

**THESE RULES APPLY TO ALL TIER ONE/TIER TWO RETIREES, REGARDLESS OF BENEFIT PAYMENT OPTION (DOES NOT APPLY TO THOSE WHO HAVE A DISABILITY RETIREMENT).**

If you return to employment with a private employer, your PERS retirement benefits will continue unchanged. PERS does not limit the hours you may be employed or the amount of money you can earn from a private employer.

If you return to employment with a public employer in the state of Oregon after retirement, Oregon statutes impose certain limitations on that employment. It is your responsibility to be aware of these limitations and to track your hours to ensure compliance. If you decide to return to work with a public employer in the state of Oregon after retirement, you can control the number of hours you work and accordingly, whether you comply with or violate the limitation. It is your responsibility to remain in compliance with the limitations applicable to you if you do not want your retirement benefits to stop.

**Compliance with the statutory limitations is your responsibility. If you exceed the work-hour limitations you will be accountable.** PERS recommends that you track the hours you work in order to avoid exceeding the work hour limitations for each calendar year. The following paragraphs describe the limitations for members who retired for service. Different rules apply to members who retired due to disability.

**The Work After Retirement Limitation**

If you are a Tier One/Tier Two retired member, you may be employed by an Oregon public employer and continue to receive retirement benefits as long as the period or periods of employment with one or more participating public employers do not total 1,040 hours or more in a calendar year. Please note that hours are counted in the year in which you performed the service, not in the year in which the hours were reported. Hours of employment are hours worked on or after your effective retirement date for which you receive wages, salary, paid leave, or other compensation.

NOTE: In previous years the hour limitation was described as “may not exceed 1,039 hours in a calendar year,” but the statutory limitation in ORS 238.082(2) is actually “...may not total 1,040 hours or more in a calendar year.” This distinction had little importance because hours of employment were previously reported in whole hours, not fractions. However, with the implementation of electronic reporting, employers may now report fractions of hours, resulting in reported employment hour totals which can marginally exceed 1,039, but not total 1,040. To accommodate this reporting capability, the limit is now described as “may not total 1,040 hours.” It is still a good idea for retirees to think of 1,039 hours as a total they may not exceed.

**Exceptions to the 1,040 Hour Rule ([view exceptions in table format](#))**

You can work for an employer or in a position that is excluded from the 1,040 rule (these “exceptions” are shown below). By keeping under the 1040-hour limit or working under an exception to the rule, you will retain your status as a PERS retired member and may continue to receive retirement benefits. You will not accrue any new benefits for employment while you retain your status as a retired member.

**IMPORTANT:** 2009 legislation provides that hours worked under an exception to the 1,040-hour limitation are not counted toward the limitation. For example, if you are working under an exception for Employer A and concurrently working under the 1,040-hour limitation for Employer B, only the hours worked for Employer B are counted toward the 1,040-hour limitation. This change is retroactive. It applies to all hours worked under an exception on or after January 1, 2004, or, if the exception was created after January 1, 2004, hours worked on or after the date the exception became effective, whichever is later. The effective date of an exception can be found on the table at the above link.

**The Exceptions**

If you are re-employed as follows, the 1,040-hour limitation does not apply to that employment. You may work any number of hours in that position and they will not be counted toward the 1,040-hour limitation. Unless

noted otherwise, these exceptions do not apply if you retired early, i.e., if you are a Tier One General Service member who retired before age 58 or a Tier Two General Service member who retired before age 60 unless you qualified for retirement with 30 or more years of service; or if you are a Tier One or Tier Two police officer or firefighter member who retired before age 55 unless you qualified for retirement at age 50-54 with 25 or more years of service. Some exceptions have expiration dates.

