The member reestablishes active membership effective the date the member was hired.¶¶
- (2) If a retired member of the OPSRP Pension Program who received a lump sum benefit in lieu of a small pension under ORS 238A.195 is employed by a participating public employer in a qualifying position, the member reestablishes active membership effective the date of hire.¶¶
 - (a) If the member was hired after the date of the payment, the member is not required or permitted to repay the benefit amount.¶¶
 - (b) If the member was hired on or before the date of the payment, the member must repay the gross benefit amount.¶¶
- (3) A retired member of the OPSRP Pension Program who is hired by a participating public employer in a non-qualifying position may receive pension payments or a lump sum payment under ORS 238A.195 without affecting the member's status as a retired member, provided the period or periods of employment worked as a retired

member total less than 600 hours in a calendar year.¶¶

(a) If, by reason of hours of service performed by the retired member, the non-qualifying position becomes qualifying in a calendar year, the position is qualifying effective the later of the first day of the calendar year or the date of hire.¶¶

(b) If a position becomes qualifying under subsection (a) of this section, the retired member is subject to the provisions of sections (1) and (2) of this rule.¶¶

(4) A retired member who reestablishes active membership may, at subsequent retirement, elect any option provided in ORS 238A.180 and 238A.190, subject to the provisions of ORS 238A.195.¶¶

(a) The member's subsequent retirement benefit will be calculated based on the member's periods of active membership before and after the member's initial effective retirement date if at the initial retirement:¶¶

(A) The member received a monthly pension; or¶¶

(B) The member received a lump sum payment under ORS 238A.195 and repaid the benefit amount under subsection (2)(b) of this rule.¶¶

(b) The member's subsequent retirement benefit will be calculated based on the member's periods of active membership after the member's initial effective retirement date if:¶¶

(A) At initial retirement, the member received a lump sum payment under ORS 238A.195 and was not required to repay the benefit amount under subsection (2)(b) of this rule; or¶¶

(B) The member is required to repay the benefit amount under subsection (2)(b) of this rule and, as of the effective retirement date of the member's subsequent retirement, the member has not repaid the benefit amount.¶¶

(c) The member's subsequent retirement benefit will be calculated using the actuarial equivalency factors in effect on the effective retirement date of the subsequent retirement.¶¶

(5) A member who is retired for service maintains the member's status as a retired member of the system and does not accrue additional benefits during the period of employment. A retired member may not participate in the pension program or the Individual Account Program as an active member, except as provided by ORS 238A.250 or 237.650.¶¶

(6) For calendar years 2020 through 2024, a public employer employing a retired member shall apply the employer's net contribution rate for its active members to the wages paid to the retired member. The public employer shall make a payment to the Public Employees Retirement Fund in that amount that is in addition to the employer's contribution required under ORS 238A.220. The additional payment will be applied to the employer's liabilities, including pension benefit costs and retiree medical benefit costs.¶¶

(7) For calendar years 2020 through 2024, the limitations on employment in section (3) of this rule do not apply to a retired member unless the member retired under the provisions of ORS 238A.185, and the member's date of hire is less than six months from the member's effective retirement date, as provided under section 37, chapter 355, Oregon Laws 2019.¶¶

(8) For calendar years 2020 through 2024, if a member retired under the provisions of ORS 238A.185, and the member's date of hire is less than six months after the member's effective retirement date, the member is subject to the limitations on employment in section (3) of this rule.¶¶

(9) Sections 6, 7, and 8 of this rule are repealed effective January 2, 2025.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.245, 2019 OL, Ch. 355, Sec. 37

AMEND: 459-076-0045

RULE SUMMARY: House Bill 2118 (Chapter 57, Oregon Laws 2019), is effective January 1, 2020. HB 2118 updated Consumer Price Index (CPI) references to align with the current applicable CPI, the West Region CPI for All Items. One reference to the discontinued CPI is updated in OAR 459-076-0045(4)(a).

CHANGES TO RULE:

459-076-0045

Cessation of Disability Benefits Upon Reaching Normal Retirement Age ¶¶

- (1) If a member who is receiving an OPSRP disability benefit reaches normal retirement age, as defined in ORS 238A.160, disability benefits will cease as of the first of the following month.¶¶
- (2) The disability benefit will not automatically convert to a retirement benefit upon the member reaching normal retirement age. The member must apply for service retirement benefits before receiving them. In order to receive a service retirement benefit beginning in the month in which a disability benefit ceases under section (1) above, the member must:¶¶
 - (a) Complete the applicable Service Retirement application(s); and¶¶
 - (b) Submit the application(s) to PERS at least 92 days before the first of the month in which the disability benefit ceases under section (1). In no case will a service retirement benefit become payable during a month in which a member receives a disability benefit or earlier than the first of the month in which an application was submitted.¶¶
- (3) The OPSRP retirement pension benefit will be based on:¶¶
 - (a) The adjusted salary as set forth in section (4) of this rule; and¶¶
 - (b) The total retirement credit accrued, set forth in section (5) of this rule.¶¶
- (4) The salary the member was receiving immediately prior to leaving active employment as a result of disability will be adjusted for the cost-of-living for each year after the member left employment and before the member's effective date of service retirement.¶¶
 - (a) Cost-of-living adjustments will be based on the ~~Portland-Salem, OR-WA CPI~~Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, and may not exceed a two percent increase or decrease for any year.¶¶
 - (b) Cost-of-living adjustments will be made only for calendar years in which the member received an OPSRP disability benefit for at least six months during a calendar year.¶¶
- (5) Retirement credit. A member receiving OPSRP disability benefits will accrue retirement credit, as well as hours of service credit toward vesting, for the entire period of disability until:¶¶
 - (a) The member is no longer disabled; or¶¶
 - (b) The member reaches normal retirement age.¶¶
- (6) The retirement credit will accrue under the same employment classification in which the member was immediately employed prior to becoming disabled.¶¶
- (7) A member who is receiving disability benefits who reaches normal retirement age and has not applied for a service retirement will become an inactive member on the first of the month following the month in which they reach normal retirement age.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.155, 238A.235