

OFFICE OF THE SECRETARY OF STATE

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DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

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503-373-0701

NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 459

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

FILED

01/23/2026 2:43 PM

ARCHIVES DIVISION

SECRETARY OF STATE

FILING CAPTION: Yearly update of plan limits.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/27/2026 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: 02/24/2026

TIME: 2:00 PM

OFFICER: Joel Mellor

IN-PERSON HEARING DETAILS

ADDRESS: PERS Headquarters Board Room, 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: 900656839

SPECIAL INSTRUCTIONS:

Meeting ID: 223 439 679 497 97

Passcode: Qp3jW6An

NEED FOR THE RULE(S)

Yearly update of plan limits.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 238.650

ORS 238A.450

ORS 238.465

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

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

RULES PROPOSED:

459-005-0525, 459-005-0545, 459-017-0060, 459-045-0090, 459-080-0400, 459-080-0500

AMEND: 459-005-0525

RULE SUMMARY: Yearly update of plan limits.

CHANGES TO RULE:

459-005-0525

Ceiling on Compensation for Purposes of Contributions and Benefits ¶

(1) This administrative rule shall be construed consistently with the requirements of the Internal Revenue Code (IRC) Section 401(a)(17) relating to the limitation on annual compensation allowable for determining contribution and benefits under ORS Chapters 238 and 238A. ¶

(2) For purposes of this rule: ¶

(a) "Annual compensation" means "salary," as defined in ORS 238.005 and 238.205 with respect to Chapter 238 and in 238A.005 with respect to Chapter 238A paid to the member during a calendar year or other 12-month period, as specified in this rule. ¶

(b) "Eligible participant" means a person who first becomes a member of PERS before January 1, 1996. ¶

(c) "Employer" means a "public employer" as defined in ORS 238.005, for the purposes of this rule as it applies to Chapter 238. For the purposes of this rule as it applies to Chapter 238A, an "employer" means a "participating public employer" as defined in 238A.005. ¶

(d) "Noneligible participant" means a person who first becomes a member of PERS after December 31, 1995. ¶

(e) "Participant" means an active or inactive member of PERS. ¶

(3) For eligible participants, the limit set forth in IRC Section 401(a)(17) shall not apply for purposes of determining the amount of employee or employer contributions that may be paid into PERS, and for purposes of determining benefits due under ORS Chapters 238 and 238A. The limit on annual compensation for eligible participants shall be no less than the amount which was allowed to be taken into account for purposes of determining contributions or benefits under former ORS 237.001 to 237.315 as in effect on July 1, 1993, for calendar years before 2020. Beginning in 20256, the limit on annual compensation taken into account for purposes of determining contributions or benefits under ORS Chapter 238 or 238A for eligible participants shall be measured on a calendar year basis, and shall not exceed \$238,56745,724 per calendar year. ¶

(4) For noneligible participants, the annual compensation taken into account for purposes of determining

contributions or benefits under ORS Chapters 238 and 238A shall be measured on a calendar year basis, and shall not exceed \$238,56745,724 per calendar year beginning in 20256.¶

(5) A participant employed by two or more agencies or instrumentalities of a PERS participating employer in a calendar year, whether concurrently or consecutively, shall have all compensation paid by the employer combined for determining the allowable annual compensation under this rule.¶

(6) PERS participating employers shall monitor annual compensation and contributions to assure that reports and remitting are within the limits established by this rule and IRC Section 401(a)(17).¶

(7) For a participant, Final Average Salary under ORS 238.005 with respect to Chapter 238 and under 238A.130 with respect to Chapter 238A shall be calculated based on the amount of compensation that is allowed to be taken into account under this rule.¶

(8) With respect to ORS Chapter 238, creditable service, as defined in 238.005, shall be given for each month that an active member is paid salary or wages and allowable contributions have been remitted to PERS, or would be remitted but for the annual compensation limit in this rule. With respect to Chapter 238A, retirement credit as determined in 238A.140, shall be given for each month that an active member is paid salary or wages and allowable contributions have been remitted to PERS, or would be remitted but for the annual compensation limit in this rule.¶

(9) Beginning in 2020, the limitation on annual compensation under sections (3) and (4) of this rule will be indexed by cost-of-living adjustments in subsequent years as provided in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

Statutory/Other Authority: ORS 238.630, 238.650, 238A.370, 238A.450

Statutes/Other Implemented: ORS 238.005, ORS 238A.005

RULE SUMMARY: Yearly update of plan limits.