- As a teacher or administrator employed by a community college district or school district located in a county with a population of not more than 35,000 inhabitants. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date.
- As a teacher or administrator employed by an education service district (ESD), provided the primary duties of the retired employee are performed in a county with a population of not more than 35,000 inhabitants. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date.
- As a speech-language pathologist or speech-language pathologist assistant employed by a school district or ESD. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date. This exception ends January 2, 2026.
- By the Sheriff of a county with a population of fewer than 75,000 inhabitants.
- By the municipal police department of a city with less than 15,000 inhabitants.
- By the State or a county for work in a correctional institution located in a county with less than 75,000 inhabitants.
- By the Oregon State Police for work in a county with less than 75,000 inhabitants.
- By the Black Butte Ranch Rural Fire Protection District, the Black Butte Ranch Service District or the Sunriver Service District.
- By any participating employer if the retired member is employed to temporarily replace an employee serving in the National Guard or in a reserve unit of the United States Armed Forces who is called to federal active duty.
- By a road assessment district organized under ORS 371.405.535.
- Is on active state duty in the organized militia and has reached normal retirement age.
- As Director or as an Assistant Director of the Department of Human Services if the Governor approves the exception for the specific person in the position.
- The retired member is a nurse and employed as a nurse or to teach nursing during a nursing workforce shortage declared by the Governor or Legislative Assembly.
- The retired member is a registered nurse employed as a nursing instructor. This exception ends January 2, 2026.
- By the Legislative Assembly or the Oregon State Police for service during a legislative session.
- As Director or as an Assistant Director of the Oregon Health Authority if the Governor approves the exception for the specific person in the position.

- By the Department of Public Safety Standards and Training to provide training under ORS 181.610 – 181.712. This exception ends January 2, 2026.
- As a teacher of career and technical education (licensed by the Teacher Standards and Practices Commission to instruct any career and technical education course or program in any career and technical education field). This exception ends June 30, 2023. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date.

*NOTE:* Population figures from the latest federal decennial census are used to determine the applicability of certain exceptions to the 1040-hour limitation.

CAUTION: BE SURE that you use the year [population figures](#), NOT the population estimates.

### **Social Security Exceptions to the 1,040 Hour Rule**

Tier One or Tier Two retirees who have reached [full retirement age under Social Security](#) may work an unlimited number of hours. Remember that full retirement age under Social Security varies by birth date.

Tier One or Tier Two retirees who are receiving Social Security benefits and have not reached full retirement age under Social Security may work either less than 1,040 hours in a calendar year or, if greater, the total number of hours, at the retiree's hourly rate of pay, that would not exceed the annual earnings limit set by the Social Security Administration.

The Social Security Administration annually establishes the calendar year earnings limits for recipients of Social Security benefits. Annual changes to earnings limits established by the Social Security Administration are not effective for Tier One or Tier Two retirees until PERS amends its administrative rule that specifies the limits. The following limits are in place:

- For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is \$18,960 for 2021.
- 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 \$50,520 for 2021.

### **Working 1,040 Hours or More in a PERS-Covered Position**

As a Tier One or Tier Two retiree, if you return to public employment and meet or exceed the 1,040-hour limitation or, if applicable, exceed the Social Security limits explained above, and your employment continues into the month following the month in which you met or exceeded the limits, your PERS benefits will cease. Your retirement benefits, whether monthly payments or installment payments, will be stopped as of the first of the calendar month following the date the limit was exceeded. Your retirement will be canceled, and you will return to active membership. If you were receiving a monthly benefit or have unpaid installment payments from a lump-sum option, your account will be rebuilt, adjusted for benefits received, and credited with any applicable interest while you are employed as an active member.

You will not have to repay any retirement benefits paid before your return to active membership unless you were retired for less than six calendar months before you reestablished active membership (even if the six-month period crosses calendar years). If so, you will be required to repay all benefits received.

The questions below outline how PERS determines whether or not benefit repayment is required:

#### **Q1) Has the retiree worked 1,040 hours or more in a calendar year?**

**Q1, Example 1:** John Doe is a 12/1/2013 PERS retiree hired as a retiree on 12/2/2013. John works 216 hours

for the remainder of 2013 and continues working for the full year of 2014. John does not equal or exceed the Tier One/Tier Two 1,040 hours per calendar year work hour limit in either year.

