NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 459

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

FILED: 07/24/2026 9:39 AM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Notice of Rulemaking for Rules Regarding Side Accounts

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:
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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 Boardroom, 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):

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.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Statutory/Other Authority: ORS 238.650
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: 459-009-0086

RULE SUMMARY: Update to deal with expiring side accounts.

CHANGES TO RULE:

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.~~¶~~
~~(11) Side accounts shall be credited with earnings and losses in accordance with OAR 459-007-0530.¶~~
~~(12~~ 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. ¶
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. ¶
(14) Nothing in this rule shall be construed to prevent the PERS Board from taking action pursuant to ORS 238.225.¶
(1~~3~~5) 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~~-~~, ORS 238.226, ORS 238.227, ORS 238.228, ORS 238.229