CHANGES TO RULE:

459-005-0545

Annual Addition Limitation ¶

(1) This administrative rule shall be construed consistently with the requirements of the Internal Revenue Code (IRC) Section 415(c) and the Treasury regulations and Internal Revenue Service rulings and other interpretations issued thereunder.¶

(2) Except as otherwise provided in this rule, a member's annual additions to PERS for any calendar year after 2024~~6~~ may not exceed \$702,000 (as adjusted under IRC Section 415(d)).¶

(3) For purposes of this rule, the term "annual additions" has the same meaning as under IRC Section 415(c)(2).¶

(4) The following special rules shall apply with respect to purchases of permissive service credit, as defined in OAR 459-005-0540, Permissive Service Credit:¶

(a) If a member's after-tax contributions to purchase permissive service credit are included in the member's annual additions under section (3) of this rule, the member shall not be treated as exceeding the limitation under section (2) of this rule solely because of the inclusion of such contributions.¶

(b) With respect to any eligible participant, the annual addition limitation in section (2) of this rule shall not be applied to reduce the amount of permissive service credit to an amount less than the amount that could be purchased under the terms of the plan as in effect on August 5, 1997. As used in this subsection, the term "eligible participant" includes any individual who became an active member before January 1, 2000.¶

(5) If a member makes a payment to PERS to purchase retirement credit for service in the Armed Forces pursuant to 238.156(3)(c) or 238A.150 and the service is covered under Internal Revenue Code Section 414(u), the following special rules shall apply for purposes of applying the annual addition limitation in section (2) of this rule:¶

(a) The payment shall be allocated as an annual addition to the calendar year to which it relates; and¶

(b) The member shall be treated as having received the following amount of compensation for the period of service in the Armed Forces to which the payment relates:¶

(A) The amount of compensation the member would have received from a participating employer had the member not been in the Armed Forces; or¶

(B) If the amount in paragraph (A) of this subsection is not reasonably certain, the member's average compensation from the participating employer during the 12-month period immediately preceding the period of service in the Armed Forces (or, if shorter, the period of employment immediately preceding the period of service in the Armed Forces).¶

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

Statutory/Other Authority: ORS 238.630, 238.650, 238A.370, 238A.450

Statutes/Other Implemented: ORS 238.005-238.715, 238A.370

RULE SUMMARY: Yearly update of plan limits.

CHANGES TO RULE:

459-017-0060

Reemployment of Retired Members ¶

(1) For purposes of this rule: ¶

(a) "Bona fide retirement" means that the retired member has been absent from service with all participating employers and all employers in a controlled group with a participating employer for at least six full calendar months between the effective date of retirement and the date of hire. ¶

(b) "Retired member" means a member of the PERS Chapter 238 Program who is retired for service. ¶

(2) A retired member may be employed under ORS 238.082 by a participating employer without loss of retirement benefits provided: ¶

(a) The period or periods of employment with one or more participating employers total less than 1,040 hours in a calendar year; or ¶

(b) If the retired member is receiving retirement, survivors, or disability benefits under the federal Social Security Act, the period or periods of employment total less than either 1,040 hours in a calendar year, or the total number of hours in a calendar year that, at the retired member's specified hourly rate of pay, would cause the annual compensation of the retired member to exceed the following Social Security annual compensation limits, whichever is greater. ¶

(A) For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is \$234,4080; or ¶

(B) For the calendar year in which the retired member reaches full retirement age under the Social Security Act and only for compensation for the months before reaching full retirement age, the annual compensation limit is \$625,160. ¶

(3) The limitations on employment in section (2) of this rule do not apply if the retired member has reached full retirement age under the Social Security Act. ¶

(4) The limitations on employment in section (2) of this rule do not apply if: ¶

(a) The retired member meets the requirements of ORS 238.082(4), (5), (6), (7), or (8), and did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or (3); ¶

(b) The retired member retired at a reduced benefit under ORS 238.280(1), (2), or (3), is employed in a position that meets the requirements of ORS 238.082(4), the date of hire is more than six months after the member's effective retirement date, and the member's retirement otherwise meets the standard of a bona fide retirement; ¶