**No. No further action necessary.**

**Q1, Example 2:** Jane Doe is a 12/1/2013 PERS retiree hired as a retiree 12/2/2013. Jane works 216 hours for the remainder of 2013 and continues working for the full year of 2014. Jane exceeds the Tier One/Tier Two 1,040 hours per calendar year work-hour limit in 2014.

**Yes. Continue on to Q2.**

**Q2) Did employment continue into the following month after the limitations were exceeded?**

**Q2, Example 1:** Jane Doe exceeded the 1,040 work hour limit as of April 25, 2014. However, she terminates her retiree employment, effective April 25, 2014. Her employment was terminated in the same month in which she exceeded, and, therefore, did not continue into the following month.

**No, employment was terminated before the first of the following month. No further action necessary.**

**Q2, Example 2:** Jim Doe is a 12/1/2013 PERS retiree hired as a retiree 12/2/2013. He exceeds the 1,040 work-hour limit as of April 25, 2014 and **continues working into the month of May 2014.**

**Yes, employment continued into the following month. Continue on to Q3.**

**Q3) Is the time period between the date the retiree originally retired and the first day of the calendar month following the date the retiree exceeded the 1,040 work-hour limit less than six months (even if this period crosses calendar years)?**

**Q3, Example 1:** Continuing from the facts presented in Q2, Example 2, the time period between Jim's 12/1/2013 effective retirement date and the date he exceeds the 1,040 work-hour limit on 5/1/2014, is less than six months.

**Yes. Repayment of all benefits received after retirement required.**

**Q3, Example 2:** Modifying some of the facts presented in Q2, Example 2, if Jim had exceeded the 1,040 work-hour limit June 25, 2014, and continued working into the month of July 2014, the time period between Jim's effective retirement date of 12/1/2013 and 7/1/2014 is more than six months.

**No. No repayment required. Active membership is re-established 7/1/2014.**

Once you meet or exceed the limitations in a calendar year, your retirement is canceled. You cannot begin the new calendar year and expect to work under the limitation again. For example, a retiree who works 1,050 hours by the middle of December and continues employment into the next month becomes an active member again and benefits will be stopped as of January 1. Your retirement benefits will not re-start until you separate from covered employment and reapply for retirement benefits. When you re-retire, your benefit will be calculated based on the Tier One/Tier Two program laws, administrative rules, and factors in place at that time.

**Elected or Appointed Officials: Tier One or Tier Two Retirees as Elected Officials or Appointed Officials**

An "Elected Official" is a person who is elected to a full-time salaried office of the state or a participating political subdivision of the state. An "Appointed Official" is a person who is appointed to a full-time salaried office with a fixed term. "Elected Official" and "Appointed Official" do not include a member of the Legislative Assembly.

If you are a Tier One or Tier Two retiree who is an elected or appointed official, your employment is **NOT** subject to the 1,040-hour limitation. Instead, your retirement benefits cease once you take office and will not be paid for your entire term of office. Once the term is over, you may re-apply for benefits. The benefits will be re-computed based on your age, account balance, and other calculation factors in effect at the time you re-retire.

If you are an elected or appointed official who is a retired Tier One or Tier Two member, you may elect to become an active a Tier One or Tier Two member by giving the PERS Board written notice within 30 days after taking office. This election is irrevocable during the term of office for which the election is made. Even if you do not make this election, your retirement benefits will still cease unless you qualify for the exception below.

There is one exception for retired Tier One or Tier Two members who did not retire under the early retirement provisions of ORS 238.280(1), (2), or (3). If you are elected or appointed as a sheriff, county judge, or commissioner in a county with a population of less than 75,000, you may continue to receive retirement benefits during your term of office as long as you do not elect to become an active member. The benefit will continue during and after the term of office. If you did take an early retirement, you are not eligible for this exception and your benefit will stop during your term of office.

### **Address Changes**

After you retire, keep PERS informed of your correct mailing address. That way, you will continue to receive tax reporting forms, retiree health insurance information, Perspectives newsletter, and other important information. For your protection, address change requests must be in writing, signed, and dated. Please use the [Information Change Request](#) form.