OREGON PUBLIC EMPLOYEES RETIREMENT BOARD

Friday June 24, 2005 1:00 P.M.	PERS 11410 SW 68th Parkway Tigard, OR

	ITEM	PRESENTER
A.	**Administration**	
1.	May 20, 2005 Board Meeting Minutes	CLEARY
2.	Director's Report a. Forward-Looking Calendar b. OIC Investment Report c. Budget Report d. Miscellaneous	
B.	**Contested Cases**	
1.	Jon Phillips Petition for Reconsideration	KUTLER
2.	Appeal of Corine Emerson	KUTLER / RODEMAN
3.	Appeal of Dawn Gloeckner	KUTLER / RODEMAN
4.	Appeal of John Joyce	KUTLER / RODEMAN
C.	**Consent Action and Information Items**	
1.	"Equal-to-or-Better-Than" Final Report	CHAPMAN / RODEMAN
2.	Notice of Rulemaking for OAR 459-035-0001, Health Insurance Programs Definitions	GRIMSLEY / RODEMAN
3.	Notice of Rulemaking for OAR Chapter 459, Miscellaneous Rule Cleanup	ROCKLIN / RODEMAN
D.	**Action and Discussion Items**	
1.	Adoption of OAR 459-005-0225, Requirement to Make Payments by Electronic Funds Transfer	ROCKLIN / RODEMAN
2.	Adoption of OAR 459-070-0100 and 459-070- 0110, Employer Reporting, and Remittance of Contributions	ROCKLIN / RODEMAN
3.	IAP Remediation Policy Discussion	DALTON / RODEMAN
4.	Legislative Update	GRIMSLEY / DELANEY
5.	Board Governance Matters	PITTMAN
E.	**Executive Session Pursuant to ORS 192.660(2)(f), (h), and/or ORS 40.225**	
1.	Litigation Update	LEGAL COUNSEL

***Note**: If you have a disability that requires any special materials, services or assistance, call (503) 603-7575 at least 48 hours before the meeting.*

Michael Pittman, Chair * James Dalton * Thomas Grimsley * Eva Kripalani * Brenda Rocklin * Paul R. Cleary, Executive Director

PUBLIC EMPLOYEES RETIREMENT BOARD

PERS Board Meeting
1:00 P.M.
May 20, 2005
Tigard, Oregon

MEETING DATE	**6-24-05**
AGENDA ITEM	**A.1.** 5-20-05 Minutes

MINUTES

Board Members:	**Staff:**	Gloria English	Jeff Marecic
Brenda Rocklin, Vice-chair	Paul R. Cleary, Director	Steve Delaney	Dale Orr
Thomas Grimsley	Donna Allen	Brian Harrington	Craig Stroud
Eva Kripalani	Marsha Bacon	Debra Hembree	Dave Tyler
James Dalton	David Crosley	Riley Jones	Steve Rodeman
	Brian DeForest	Jenny Kumm	Brendalee Wilson

Others:	Brian De Lashmutt	Kelsey Lewis	Tim Stumm
Gordon Allen	Richard Gilbert	Bill Lindekupel	Deborah Tremblay
Bob Andrews	Paul Gornick	Joseph Malkin	Jessie Villarreal, Jr.
Ardis Belknap	Jim Green	Steve Manton	Jeff Wadsworth
Cathy Bloom	DeeAnn Hardt	Amol Mhatre	Brad Westphal
Tom Chamberlain	Greg Hartman	C.J. McLeod	Dallas Weyand
Marcia Chapman	Bill Hallmark	Cora Parker	Denise Yunker
BethAnne Darby	Greg Hartman	Tracy Rutten	
Michelle Deister	Marie Keltner	Gary Smith	

Board Vice-Chair Brenda Rocklin called the meeting to order at 1:05 P.M.

ADMINISTRATION

A.1. BOARD MEETING MINUTES OF APRIL15, 2005

Tom Grimsley moved and Eva Kripalani seconded to approve the minutes of the April 15, 2005 meeting. The motion passed unanimously.

A.2. DIRECTOR'S REPORT

Director Paul Cleary announced that PERS Board Chair Mike Pittman was unavailable for the Board meeting due to a conflicting business appointment. Cleary presented the Oregon Investment Council (OIC) report for the period ending April 30, 2005 and reported a slight decrease in earnings. Cleary said that OIC Director Ron Schmitz would present a more detailed OPERF report at the June Board meeting. Cleary presented the May, 2005 budget execution report noting that there was a continuing positive budget variance. Cleary indicated that a Board retreat is being considered for the PERS Board for next fall, and that stakeholder input would be solicited in developing the retreat agenda.

Cleary presented a 4-page paper titled *Q&A: Individual Account Program (IAP) and Member Annual Statements* that addresses members most frequently asked questions regarding IAP statements. Cleary said this document was sent to employers for circulation to members and will be posted on PERS website. Cleary also noted that on-line access to member IAP accounts will be available mid-June.