(c) The retired member is employed by a school district or education service district as a speech-language pathologist or speech-language pathologist assistant and: ¶

(A) The retired member did not retire at a reduced benefit under the provisions of ORS 238.280(1) or (3); or ¶

(B) The retired member retired at a reduced benefit under the provisions of ORS 238.280(1) or (3), but is not employed by any participating employer until more than six months after the member's effective retirement date, and the member's retirement otherwise meets the standard of a bona fide retirement; ¶

(d) The retired member meets the requirements of section 2, chapter 499, Oregon Laws 2007, as amended by section 1, chapter 108, Oregon Laws 2015; ¶

(e) The retired member meets the requirements of section 2, chapter 475, Oregon Laws 2015; ¶

(f) The retired member is employed for service during a legislative session under ORS 238.092(2); ¶

(g) The retired member meets the requirements of ORS 238.088(2), and did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or (3); or ¶

(h) The retired member is on active state duty in the organized militia and meets the requirements under ORS 399.075(8). ¶

(i) The retired member is employed as a special campus security officer commissioned by a public university and meets the requirements under section 5, chapter 152, Oregon Laws 2019. ¶

(j) The retired member is employed as a security officer for a community college and meets the requirements under section 5, chapter 152, Oregon Laws 2019. ¶

(k) The retired member is employed by Harney County Health District as a person licensed, registered or certified to provide health services and meets the requirements under section 2, chapter 496, Oregon Laws 2019. ¶

(5) For purposes of population determinations referenced by statutes listed in this rule, the latest federal decennial census shall first be operative on the first day of the second calendar year following the census year. ¶

(6) For purposes of ORS 238.082(6), a retired member replaces an employee if the retired member: ¶

(a) Is assigned to the position of the employee; and ¶

(b) Performs the duties of the employee or duties that might be assigned to an employee in that position.¶

(7) If a retired member is reemployed subject to the limitations of ORS 238.082 and section (2) of this rule, the period or periods of employment subsequently exceed those limitations, and employment continues into the month following the date the limitations are exceeded:¶

(a) If the member has been retired for six or more calendar months:¶

(A) PERS will cancel the member's retirement.¶

(i) If the member is receiving a monthly service retirement allowance, the last payment to which the member is entitled is for the month in which the limitations were exceeded.¶

(ii) If the member is receiving installment payments under ORS 238.305(4), the last installment payment to which the member is entitled is the last payment due on or before the last day of the month in which the limitations were exceeded.¶

(iii) If the member received a single lump sum payment under ORS 238.305(4) or 238.315, the member is entitled to the payment provided the payment was dated on or before the last day of the month in which the limitations were exceeded.¶

(iv) A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.¶

(B) The member will reestablish active membership the first of the calendar month following the month in which the limitations were exceeded.¶

(C) The member's account must be rebuilt in accordance with the provisions of section (9) of this rule.¶

(b) If the member has been retired for less than six calendar months:¶

(A) PERS will cancel the member's retirement effective the date the member was reemployed.¶

(B) All retirement benefits received by the member must be repaid to PERS in a single payment.¶

(C) The member will reestablish active membership effective the date the member was reemployed.¶

(D) The member account will be rebuilt as of the date that PERS receives the single payment. The amount in the member account must be the same as the amount in the member account at the time of the member's retirement.¶

(8) For purposes of determining period(s) of employment in section (2) of this rule:¶

(a) Hours of employment are hours on and after the retired member's effective retirement date for which the member receives wages, salary, paid leave, or other compensation.¶

(b) Hours of employment that are performed under the provisions of section (4) of this rule on or after the later of January 1, 2004, or the operative date of the applicable statutory provision, are not counted.¶

(9) If a member has been retired for service for more than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(1):¶

(a) PERS will cancel the member's retirement effective the date the member is reemployed.¶

(b) The member will reestablish active membership on the date the member is reemployed.¶

(c) If the member elected a benefit payment option other than a lump sum option under ORS 238.305(2) or (3), the last monthly service retirement allowance payment to which the member is entitled is for the month before the calendar month in which the member is reemployed. Upon subsequent retirement, the member may choose a different benefit payment option.¶

