



Oregon

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Public Employees Retirement System

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TO: Members of the PERS Board

FROM: Yong Yang, Research Policy Coordinator, Policy Analysis and Compliance Section
Stephanie Vaughn, Manager, Policy Analysis and Compliance Section

SUBJECT: Adoption of Rulemaking to implement portions of the federal SECURE 2.0 ACT for OSGP:

OAR 459-050-0040 *Unforeseeable Emergency Withdrawal Appeals Committee*

OAR 459-050-0150 *Unforeseeable Emergency Withdrawal*

OAR 459-050-0070 *Catch-Up Programs*

OVERVIEW

- Action: Staff recommend adoption of the OSGP federal SECURE 2.0 ACT rules.
- Reason: Implementing a mandatory and an optional provision of the federal SECURE 2.0 Act.

BACKGROUND

The SECURE 2.0 Act, formally known as the Setting Every Community Up for Retirement Enhancement 2.0 Act of 2022, was signed into law on December 29, 2022, building upon the earlier SECURE Act of 2019. It introduced a range of enhancements designed to make retirement savings easier and more flexible for workers and employers alike. Staff are proposing the following rule amendments to implement one mandatory and one optional provision of the SECURE 2.0 Act.

Optional Provision (Self-Certification for Emergency or Hardship Withdrawals in Section 312 of SECURE 2.0 Act)

Amendments clarify that it is up to the plan participant requesting an emergency withdrawal to self-certify that the withdrawal is not being used for one of the enumerated impermissible purposes. Instead of submitting an emergency withdrawal application and financial information and related documentation, a plan participant requesting an emergency withdrawal only needs to submit a completed unforeseeable emergency withdrawal self-certification form authorized by OSGP. The form may be obtained either from OSGP or the OSGP third party administrator (VOYA). Plan participants now have the right to continue with deferred contributions in the event of an emergency withdrawal. The deferred compensation manager is no longer involved or required to approve the release of funds. As the third-party administrator, VOYA will release the funds to the plan

participant once a completed self-certification for emergency withdrawal has been received.

Repeal of 459-050-0040. There is no longer a need for the Unforeseeable Emergency Withdrawal Appeals Committee to handle appeals from denial of withdrawal requests when plan participants can self-certify for the withdrawal without having to submit any financial information or related documentation. The unforeseeable emergency withdrawal request will be approved without any additional staff determination that could require the service of the Unforeseeable Emergency Withdrawal Appeals Committee.

Mandatory Provision (Requirement for Roth Treatment of Elective Deferral Catch-Up Contributions under Section 603 of SECURE 2.0 Act)

Amendments align with recent federal law changes under the SECURE 2.0 Act. Beginning in 2026, higher-earning employees (those with more than about \$145,000 in FICA wages from the prior year, adjusted annually for inflation) will no longer be able to make pre-tax age 50 plus catch-up contributions. For plan participants aged 50 and older, all catch-up contributions will now go into a Roth account, which means they are taxed in the year they are contributed but can be withdrawn tax-free in retirement. For plan participants in the last three years before retirement who qualify for the special 457(b) “last-three-year” catch-up, most contributions can still be made pre-tax, but a portion may be required to go into a Roth account, depending on how the federal rules apply.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely, and in person, on October 28, 2025, at 2:00 p.m. The public comment period ended October 31, 2025, at 5:00 p.m. No public comments were received.

LEGAL REVIEW

The attached rules were submitted to the Department of Justice for legal review, and any comments or changes have been incorporated into the rules as presented for adoption.

IMPACT

Mandatory: Yes for the mandatory provision; no for the optional provision

Benefit: Keeping our plan in compliance with federal law and aligning PERS administrative rule with federal requirements.

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

RULEMAKING TIMELINE

September 23, 2025:	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
October 1, 2025:	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. The public comment period begins.

September 26, 2025:	PERS Board notified that staff began the rulemaking process.
October 28, 2025:	Rulemaking hearing held remotely and at the PERS headquarters at 2:00 p.m.
October 31, 2025:	Public comment period ended at 5:00 p.m.
December 5, 2025:	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

BOARD OPTIONS

The PERS Board may:

1. Pass a motion to adopt OSGP federal SECURE 2.0 ACT edits.
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommend the PERS Board choose Option #1.

- B.1. Attachment 1 – OAR 459-050-0040 *Unforeseeable Emergency Withdrawal Appeals Committee*
- B.1. Attachment 2 – OAR 459-050-0070 *Catch-Up Programs*
- B.1. Attachment 3 – OAR 459-050-0150 *Unforeseeable Emergency Withdrawal*