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

459-009-0086

Employer Unfunded Actuarial Liability Lump-Sum Payments, Generally

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

(a) "Amortized amount" means the amount of a side account used to offset pension contributions due from the employer.

(b) "Employer actuarial pool" means a grouping of employers for actuarial purposes such as the School District Pool and the State and Local Government Rate Pool.

(c) "Fair value UAL" means the unfunded actuarial liability calculated using the fair market value of assets.

(d) "Side account" means an account in the Public Employees Retirement Fund into which a UAL lump-sum payment that is not used to satisfy a transition liability is deposited.

(e) "Transition liability" means the unfunded actuarial liability attributed to an individual employer for the period before entry into the State and Local Government Rate Pool.

(f) "Transition surplus" means the actuarial surplus attributed to an individual employer for the period before entry into the State and Local Government Rate Pool.

(g) "Unfunded actuarial liability" or "UAL" means the excess of the actuarial liability over the actuarial value of assets for the specified pension program.

(h) "UAL lump-sum payment" means any employer payment that is:

(A) Not regularly scheduled;

(B) Not paid as a percentage of salary;

(C) Made for the express purpose of reducing the pension contributions that would otherwise be required from the employer, or reducing or paying off the employer's transition liability; and

(D) Paid at the employer's election instead of at the PERS Board's direction.

(2) A UAL lump-sum payment must be made by either wire transfer or check payable to the Public Employees Retirement System.

(3) An employer may make a UAL lump-sum payment to pay 100 percent of its transition liability.

(4) A UAL lump-sum payment shall first be applied to the employer's transition liability, if any. The remainder of the payment, if any, shall be held in a side account.

(5) An actuarial calculation must be performed prior to an employer making a UAL lump-sum payment if the employer:

(a) Has a transition liability;

(b) Intends to establish a new side account with rate relief beginning on a date specified by the employer;

(c) Requests an actuarial calculation where a calculation is not otherwise required; or

(d) Intends to make a lump sum payment pursuant to (9) of this rule.

(6) The amount of a UAL lump-sum payment that is held in a side account will be used to reduce the pension contributions that would otherwise be required from the employer making the UAL lump-sum payment. The amortized amount for each payroll reporting period shall be transferred from the side account to the appropriate employer reserve account.

(7) The minimum UAL lump-sum payment required to establish a new side account is the lesser of:

(a) 25 percent of the individual employer's UAL calculated under OAR 459-009-0084 or 459-009-0085; or

(b) $250,000.

(8) An employer with one or more existing side accounts may make additional UAL lump-sum payments into such side account(s).

(a) An employer may not make more than two additional UAL lump-sum payments per side account in a calendar year.

(b) Additional UAL lump-sum payments into an existing side account will not affect the amortization period of the existing side account.

(c) Adjustment to the employer's contribution rates from a UAL lump-sum payment into an existing side account will be effective on July 1 of the calendar year following completion of the actuarial valuation for the year in which the additional deposit is made.

(9) An employer making a UAL lump-sum payment equal to or greater than $10 million, not sourced from a pension obligation bond, must establish a new side account for the lump-sum payment if it:

(a) Elects an amortization period of 6 years, 10 years, or 16 years; or

(b) Chooses the year in which to begin the employer rate offset.

(10) Each employer side account shall be charged an administration fee of $1,500 for the year in which the side account is established, and $500 per year thereafter. **No administrative fee shall be charged for any calendar year following the last calendar year in which an amortized amount was transferred from the side account to an employer reserve account under section (6) of this rule.**

(11) Side accounts shall be credited with earnings and losses in accordance with OAR 459-007-0530.

(12) If, during a month, the balance of a side account is reduced to zero or a negative amount after application of the monthly amortized amount and earnings or losses under section (11) of this rule:

(a) The employer rate offset attributable to the side account shall cease effective the first day of the following month;

(b)The side account shall thereafter be considered inactive. The employer rate offset attributable to the side account shall not apply to payroll periods beginning on or after the effective date of the inactive status. PERS may continue to apply rate offsets and make adjustments attributable to payroll periods before the effective date of the inactive status, including adjustments resulting from corrected payroll reporting or other employer reporting corrections;

(c) An inactive side account shall continue to receive earnings and losses under section (11) of this rule through the end of the applicable amortization schedule and through completion of the final annual earnings and loss allocation for the final calendar year of the amortization schedule;

(d) Following completion of the final annual earnings and loss allocation described in subsection (c) of this section:

(A) if the side account has a negative balance, PERS shall invoice the employer for the amount necessary to restore the side account balance to zero;

(B) if the side account has a remaining credit balance, the remaining balance shall be administered in accordance with section (13) of this rule;

(C) if the side account balance is zero, the side account shall be administratively closed.

(e) An employer shall remit payment of an invoiced amount under subsection (d)(A) of this section within the time period established by PERS.

(f) Upon completion of the actions required under subsection (d) of this section, the side account shall be administratively closed.

(13) At the end of a side account amortization schedule, if a side account has a remaining credit balance and:

(a) If the remaining credit balance is equal to or greater than 35 percent of the employer payroll amount used in the employer's most recent actuarial valuation, the employer may elect to:

(A) Establish a new side account using the remaining credit balance, subject to the applicable requirements of OAR 459-009-0085 for establishment of a new side account; or

(B) Transfer the remaining credit balance into another existing side account of the employer, subject to the applicable requirements of OAR 459-009-0085 for deposits into an existing side account.

(b) A transfer or establishment under subsection (a) of this section shall be treated as a UAL lump-sum payment for purposes of determining the effective date of any resulting employer contribution rate adjustment under OAR 459-009-0085(7).

(c) An employer election under subsection (a) of this section must be made in the manner and within the time period prescribed by PERS.

(d) If the remaining credit balance is less than 35 percent of the employer payroll amount used in the employer's most recent actuarial valuation, the remaining credit balance shall be credited to the employer in a manner determined by PERS.

(1**4**_[2]_) Nothing in this rule shall be construed to prevent the PERS Board from taking action pursuant to ORS 238.225.

(1**5**_[3]_) Nothing in this rule shall be construed to convey to an employer making a

UAL lump-sum payment any proprietary interest in the Public Employees Retirement Fund or in the UAL lump-sum payment made to the fund by the employer.

Statutory/Other Authority: ORS 238.650
Statutes/Other Implemented: ORS 238.225 - 238.229
History:
PERS 10-2019, amend filed 12/06/2019, effective 12/06/2019
PERS 6-2019, temporary amend filed 08/16/2019, effective 08/16/2019 through 02/11/2020
PERS 11-2018, amend filed 10/05/2018, effective 10/05/2018
PERS 5-2018, temporary amend filed 06/01/2018, effective 06/01/2018 through 11/27/2018
PERS 9-2017, adopt filed 12/01/2017, effective 12/01/2017