

OFFICE OF THE SECRETARY OF STATE
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ARCHIVES DIVISION
STEPHANIE CLARK
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 459
OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

FILED

04/23/2020 3:06 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Implement member redirect portion of Senate Bill (SB) 1049 (2019).

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/01/2020 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.

CONTACT: Chris Geier
503-603-7779
chris.geier@pers.state.or.us

PERS
11410 SW 68th Parkway
Tigard, OR 97223

Filed By:
Daniel Rivas
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 05/26/2020

TIME: 2:00 PM - 3:00 PM

OFFICER: Chris Geier

ADDRESS: Boardroom, PERS

11410 SW 68th Parkway

Tigard, OR 97223

SPECIAL INSTRUCTIONS:

The hearing will not be held if the PERS building is closed to the public.

NEED FOR THE RULE(S):

During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts. Four new rules are added; one to outline the EPSA and three others to explain the earnings crediting to the EPSA in different circumstances (retirement, withdrawal, and death).

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS Chapters 238 & 238A

These documents are available on the Internet at: https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

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).

None.

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:

459-005-0370, 459-007-0001, 459-007-0005, 459-007-0320, 459-007-0335, 459-007-0350, 459-007-0360, 459-007-0370, 459-010-0055, 459-070-0001, 459-075-0020, 459-080-0020, 459-080-0200, 459-080-0400

AMEND: 459-005-0370

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts.

CHANGES TO RULE:

459-005-0370

Date of Participation and Transfer of Employee Funds to an Alternative Retirement Plan - OHSU ¶¶

(1) For the purposes of this rule:¶¶

(a) "PERS account" means the member's regular account in the Fund as defined in ORS 238.250, and the member's account in the Variable Annuity Account in the Fund as defined in ORS 238.260;¶¶

(b) "OPSRP pension account" means the member's benefit eligible for withdrawal under the provisions of ORS 238A.120; and¶¶

(c) "IAP account" means the member's accounts, to the extent the member is vested, as set forth under ORS 238A.350 and 238A.353.¶¶

(2) If an employee elects to participate in an alternative retirement plan authorized under ORS 353.250:¶¶

(a) Unless otherwise agreed upon, the effective date of an election to participate in an alternative retirement plan shall be certified by Oregon Health and Science University (OHSU) to PERS within 30 days of that effective date.¶¶

(b) If the employee is a member of PERS, and is eligible for and elects to transfer the balance of the member's PERS, OPSRP Pension, or IAP accounts to the alternative retirement plan, OHSU shall forward a copy of that election together with the certification required in subsection (a) of this section.¶¶

(c) In the event an eligible employee is disabled or deceased and an election to participate in an alternative retirement plan has not been signed by the employee, the employee shall be deemed to be an active member of PERS, if all other conditions of ORS 238.015 are met.¶¶

(3) In accordance with ORS 238A.100 and 238A.300:¶¶

(a) An employee who is serving a six-month waiting period shall establish active membership in accordance with ORS 238A.100 and 238A.300 unless PERS receives notification of an election to participate in an alternative retirement plan prior to the completion of that six-month waiting period.¶¶

(b) Notwithstanding subsection (a) of this section, if PERS receives a notification of an election to participate in an alternative retirement plan, active membership in PERS or OPSRP shall cease as of the effective date of the election.¶¶

(4) A PERS or OPSRP member electing to participate in an alternative retirement plan, authorized under ORS 353.250, and who is not concurrently an active member of PERS or OPSRP with another PERS or OPSRP participating employer, may petition PERS to have the member's PERS, OPSRP Pension, or IAP accounts transferred directly to an alternative retirement plan.¶¶

(a) A transfer of a member's account as provided in this section shall be transferred directly to the alternative retirement plan by PERS and shall not be made available to the employee while remaining in the employ of OHSU.¶¶

(b) A transfer of a member's PERS OPSRP Pension, or IAP accounts as provided in subsection (a) of this section shall not include any reserves of any PERS-participating employer.¶¶

(5) A PERS or OPSRP member electing to participate in an alternative retirement plan who has not separated from service in any position at OHSU shall be not be eligible to withdraw the member's accounts, except as provided in section (4) of this rule.¶¶

