Oregon

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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 Amendments to Rule Regarding Side Accounts

OAR 459-009-0086 *Employer Unfunded Actuarial Liability Lump-Sum Payments, Generally*

OVERVIEW

- Action: Adoption of amendments to administrative rule 459-009-0086.
- Reason: Establish clear administrative procedures for the treatment, reconciliation, and closure of side accounts approaching the end of their amortization schedules, including the disposition of remaining balances and resolution of negative balances.

BACKGROUND

Employer side accounts established under ORS 238.229 are used to reduce employer pension contribution rates through the transfer of amortized amounts from the side account to the employer reserve account. Existing administrative rules establish how side accounts are created, funded, amortized, and credited with earnings and losses. However, the rules do not expressly address the administration of a side account when the side account balance is exhausted or reduced below zero before completion of the side account's amortization schedule, nor do they address the disposition of a remaining credit balance at the conclusion of the amortization schedule.

PERS is now beginning to see the first significant group of side accounts approaching the end of their amortization schedules. As a result, staff has identified the need for administrative rule amendments that expressly address the treatment of side accounts that become depleted before completion of the amortization schedule, the disposition of remaining balances at the end of the amortization schedule, and the closure of side accounts following completion of the annual earnings allocation process.

Under the current side account structure, amortized amounts are transferred from the side account to the employer reserve account throughout the amortization period. Side accounts are also credited with earnings and losses in accordance with OAR 459-007-0530. Because of the annual earnings allocation process, the final balance of a side account may not be known until completion of the annual earnings allocation applicable to the final calendar year of the amortization schedule. As a result, a side account may appear depleted before the final annual earnings allocation has been completed.

The proposed amendments establish a process for administering side accounts that are reduced to zero or a negative balance during the amortization period. Under the amendments, the employer rate offset attributable to the side account would cease effective the first day of the month following depletion of the side account, and the side account would be designated as inactive.

The proposed amendments also clarify the treatment of employer reporting submitted after a side account becomes inactive. Although the employer rate offset attributable to an inactive side account would cease for payroll periods beginning on or after the effective date of the inactive status, employers may continue to submit payroll reports and payroll corrections relating to earlier payroll periods. Under the proposed amendments, PERS may continue to apply side account rate offsets and make associated adjustments attributable to payroll periods that occurred before the side account became inactive. This clarification ensures that employers receive the same side account treatment for historical payroll periods regardless of whether payroll information or corrections are submitted before or after the side account is designated inactive.

An inactive side account would remain open until completion of the annual earnings and losses allocation applicable to the final calendar year of the side account's amortization schedule. Following completion of the annual earnings allocation process, PERS would determine the final reconciled balance of the side account. If the final reconciled balance is negative, PERS would invoice the employer for the amount necessary to restore the side account balance to zero. If the final reconciled balance is positive, the remaining balance would be administered in accordance with the provisions described below. Upon completion of these actions, the side account would be administratively closed.

The proposed amendments also establish procedures for the disposition of a remaining credit balance at the conclusion of a side account amortization schedule. If the remaining credit balance equals or exceeds 35 percent of the employer payroll amount used in the employer's most recent actuarial valuation, the employer may elect either to establish a new side account using the remaining balance or transfer the remaining balance to another existing side account, subject to applicable side account notice and rate-adjustment requirements. The 35 percent threshold was selected because participating employers' annual PERS contribution requirements average approximately 35 percent of payroll. As a result, a remaining balance equal to a greater than 35 percent of payroll generally represents approximately one year of employer contributions and is sufficiently large to provide meaningful future rate relief through re-amortization. Conversely, where the remaining balance is less than 35 percent of payroll, staff determined that the balance is generally insufficient to support a meaningful re-amortization period and rate offset. In those circumstances, the proposed amendments provide that the remaining balance will be credited to the employer in a manner determined by PERS.

Lastly, the proposed amendments further clarify that no administrative fee will 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. This change aligns the assessment of administrative fees with the period during which a side account is actively providing employer rate relief.

These amendments are intended to provide a clear and consistent administrative process for the administration and closure of side accounts nearing the end of their amortization schedule, including the cessation of future rate offsets, treatment of historical payroll corrections, reconciliation of final side account balances, resolution of negative balances, and disposition of residual credit balances at the conclusion of a side account amortization schedule.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely, and in person, on August 18, 2026, at 2:00 p.m. The public comment period ended August 21, 2026, at 5:00 p.m. No comments were received.

IMPACT

Mandatory: No

Benefit: Provide a clear and consistent administrative process for the administration and closure of side accounts nearing the end of their amortization schedule.

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

RULEMAKING TIMELINE

July 23, 2026:	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 24, 2026:	PERS Board notified that staff began the rulemaking process.
August 3, 2026:	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. The public comment period began.
August 18, 2026:	Rulemaking hearing held remotely and at the PERS headquarters at 2:00 p.m.
August 21, 2026:	Public comment period ended at 5:00 p.m.
September 25, 2026:	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff.

BOARD OPTIONS

The Board may:

1. Pass a motion to adopt the side account rule as presented.
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

B.3. Attachment 1 – OAR 459-009-0086 *Employer Unfunded Actuarial Liability Lump-Sum Payments, Generally*