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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 459

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

FILED: 07/24/2026 9:51 AM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Notice of Rulemaking for Employer Incentive Fund Program Rule

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/21/2026 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.

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Filed By:
Joel Mellor
Rules Coordinator

HEARING(S)

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

DATE: 08/18/2026
TIME: 2:00 PM
OFFICER: Joel Mellor

IN-PERSON HEARING DETAILS
ADDRESS: PERS Headquarters , 11410 SW 68th Parkway, Tigard, OR 97223

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 971-300-4342
CONFERENCE ID: 177850618
SPECIAL INSTRUCTIONS:
Meeting ID: 293 418 349 853 411
Passcode: TS2xn2V5

NEED FOR THE RULE(S):

Under the Employer Incentive Fund Program, approved employers may receive matching funds in connection with

qualifying UAL lump-sum payments. Applications are processed in the order received and matching funds are allocated until available EIF funds are exhausted.
The current rule provides that, when available EIF funds are insufficient to fully match an employer's approved UAL lump-sum payment commitment, only available monies will be used in the match. However, the current rule does not establish procedures for administering the unmatched portion of an approved commitment or for allocating subsequently available EIF funds to employers whose approved commitments could not be fully matched at the time of initial application.
The proposed amendments establish a process for administering partially matched applications. When available EIF funds are insufficient to fully match an approved UAL lump-sum payment commitment, the amendments provide that the unmatched portion of the approved commitment will be placed on the EIF waiting list according to the order in which the employer's application was received. This preserves the employer's original application priority for purposes of receiving any additional matching funds that may become available during the application period.
The amendments further clarify that employers are not required to submit the unmatched portion of an approved UAL lump-sum payment commitment while that unmatched portion remains on the waiting list. If additional EIF funds become available, PERS will allocate those matching funds according to waiting-list priority and notify affected employers to arrange for applicable payment due date.
The amendments are expected to improve administration of the EIF program and provide greater clarity and predictability to participating employers.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Statutory/Other Authority: ORS 238.650 & ORS 238A.450
Statutes/Other Implemented: ORS 238.225 - 238.229
These documents are available on the Internet at: https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

Adoption of the rule will not affect racial equity.

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.

AMEND: 459-009-0092

RULE SUMMARY: Describe more detailed prioritization for how EIF funds are assigned.

CHANGES TO RULE:

459-009-0092
Employer Incentive Fund Program
The words and phrases used in this rule have the same meaning given them in OAR 459-009-0086.¶
(1) When the PERS Board determines that a sufficient amount of money has been allocated to the Employer Incentive Fund, it shall open an application period by declaring:¶
(a) The date upon which the application period shall open; and¶
(b) The total amount of funds available for matching employer UAL lump-sum payments during the application period.¶
(2) The application period shall end at the earlier of:¶
(a) 12 months after the application period start date; or¶
(b) Once all funds available for matching employer UAL lump-sum payments declared in subsection (1)(b) of this rule have been paid out.¶
(3) Unless otherwise specified in this rule, all the requirements and timelines established in OAR 459-009-0084, 459-009-0085, and 459-009-0086 apply to UAL lump-sum payments made in association with the Employer Incentive Fund Program.¶
(4) During the first 90 days of an application period, applications for the Employer Incentive Fund Program will only be open to employers with an unfunded actuarial liability greater than 200 percent of the employer's PERS payroll. After the first 90 days have expired, applications will be open to all PERS participating employers.¶
(5) A PERS employer seeking participation in the Employer Incentive Fund Program must submit an application to PERS and provide:¶
(a) The amount of the UAL lump-sum payment. The amount eligible for matching funds excludes:¶
(A) Side account deposits of less than $25,000; and¶
(B) Any amount that will be applied to any outstanding transition liability;¶
(b) The date the employer made, or intends to make, the UAL lump-sum payment. Such date must be:¶
(A) No earlier than June 2, 2018; and¶
(B) No later than 12 months after the date the application period opens;¶
(c) A statement that the UAL lump-sum payment is not sourced from any type of borrowed funds;¶
(d) The information required under OAR 459-009-0084(2)(c), if the employer is making a UAL lump-sum payment under OAR 459-009-0084(2); and¶
(e) Proof of participation in the Unfunded Actuarial Liability Resolution Program as provided under OAR 459-009-0091.¶
(6) PERS shall allocate a match amount equal to 25 percent of the eligible employer UAL lump-sum payment amount indicated in subsection (5)(a) of this rule upon approval of the employer's application; however, such allocated match amount may not exceed the greater of:¶
(a) Five percent of the unfunded liability attributable to the employer applying to participate in the Employer Incentive Fund Program; or¶
(b) $300,000.¶
(7) For the purposes of sections (4) and (6) of this rule, the unfunded actuarial liability calculated by the PERS consulting actuary for the most recent actuarial report prepared under ORS 238.605 as of the application period start date will be used.¶
(8) Notwithstanding section (6) of this rule, in the event that moneys in the Employer Incentive Fund are not sufficient to match the entire 25% of an employer's UAL lump-sum payment commitment~~, o~~: ¶
(a) Only available moneys will be used in the ~~match~~initial match allocation;¶
(b) The unmatched portion of the employer's UAL lump-sum payment commitment shall automatically be placed on the waiting list established under section (12) of this rule in the order in which the employer's application was received;¶
(c) The employer shall not be required to make the unmatched portion of the UAL lump-sum payment commitment unless and until PERS notifies the employer that matching funds have become available for that unmatched portion.¶
(9) PERS shall process the applications and allocate matching funds based upon the order in which the applications are received.¶
(10) Except as otherwise provided in this rule, an employer will fail to qualify to participate in the Employer Incentive Fund Program, thereby forfeiting any allocated matching funds, if PERS does not receive the UAL lump-