(6) A transfer of a member's PERS, OPSRP Pension, or IAP accounts to an alternative retirement plan established under the provisions of ORS 353.250 shall be in compliance with all applicable Internal Revenue Code provisions and related Treasury regulation governing qualified pension plans. The transfer may occur only if the alternative retirement plan:¶¶

(a) Is a qualified plan under the Internal Revenue Code;¶¶

(b) Is capable of accepting funds transferred under the provisions of section (4) of this rule without the transfer

being treated as a taxable event under the Internal Revenue Code; and¶¶

(c) Is willing to accept those transfers.¶¶

(7) The date of distribution of a member's PERS or OPSRP Pension accounts to an alternative retirement plan, authorized under ORS 353.250, as provided for in section (4) of this rule shall be the later of:¶¶

(a) The first of the calendar month following the date of receipt by PERS of a copy of the election if such copy is received by PERS on or before the fifteenth of a calendar month; or¶¶

(b) The first of the second calendar month following the date of receipt by PERS of a copy of the election if such copy is received on or after the 16th of a calendar month.¶¶

(8) The date of distribution of a member's OPSRP IAP account(s) to an alternative retirement plan, authorized under ORS 353.250, as provided for in section (4) of this rule will be the date of the actual distribution.

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

Statutes/Other Implemented: ORS 238.015, ORS 353.250(3)

AMEND: 459-007-0001

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts.

CHANGES TO RULE:

459-007-0001

Definitions ¶¶

The words and phrases used in this division have the same meaning given them in ORS Chapter 238, 238A and OAR 459-005-0001. Specific and additional terms for purposes of this division are defined as follows unless context requires otherwise:¶¶

- (1) "Annual rate" means the rates determined by the Board for crediting earnings to Tier One regular accounts, Tier Two regular accounts, IAP accounts, judge member regular accounts and member variable accounts, effective as of December 31 of each year.¶¶
- (2) "Assumed rate" means the actuarial assumed rate of return on investments as adopted by the Board for the most recent actuarial valuation.¶¶
- (3) "Average annualized rate" means the monthly rate provided by the Oregon State Treasury representing the rate credited to cash accounts.¶¶
- (4) "Benefits-in-Force Reserve" or "BIF Reserve" means the reserve established under ORS 238.670(2).¶¶
- (5) "Capital Preservation Reserve" means the reserve established under ORS 238.670(3).¶¶
- (6) "Contingency Reserve" means the reserve established under ORS 238.670(1).¶¶
- (7) "Date of distribution" is the date inscribed on the check, warrant, or electronic transfer issued to or on behalf of the member, the member's beneficiary, or an alternate payee.¶¶
- (8) "Date of payment" means the date a payment is received by PERS.¶¶
- (9) "Earnings" means all income or losses to the Fund from investments and other sources, but does not include member or employer contributions.¶¶
- (10) "Employee Pension Stability Account" and "EPSA" mean the account established in ORS 238A.353.¶¶
- (11) "Member account" means the account established in ORS 238.250.¶¶
- (12) "Retirement allocation fund" means the particular target date fund so designated by the Oregon State Treasury when it determines the investment allocation for all the target date funds.¶¶
- (143) "Retirement installments fund" means the fund so designated by the Oregon State Treasury and is separate and apart from target date funds.¶¶

(124) "Target date fund" means a fund with an investment allocation that is aligned with the member's birth year.¶

(135) "Tier One Member Rate Guarantee Reserve" and "Rate Guarantee Reserve" mean the reserve referenced in ORS 238.255(1) that enables the Board to credit earnings at or above the assumed rate under the conditions specified in 238.255.¶

(146) "Year-to-date calculation" means the rates used to credit a pro-rata distribution of year-to-date earnings, allowing for reserves and expenses, to Tier One regular accounts, Tier Two regular accounts, IAP accounts, judge member regular accounts or member variable accounts. These rates are calculated by staff on a monthly basis using the market value of investments in the Fund as supplied by the Oregon State Treasury. Year-to-date calculations for Tier One member regular accounts will be determined in accordance with OAR 459-007-0003.