(A) The member's account will be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.¶

(B) Amounts from the Benefits-In-Force Reserve (BIF) credited to the member's account under the provisions of paragraph (A) of this subsection will be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.¶

(d) If the member elected a partial lump sum option under ORS 238.305(2), the last monthly service retirement allowance payment to which the member is entitled is for the month before the calendar month in which the member is reemployed. The last lump sum or installment payment to which the member is entitled is the last payment due before the date the member is reemployed. Upon subsequent retirement, the member may not choose a different benefit payment option unless the member has repaid to PERS in a single payment an amount equal to the lump sum and installment benefits received and the earnings that would have accumulated on that amount.¶

(A) The member's account will be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.¶

(B) Amounts from the BIF credited to the member's account under the provisions of paragraph (A) of this subsection, excluding any amounts attributable to repayment by the member, will be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.¶

(e) If the member elected the total lump sum option under ORS 238.305(3), the last lump sum or installment payment to which the member is entitled is the last payment due before the date the member is reemployed. Upon subsequent retirement, the member may not choose a different benefit payment option unless the member has repaid to PERS in a single payment an amount equal to the benefits received and the earnings that would have

accumulated on that amount.¶

(A) If the member repays PERS as described in this subsection the member's account will be rebuilt as required by ORS 238.078 effective the date that PERS receives the single payment.¶

(B) If any amounts from the BIF are credited to the member's account under the provisions of paragraph (A) of this subsection, the amounts may not be credited with earnings for the period from the date of retirement to the date of active membership.¶

(f) If the member received a lump sum payment under ORS 238.315:¶

(A) If the payment was dated before the date the member is reemployed, the member is not required or permitted to repay the benefit amount. Upon subsequent retirement:¶

(i) The member may choose a different benefit payment option.¶

(ii) The member's retirement benefit will be calculated based on the member's periods of active membership after the member's initial effective retirement date.¶

(B) If the payment was dated on or after the date the member is reemployed, the member must repay the benefit amount. Upon subsequent retirement:¶

(i) The member may choose a different benefit payment option.¶

(ii) The member's retirement benefit will be calculated based on the member's periods of active membership before and after the member's initial effective retirement date.¶

(iii) The member's account will be rebuilt as described in ORS 238.078(2).¶

(g) A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.¶

(10) If a member has been retired for less than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(2):¶

(a) PERS will cancel the member's retirement effective the date the member is reemployed.¶

(b) All retirement benefits received by the member must be repaid to PERS in a single payment.¶

(c) The member will reestablish active membership effective the date the member is reemployed.¶

(d) The member account will be rebuilt as of the date that PERS receives the single payment. The amount in the member account must be the same as the amount in the member account at the time of the member's retirement.¶

(e) Upon subsequent retirement, the member may choose a different benefit payment option.¶

(11) Upon the subsequent retirement of any member who reestablished active membership under ORS 238.078 and this rule, the retirement benefit of the member must be calculated using the actuarial equivalency factors in effect on the effective date of the subsequent retirement.¶

(12) The provisions of paragraphs (9)(c)(B), (9)(d)(B), and (9)(e)(B) of this rule are applicable to retired members who reestablish active membership under ORS 238.078 and this rule and whose initial effective retirement date is on or after March 1, 2006.¶

(13) A participating employer that employs a retired member must notify PERS in a format acceptable to PERS under which statute the retired member is employed.¶

(a) Upon request by PERS, a participating employer must certify to PERS that a retired member has not exceeded the number of hours allowed under ORS 238.082 and section (2) of this rule.¶

(b) Upon request by PERS a participating employer must provide PERS with business and employment records to substantiate the actual number of hours a retired member was employed.¶

(c) Participating employers must provide information requested under this section within 30 days of the date of the request.¶

(14) Accumulated unused sick leave reported by an employer to PERS upon a member's retirement, as provided in ORS 238.350, may not be made available to a retired member returning to employment under sections (2) or (9) of this rule.¶

(15) A member who is retired for service maintains their status as a retired member of the system, and does not accrue additional benefits during the period of employment. A retired member may not participate in the pension program or the Individual Account Program as an active member, except as provided by ORS 238.092(1) or 237.650.¶