sum payment the employer has committed under subsection (5)(a) of this rule on the due date specified in the application. An employer may change, subject to PERS' discretion and approval:¶
(a) The amount of the UAL lump-sum payment indicated in its application.¶
(A) If the UAL lump-sum payment amount is increased, only the original amount will be eligible for matching funds; and¶
(B) If the UAL lump-sum payment amount is decreased:¶
(i) The new amount must be at least $25,000; and¶
(ii) Any allocated matching funds will be decreased proportionately.¶
(b) The date of the UAL lump-sum payment indicated in its application.¶
(A) The employer must notify PERS at least five business days before the date the employer indicated it would make the payment; and¶
(B) The new payment date must be within 12 months after the date the application period opened.¶
(c) The rate offset date or UAL lump-sum payment amount for employers making UAL lump-sum payments under OAR 459-009-0084.¶
(A) The employer will need to request and pay for a new actuarial calculation; and¶
(B) The UAL lump-sum payment must be made within 12 months after the date the application period opens to remain eligible to receive matching funds.¶
(11) An employer must notify PERS and receive approval from PERS if it intends to make the UAL lump-sum payment prior to the payment due date under subsection (5)(b) or (10)(b) of this rule.¶
(12) Once all the funds identified in subsection (1)(b) of this rule have been allocated, employers ~~applying for matching funds will be placed on a waiting list~~<u>whose applications have not received any matching allocation and employers whose approved UAL lump-sum payment commitments have only been partially matched under section (8) of this rule, will be placed on a waiting list based upon the order in which the applications were received</u>.¶
(a) If moneys become available again during the same application period, the employers on the waiting list will receive matching allocations based upon the order in which their applications were received.¶
(b) If additional moneys become available on the last day of the application period, employers on the waiting list that are notified they will receive a matching allocation will have an additional five days to submit their UAL lump-sum payment.¶
<u>(c) For employers on the waiting list whose approved UAL lump-sum payment commitments have only been partially matched, PERS shall notify the employer when matching funds become available for all or a portion of the unmatched UAL lump-sum payment commitment and shall establish a new payment due date applicable to that unmatched portion, subject to subsection (12)(b) of this rule. ¶</u>
(13) Notwithstanding section (2) of this rule, the Board is extending the EIF employer lump-sum payment deadline from December 1, 2020 to March 31, 2023, only for the waitlisted employers from the application cycle established on September 3, 2019. Notwithstanding paragraph (10)(b)(B) of this rule, waitlisted employers that wish to extend their payment deadline under this section of the rule must notify PERS of the new payment date at least five business days before the date the employer indicated it would make the payment, and the new payment date must be no later than March 31, 2023. An employer must notify PERS and receive approval from PERS if it intends to make the lump-sum payment prior to the new payment date noticed under this section of the rule.¶
(14) OAR 459-009-0084(8), 459-009-0085(4) and (5), and 459-009-0086(7) do not apply to UAL lump-sum payments receiving matching funds under this rule.
Statutory/Other Authority: ORS 238.650, ORS 238A.450
Statutes/Other Implemented: ORS 238.225~~-~~<u>, ORS 238.226, ORS 238.227, ORS 238.228, ORS</u> 238.229