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

Statutes/Other Implemented: ORS ~~238~~ Chapters 238 & 238A

AMEND: 459-007-0005

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

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CHANGES TO RULE:

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 established under ORS 238A.350 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 established under ORS 238A.350 shall be credited with the earnings or losses of the specific target date fund to which the account is allocated, except for account balances allocated to the retirement installments fund, which shall be

credited with earnings or losses on a monthly basis. ¶

(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, Employee Pension Stability accounts, 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, Employee Pension Stability accounts, 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, Employee Pension Stability accounts, 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) Employee Pension Stability Account (EPSA). All remaining earnings or losses attributable to the EPSAs shall be credited to all active and inactive EPSAs under ORS 238A.353. ¶

(15) 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. ¶

(16) 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). ¶

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

(18) 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 Chapter 238, 238A.350, ORS Chapter 238A

AMEND: 459-007-0320

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts.

CHANGES TO RULE:

459-007-0320

Crediting Earnings for IAP Account Lump Sum Payments ¶¶

When an IAP member elects to withdraw their account(s) ~~under~~reestablished under ORS 238A.350 according to ORS 238A.375 or retires and elects to receive a lump sum payment of ~~their~~rose account(s) under ORS 238A.400(1), earnings will be credited in the manner specified in this rule. ¶¶

(1) If earnings for the calendar year before the date of distribution have not been credited, earnings for that year will be credited based on the member's target date fund's latest IAP year-to-date calculation available for that year. ¶¶

(2) Earnings credited for the calendar year of distribution will be credited based on the member's target date fund's latest IAP year-to-date calculation as of the first day of the calendar month of the date of distribution.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.350, 238A.375, 238A.400

AMEND: 459-007-0335

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts.

CHANGES TO RULE:

459-007-0335

Crediting Earnings for IAP Account Pre-Retirement Death Benefit Payments

(1) For the purposes of this rule, "monthly change rate" means the monthly earnings rate for IAP account(s) invested in the retirement installments fund. ¶

(2) When a beneficiary or beneficiaries receive(s) pre-retirement death benefit payments under ORS 238A.410, earnings will be credited to the accounts established under ORS 238A.350 in the manner specified in this rule. ¶

(a) For payments made in the first month of distribution: ¶

(A) If earnings for the calendar year before the date of distribution(s) have not been credited, earnings for that year shall be credited based on the member's target date fund's latest IAP year-to-date calculation available for that year. ¶

(B) Earnings credited for the calendar year of distribution will be credited based on the member's target date fund's latest IAP year-to-date calculation as of the first day of the calendar month of the initial date of distribution. ¶

(b) After the first month of distribution, any remaining account balance from a deceased non-retired member's IAP account will be moved to the retirement installments fund. Earnings for the remaining account balance will be credited monthly using the latest monthly change rate beginning with the first of the month after the first month of distribution.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.350, 238A.410

ADOPT: 459-007-0350

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts. Four new rules are added; one to outline the EPSA and three others to explain the earnings crediting to the EPSA in different circumstances (retirement, withdrawal, and death).

CHANGES TO RULE:

459-007-0350

Crediting Earnings to the Employee Pension Stability Account at Retirement

(1) Upon the retirement of an Individual Account Program member, earnings from the effective date of the last annual rate to the effective retirement date shall be credited to the Employee Pension Stability account in the manner specified in this rule. ¶

(2) Earnings shall be credited to the member's Employee Pension Stability account as follows:¶

(a) If earnings for the prior calendar year have not yet been credited, earnings for that year shall be credited based on the Employee Pension Stability account latest year-to-date calculation for that year.¶

(b) Earnings for the calendar year of the effective retirement date shall be credited based on the Employee Pension Stability account latest year-to-date calculation for that year.

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

Statutes/Other Implemented: ORS 238A.353

ADOPT: 459-007-0360

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts. Four new rules are added; one to outline the EPSA and three others to explain the earnings crediting to the EPSA in different circumstances (retirement, withdrawal, and death).