(16) For calendar years 2020 through 2034, a public employer employing a retired member shall apply the employer's contribution rate for its covered payroll to the wages paid to the retired member. The public employer shall make a payment to the Public Employees Retirement Fund in that amount. This payment is in addition to the employer's contribution required under ORS 238.225, and will be applied to the employer's liabilities, including pension benefit costs and retiree medical benefit costs. If the employer is a member of a pool established under ORS 238.227, the additional payment will be applied to the employer's rate pool's liabilities.¶

(17) For calendar years 2020 through 2035, the limitations on employment in section (2) of this rule do not apply to a retired member unless the member retired under the provisions of ORS 238.280(1), (2), or (3), and does not have a bona fide retirement. If the member retired under the provisions of ORS 238.280(1), (2), or (3), and does not have a bona fide retirement, the member is subject to the limitations on employment in section (2) of this

rule.¶

(18) Sections (16) and (17) of this rule are repealed effective January 2, 2035.

Statutory/Other Authority: ORS 238.650, ORS 238.630

Statutes/Other Implemented: ORS 238.078, ORS 238.082, ORS 238.088, ORS 238.092, ORS 399.075, 2007 OL Ch. 499 & 774, 2015 OL Ch. 108 & 475, 2018 OL Ch. 48, 2019 OL Ch. 355, House Bill 2296 (2023)

RULE SUMMARY: Yearly update of plan limits.

CHANGES TO RULE:

459-045-0090

PERS Administrative Fee ¶

(1) An administrative fee is assessed by PERS for obtaining data and making calculations to administer court-ordered alternate payee awards under ORS 238.465 in the name of an alternate payee. ¶

(2) Pursuant to the provisions of ORS 238.465(9), the board may not charge more than \$1,3371 for calendar year 20256 for the total administrative expenses and related costs incurred in administering court-ordered alternate payee awards. This fee is allocated between the member and the alternate payee based on the fraction of the benefit received by the member or the alternate payee. ¶

(3) The fee to be assessed by the board shall be determined by the estimated administrative cost of implementing the court order based on a percentage of the fee threshold (rounded to the nearest dollar), as set forth below:¶

(a) Low Administrative Cost Tier: Set at 50% of the maximum allowable administrative fee and is \$66685 for calendar year 20256.¶

(b) Moderate Administrative Cost Tier: Set at 75% of the maximum allowable administrative fee and is \$991,028 for calendar year 20256.¶

(c) High Administrative Cost Tier: Set at 100% of the maximum allowable administrative fee and is \$1,3371 for calendar year 20256.¶

(4) On January 1 of each year, the board shall update the administrative cost fees tiers as the dollar limit threshold provided by ORS 238.465(9) is updated.

Statutory/Other Authority: ORS 238.465, 238.650, 238A.450

Statutes/Other Implemented: ORS 238.465

RULE SUMMARY: Yearly update of plan limits.

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 is 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 \$3,777890 for calendar year 20256;¶

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

(c) Is determined based on the date the salary is paid except for retroactive salary payments, which are allocated to the period when the salary was earned or would have been earned.¶

(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 portion 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.¶

(5) If the amount in the EPSA exceeds the cost of the pension or other retirement benefits that are payable to the member or the member's beneficiary determined according to section (4) of this rule, the board shall pay the excess amounts in a lump sum to the member or the member's IAP beneficiary.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.050, OL 2019, Ch. 355, Sec. 2, OL 2018, Ch. 118, ORS 238A.330, OL 2021, Ch. 298

AMEND: 459-080-0500

RULE SUMMARY: Yearly update of plan limits.

CHANGES TO RULE:

459-080-0500

Limitation on Contributions ¶

(1) For purposes of this rule, "annual addition" has the same meaning given the term in 26 U.S.C. 415(c)(2). ¶

(2) Except as otherwise provided in this rule, the annual addition to a member account for any calendar year may not exceed \$702,000 effective January 1, 20256. ¶

(3) If a payment of employee contributions for a period of military service is made under OAR 459-080-0100: ¶

(a) The payment shall be allocated as an annual addition to the calendar year(s) of military service to which it relates; and ¶

(b) For the purpose of determining the amount of the payment under this section, the member's compensation shall be determined under OAR 459-080-0100(3)(d).

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.370