CHANGES TO RULE:

459-007-0360

Crediting Earnings to the Employee Pension Stability Account at Death

(1) When a beneficiary or beneficiaries receive(s) pre-retirement death benefit payments under ORS 238A.410, earnings will be credited to the member's Employee Pension Stability account as follows:¶

(a) If earnings for the calendar year before the date of the member's death have not yet been credited, earnings shall be applied for that year based on the latest year-to-date Employee Pension Stability account calculation for that year. ¶

(b) Earnings for the calendar year of distribution shall be credited based on the latest Employee Pension Stability account year-to-date calculation for that year as of the first of the month of the initial distribution. ¶

(2) Any amount that is not applied to the cost of a monthly benefit will be paid to the beneficiary in a lump sum. Any remaining lump sum that is not paid out in the first month of distribution will be moved to the retirement installments fund. Earnings for the remaining account balance will be credited monthly using the latest monthly change rate beginning with the first of the month after the first month of distribution.

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: ORS 238A.353, 238A.410

ADOPT: 459-007-0370

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts. Four new rules are added; one to outline the EPSA and three others to explain the earnings crediting to the EPSA in different circumstances (retirement, withdrawal, and death).

CHANGES TO RULE:

459-007-0370

Crediting Earnings to the Employee Pension Stability Account on Withdrawal

(1) When a member of the Individual Account Program withdraws his or her Employee Pension Stability account (EPSA) under ORS 238A.375, earnings or losses from the effective date of the last annual rate to the date of distribution shall be credited in the manner specified in this rule.¶

(2) Earnings or losses on the member's EPSA shall be credited as follows:¶

(a) If earnings or losses for the calendar year prior to the effective date of withdrawal have not been credited, earnings or losses for that year shall be credited to the member's EPSA based on the latest year-to-date calculation for that year.¶

(b) Earnings or losses from January 1 of the calendar year of the effective date of withdrawal to the effective date of withdrawal shall be credited to the member's EPSA based on the latest year-to-date calculation as of the effective date of withdrawal.

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: ORS 238.265, 238A.353

AMEND: 459-010-0055

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts. Four new rules are added; one to outline the EPSA and three others to explain the earnings crediting to the EPSA in different circumstances (retirement, withdrawal, and death).

CHANGES TO RULE:

459-010-0055

Withdrawal of Contributions ¶¶

(1) Definitions. For purposes of this rule:¶¶

(a) A "controlled group" is a group of employers treated as a single employer for purposes of maintaining qualified status under federal law.¶¶

(b) "Effective date of withdrawal" has the same meaning as given the term in OAR 459-005-0001(8).¶¶

(c) "Member account" means the account established under ORS 238.250.¶¶

(2) An inactive member may withdraw the member account balance under ORS 238.265 if:¶¶

(a) The member has separated from employment with all participating employers and all employers in a controlled group with a participating employer;¶¶

(b) PERS receives the member's request for withdrawal of the member account before the member reaches earliest service retirement age;¶¶

(c) The member has been absent from service with all participating employers and all employers in a controlled group with a participating employer for at least one full calendar month following the month of separation; and¶¶

(d) The member complies with the requirements of section 1, chapter 52, Oregon Laws 2007.¶¶

(3) Under no circumstance may a member withdraw less than the entire balance in the member account.¶¶

(4) A member who withdrew the member account and received an additional 50 percent of the member account pursuant to section 2, chapter 276, Oregon Laws 2003 may not subsequently restore the creditable service forfeited by the withdrawal under ORS 238.105 or 238.115.¶¶

(5) The member may revoke the request for withdrawal of the member account if PERS receives a written request to revoke before the earlier of:¶¶

(a) The date of distribution; or¶¶

(b) The date PERS receives a valid court order requiring PERS to pay the distribution to someone other than the withdrawing member.¶¶

(6) If a member withdraws the member account under this rule, membership in the PERS Chapter 238 Program

shall be terminated as of the effective date of withdrawal. Membership rights accrued under ORS chapter 238 before the effective date of withdrawal, including any service rights attributable to employment before the effective date of withdrawal, are forfeited.¶

(7) If a former member who has withdrawn the member account under this rule returns to employment with any participating employer or an employer in a controlled group with a participating employer before the first day of the second calendar month following the month of the separation described in subsection (2)(a) of this rule, the withdrawal is cancelled and membership is restored. The member must repay to PERS in a single payment the total amount of the payments attributable to the withdrawal within 30 days following the effective date of employment. Upon receipt by PERS of repayment under this section, service rights forfeited under section (6) of this rule are restored as of the effective date of withdrawal. The repayment amount will be credited pro rata to the accounts from which the withdrawal amount was derived.¶

(8) If the member fails to repay as provided in section (7) of this rule, PERS shall take all reasonable steps to recover the repayment amount due, including any interest, costs, or penalties assessed by PERS, under the provisions of ORS 238.715 and OAR 459-005-0610. Upon receipt by PERS of repayment under this section, service rights forfeited under section (6) of this rule are restored effective the first day of the month following the date of repayment. The repayment amount will be credited pro rata to the accounts from which the withdrawal amount was derived effective the first day of the month following the date of repayment.¶

(9) The effective date of this rule is January 1, 2008.

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: ORS 238.265, OL 2003 Ch. 276, OL 2007 Ch. 52

AMEND: 459-070-0001

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts.

CHANGES TO RULE:

459-070-0001

Definitions ¶¶

The words and phrases used in divisions 070, 075, 076, and 080 of OAR Chapter 459 have the same meaning given them in ORS 238A.005 to 238A.475, unless otherwise indicated. Specific and additional terms for purposes of divisions 070, 075, 076 and 080 are defined as follows unless context requires otherwise:¶¶

(1) "Academic employee of a community college" means an instructor who teaches classes offered for college-approved credit or on a non-credit basis.¶¶

(a) Librarians, counselors, and aides in non-teaching positions, tutors, or other non-teaching faculty, and classified, professional or nonprofessional support staff are not academic employees for the purposes of ORS 238A.142, but are subject to the membership requirements under ORS 238A.100 and OAR 459-075-0010.¶¶

(b) The governing body of a community college must determine who is an academic employee in its employ under this rule. In making that determination, a community college must consider all disciplines (academic activity) collectively when an employee's assignment includes multiple disciplines.¶¶

(2) "Business day" means a day Monday through Friday when PERS is open for business.¶¶

(3) "Calendar month" means a full month beginning on the first calendar day of a month and ending on the last calendar day of the same month.¶¶

(4) "Calendar year" means 12 consecutive calendar months beginning on January 1 and ending on December 31.¶¶

(5) "Employee" has the same meaning as "eligible employee" in ORS 238A.005 and shall be determined in accordance with OAR 459-010-0030.¶¶

(a) For the purposes of ORS 238A.005 to 238A.475, the term "employee" includes public officers whether elected or appointed for a fixed term.¶¶

(b) The term "employee" does not include:¶¶

(A) An individual who performs services for a public employer as a contractor in an independently established business or as an employee of that contractor in accordance with OAR 459-010-0032; or¶¶

(B) An individual providing volunteer service to a public employer without compensation for hours of service as a volunteer.¶¶

- (6) "Employee class" means a group of similarly situated employees whose positions have been designated by their employer in a policy or collective bargaining agreement as having common characteristics.¶
- (7) "Employee contributions" means contributions made to the individual account program by an eligible employee under ORS 238A.330, or on behalf of the employee under ORS 238A.335.¶
- (8) "Employee Pension Stability Account" has the same meaning given in ORS 238A.353.¶
- (9) "Final Average Salary" (FAS) has the same meaning given the term in:¶
- (a) ORS 238A.130(1) for OPSRP Pension Program members who are not employed by a local government as defined in ORS 174.116; or¶
- (b) ORS 238A.130(3) for OPSRP Pension Program members who are employed by a local government as defined in ORS 174.116.¶
- (~~9~~10) "Member" has the same meaning given the term in ORS 238A.005.¶
- (10~~1~~) "Member account" means the account of a member of the individual account program.¶
- (11~~2~~) "Member of PERS" has the same meaning as "member" in ORS 238.005, but does not include retired members.¶
- (12~~3~~) "OPSRP" means the Oregon Public Service Retirement Plan.¶
- (13~~4~~) "Overtime" means the salary or hours, as applicable, that an employer has designated as overtime.¶
- (14~~5~~) "Partial year of hire" means a period in the calendar year the employee begins employment after the first working day of the year, and continues employment through December 31.¶
- (15~~6~~) "Partial year of separation" means a period in the calendar year the employee separates from employment that begins on January 1 of the year, and ends before the last working day of the year.¶
- (16~~7~~) "Qualifying position" has the same meaning as provided in ORS 238A.005 and means a position designated by the employer as qualifying, including a position in a partial year of hire, partial year of separation, or short segment, except:¶
- (a) A position or concurrent positions in which an employee performs at least 600 hours of service in a calendar year is qualifying regardless of employer designation.¶
- (b) A position in a partial year of separation is qualifying regardless of employer designation if the position is continued from an immediately preceding calendar year in which the employee performed at least 600 hours of service in the position or concurrent positions.¶
- (c) A position with one employer in which the employee is employed for the entire calendar year and fails to perform at least 600 hours of service in that position or concurrent positions in the calendar year is non-qualifying regardless of employer designation.¶
- (17~~8~~) "Salary" has the same meaning given the term in ORS 238A.005 and includes a differential wage payment, as defined in OAR 459-005-0001.¶
- (18~~9~~) "School employee" has the meaning given the term in ORS 238A.140(7).¶
- (19~~20~~) "Service" means a period in which an employee:¶
- (a) Is in an employer/employee relationship, as determined in accordance with OAR 459-010-0030; and¶
- (b) Receives a payment of "salary," as defined in ORS 238A.005.¶
- (20~~1~~) "Short segment" means a period in the calendar year during which the employee is hired after the first working day of the year, and separated from employment before the last working day of the same calendar year.¶
- (21~~2~~) "Voluntary contributions" means additional contributions made to the individual account program by an eligible employee under ORS 238A.330(3). Voluntary contributions must be equal to the amount credited to the employee pension stability account and may not be paid by the employer under ORS 238A.335.¶
- (22~~3~~) "Volunteer" means an individual who performs a service for a public employer, and who receives no compensation for the service performed. The term "volunteer" does not include an individual whose compensation received from the same public employer for similar service within the same calendar year exceeds the reasonable market value for such service.¶
- (23~~4~~) "Working day" means a day that the employer is open for business. Unless the employer communicates this information to PERS, PERS will presume an employer's "working day" is the same as a "business day," as defined in section (2) of this rule.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A

AMEND: 459-075-0020

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts.

CHANGES TO RULE:

459-075-0020

Withdrawal from OPSRP Pension Program ¶¶

(1) Definitions. For the purposes of this rule:¶¶

(a) "Controlled group" means a group of employers treated as a single employer for purposes of maintaining qualified status under federal law.¶¶

(b) "Effective date of withdrawal" has the same meaning as given the term in OAR 459-005-0001(10).¶¶

(c) "Inactive member" has the same meaning given the term in ORS 238A.005.¶¶

(d) "Pension program" has the same meaning given the term in ORS 238A.005.¶¶

(2) An inactive member may withdraw from the OPSRP Pension Program under ORS 238A.120 if:¶¶

~~(a) The member is vested in the pension program under ORS 238A.115;¶¶~~

~~(b) The member has separated from employment with all participating employers and all employers in a controlled group with a participating employer;¶¶~~

~~(c) The member has been absent from service with all participating employers and all employers in a controlled group with a participating employer for at least one full calendar month following the month of separation; and¶¶~~

~~(d) The member files with PERS a written request for withdrawal on a form acceptable to PERS;¶¶~~

~~(e) The actuarial equivalent of the~~ For members with a withdrawal date on or after July 1, 2020: ¶¶

(a) Vested OPSRP member's pension benefit is \$5,000 or less on the effective date of withdrawal. The actuarial equivalent may not include any value attributable to cost-of-living adjustments under ORS 238A.210; and will receive the value of their IAP account, the value of their Employee Pension Stability account (EPSA) (if applicable), and the value of their Optional Employer Contribution account (if applicable).¶¶

~~(f) The member complies with the requirements of ORS 238A.120(4).¶¶~~

(3) Any amount payable to the member under the provisions of this rule must be paid to the member in a single lump-sum payment. Members who are not vested in the OPSRP pension will receive the value of their IAP account and the value of their EPSA (if applicable).¶¶

(4) A member may revoke a request for withdrawal from the pension program if PERS receives the member's written revocation of the request before the earlier of:¶¶

- (a) The date of distribution; or¶¶
 - (b) The date PERS receives a valid court order requiring PERS to pay the distribution to someone other than the withdrawing member.¶¶
 - (5) A member who withdraws from the pension program terminates membership in the pension program as of the effective date of withdrawal.¶¶
 - (6) A member who withdraws from the pension program forfeits any service performed by the member before the date of the separation described in subsection (2)(b) of this rule and may not use that service for any purpose including, but not limited to, establishing membership under ORS 238A.100, vesting under ORS 238A.115, and the accrual of retirement credit under ORS 238A.140, 238A.150, or 238A.155.¶¶
 - (7) The withdrawal shall be processed following receipt by PERS of all the items in subsections (a) and (b) of this section:¶¶
 - (a) From the member:¶¶
 - (A) Completed withdrawal application; and¶¶
 - (B) Proof of member's age.¶¶
 - (b) From the employer: Financial and demographic information indicating the member has separated from employment with all participating employers and all employers in a controlled group with a participating employer.¶¶
 - (8) PERS may cancel a member's request for withdrawal if PERS does not receive all the items specified in section (7) of this rule within 180 days of PERS' receipt of the original withdrawal application.¶¶
 - (9) If a former member who has withdrawn from the pension program returns to employment with a participating employer or an employer in a controlled group with a participating employer before the first day of the second calendar month following the month of the separation described in subsection (2)(b) of this rule, the withdrawal is cancelled and membership is restored. The member must repay to PERS in a single payment the total amount of all payments attributable to the withdrawal within 30 days following the effective date of the employment. Upon receipt by PERS of repayment under this section, service forfeited under section (6) of this rule is restored as of the effective date of withdrawal.¶¶
 - (10) If the member fails to repay as provided in section (9) of this rule, PERS shall take all reasonable steps to recover the repayment amount due, including any interest, costs, or penalties assessed by PERS, under the provisions of ORS 238.715 and OAR 459-005-0610. Upon receipt by PERS of repayment under this section, service forfeited under section (6) of this rule is restored effective the first day of the month following the date of repayment.¶¶
 - (11) The effective date of this rule is January 1, 2008.
- Statutory/Other Authority: ORS 238A.450
Statutes/Other Implemented: ORS 238A.120, OL 2007 Ch. 52

AMEND: 459-080-0020

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts.

CHANGES TO RULE:

459-080-0020

Withdrawal of Individual Accounts ¶¶

(1) Definitions. For the purposes of this rule:¶¶

(a) "Controlled group" means a group of employers treated as a single employer for purposes of maintaining qualified status under federal law.¶¶

(b) "Effective date of withdrawal" has the same meaning as given the term in OAR 459-005-0001(810).¶¶

(c) "Inactive member" has the same meaning given the term in ORS 238A.005(8).¶¶

(d) "Individual account program" has the same meaning given the term in ORS 238A.005(9).¶¶

(e) "Individual accounts" means the employee account, employee pension stability account, rollover account, and employer account of a member of the Individual Account Program (IAP) to the extent the member is vested in those accounts under ORS 238A.320.¶¶

(2) An inactive member may withdraw the individual accounts under ORS 238A.375 if:¶¶

(a) The member has separated from employment with all participating employers and all employers in a controlled group with a participating employer;¶¶

(b) The member has been absent from service with all participating employers and all employers in a controlled group with a participating employer for at least one full calendar month following the month of separation;¶¶

(c) The member files with PERS a written request for withdrawal on a form acceptable to PERS; and¶¶

(d) The member complies with the requirements of ORS 238A.375(4).¶¶

(3) A member may revoke a request for withdrawal of the individual accounts if PERS receives the member's written revocation of the request before the earlier of:¶¶

(a) The date of distribution; or¶¶

(b) The date PERS receives a valid court order requiring PERS to pay the distribution to someone other than the withdrawing member.¶¶

(4) A member who withdraws the individual accounts terminates membership in the IAP as of the effective date of withdrawal.¶¶

(5) An employer account not included in the withdrawn individual accounts by reason of the member's failure to

vest in the employer account is permanently forfeited as of the date of distribution.¶

(6) A member who withdraws the individual accounts and is subsequently employed with a participating employer forfeits any service performed by the member before the separation described in subsection (2)(a) of this rule for the purpose of vesting in an employer account.¶

(7) If a former member who has withdrawn the individual accounts returns to employment with a participating employer or an employer in a controlled group with a participating employer before the first day of the second calendar month following the month of the separation described in subsection (2)(a) of this rule the withdrawal is cancelled and membership is restored. The member must repay to PERS in a single payment the total amount of all payments attributable to the withdrawal within 30 days following the effective date of the employment. Upon receipt by PERS of repayment under this section, account(s) forfeited under section (5) and service forfeited under section (6) of this rule are restored effective the date of distribution. The repayment amount received will be credited pro rata to the accounts from which the withdrawal amount was derived.¶

(8) If the member fails to repay as provided in section (7), PERS shall take all reasonable steps to recover the repayment amount due, including any interest, costs, or penalties assessed by PERS, under the provisions of ORS 238.715 and OAR 459-005-0610. Upon receipt by PERS of repayment under this section, account(s) forfeited under section (5) of this rule, and service forfeited under section (6) of this rule are restored effective the first day of the month following the date of repayment. The repayment amount received will be credited pro rata to the accounts from which the withdrawal amount was derived effective the first day of the month following the date of repayment.¶

(9) The effective date of this rule is January 1, 2008.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.375, OL 2007 Ch. 52

AMEND: 459-080-0200

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts.

CHANGES TO RULE:

459-080-0200

IAP Account Adjustments for Earnings or Losses ¶

(1) Earnings and losses on employee, employer, and rollover contributions under the OPSRP Individual Account Program ("IAP") shall be credited annually in accordance with OAR 459-007-0005(6). In no event shall earnings or losses be credited to individual accounts until funds are actually received by PERS and have been successfully reconciled with the corresponding wage and contribution record.¶

(2) When a member elects to withdraw their accounts under ORS 238A.375, earnings or losses for their employee and employer accounts shall be credited in accordance with OAR 459-007-0320(2) and earnings for the Employee Pension Stability account (EPSA) will be credited in accordance with OAR 459-007-0370.¶

(3) When a member retires and elects to receive a lump sum payment of their accounts under ORS 238A.400(1), earnings or losses for their employee and employer accounts shall be credited in accordance with OAR 459-007-0320(1); and earnings for the EPSA will be credited in accordance with OAR 459-007-0350.¶

(4) When a member retires and elects to receive installment payments under ORS 238A.400(2), earnings or losses for their employee and employer accounts shall be credited in accordance with OAR 459-007-0330 and earnings for the EPSA will be credited in accordance with OAR 459-007-0350.¶

(5) The provisions of this rule are effective January 1, 2004.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.350, 238A.375, 238A.400

ADOPT: 459-080-0400

RULE SUMMARY: During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts. Four new rules are added; one to outline the EPSA and three others to explain the earnings crediting to the EPSA in different circumstances (retirement, withdrawal, and death).

CHANGES TO RULE:

459-080-0400

Employee Pension Stability Account (EPSA)

(1) The Employee Pension Stability Account (EPSA) is a member account under the IAP as established in ORS 238A.353. A portion of the member contributions are credited to the member's EPSA when the member's monthly salary exceeds the threshold amount and the system funded status is below 90%.¶

(2) The monthly salary threshold amount:¶

(a) Is \$2,500 for calendar year 2020:¶

(b) Includes salary from all PERS covered employment during the calendar month; and¶

(c) Is determined based on the date the salary is paid.¶

(3) Though part of the IAP, EPSA funds are not invested in target date funds. EPSA funds are held in a separate member account that will be credited annually with earnings or losses in accordance with OAR 459-007-0005.

There is no guaranteed rate of return on a member's EPSA.¶

(4) Unless withdrawn prior to earliest retirement age, a member's EPSA will be applied to the cost of the member's retirement or other pension benefit attributable to service on and after July 1, 2020. The amount of the member's benefit attributable to service on and after July 1, 2020 will be determined by dividing the number of months of service after July 1, 2020, by the total months of service.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.050, OL 2019, Ch. 355, Sec. 2, OL 2018, Ch. 118