CONTESTED CASES

B.1. CONTESTED CASE HEARING OF RAYMOND MURRAY

Steve Rodeman, Policy, Planning and Legislative Analysis Division (PPLAD) administrator, reviewed the history of the contested case hearing of member Raymond Murray. Greg Hartman, Bennett, Hartman, Morris & Kaplan LLP, provided comments and arguments on behalf of Mr. Murray. Keith Kutler, Department of Justice, provided comments and answered questions from the Board.

Staff recommended that the Board adopt the draft final order as presented.

It was moved by Eva Kripalani and seconded by James Dalton to approve the draft final order as presented by staff. Tom Grimsley voted no. The motion passed.

CONSENT ACTION AND DISCUSSION ITEMS

C.1. ADOPTION OF OAR 459-070-0001 *OPSRP/IAP DEFINITION RULES*

Rodeman presented the adoption of this rule that would articulate the standards by which plan qualification for members can be consistently determined.

It was moved by Tom Grimsley and seconded by Eva Kripalani to adopt the rules as presented by staff. The motion passed unanimously.

ACTION AND DISCUSSION ITEMS

D.1. 2006 PERS RETIREE HEALTH INSURANCE PLAN ADJUSTMENTS AND RATE CHANGES

Retiree Insurance Program Manager Gloria English provided a detailed report on proposed changes to the Oregon PERS retiree insurance program to incorporate the prescription drug coverage provisions of the federal Medicare Modernization Act of 2003. English noted that Medicare eligible enrolled retirees would benefit from both reduced premium rates and increased prescription drug coverage, and recommended offering an open enrollment opportunity for eligible retirees.

It was moved by Tom Grimsley and seconded by James Dalton to approve the proposed 2006 PERS Retiree Health Insurance Plan adjustments, rate changes and open enrollment opportunity as presented by staff. The motion passed unanimously.

D.2. "EQUAL TO OR BETTER THAN" INITIAL DETERMINATION REPORT

Marcia Chapman and Bill Hallmark, actuaries with Mercer Human Resource Consulting, presented a draft report on the "equal to or better than" determination of retirement benefits provided to police officers and firefighters under individual employer retirement plans for exemption from participation in the Oregon Public Service Retirement Plan (OPSRP). Hallmark summarized the initial test results of the calculation comparing the present value of future benefits for OPSRP to the value of benefits under the individual employer plans as of January 1, 2005. A final report will be presented at the June Board meeting.

D.3. MANAGING EMPLOYER RATES – ACTUARIAL METHODS

Chapman and Hallmark provided an informational report analyzing various actuarial methods that could be used to value the PERS system and set employer rates. The report described current actuarial methods, potential alternative approaches and what other public retirement systems were doing to address employer rate volatility. The next steps will be to seek stakeholder input and use financial modeling to evaluate alternatives as directed by the Board.

D.4. ADOPTION OF AMENDMENTS TO DIVISION 15 DISABILITY RULES AND

D.5. ADOPTION OF DIVISION 76 DISABILITY RULES

Rodeman provided background for adoption of new rules in Division 76 relating to OPSRP disability benefits and permanent rule modifications to Division 15 disability rules to provide sufficient, consistent information and evaluation standards for members when applying for disability retirement allowance. Rodeman noted that staff attempted to keep the new Division 76 (OPSRP) rules parallel to the modified Division 15 (Chapter 238 Program) rules whenever possible to simplify administration and understandability.

Brian De Lashmutt spoke on behalf of member associations. De Lashmutt said the proposed rules did not fully resolve the underlying issues and may not accurately reflect the current statutes. De Lashmutt proposed the Board delay adoption of the rules and instead form a working group to review and resolve stakeholder concerns.

Speaking on behalf of PERS Coalition, Attorney Greg Hartman questioned whether PERS had provided sufficient notice for the rulemaking. Hartman said that, in general, PERS rulemaking process did not provide sufficient time for stakeholders to become engaged and submit comments.

Cleary said that this rulemaking process started on September 15, 2004 and had been performed consistent with the state rulemaking process and that PERS staff subject matter experts have been available to respond to questions at the public hearings. Cleary suggested that, while numerous modifications had been made to the proposed rules, there was still continuing controversy, so perhaps an extension of the public comment period was appropriate.

The Board requested that staff extend the public comment period through August 31, 2005 to allow for additional stakeholder input and for presentation of final proposed rules at the September 23, 2005 Board meeting.

D.6. LEGISLATIVE UPDATE

Deputy Director Steve Delaney reported that, after passing through the Senate, the PERS Board's five sponsored bills have been advanced to the House floor with a *do pass* recommendation from the House Business, Labor and Consumer Affairs Committee. Delaney reported on additional bills submitted by PERS stakeholders noting that over 40 bills had been introduced to date relating to PERS.

D.5. BOARD GOVERNANCE MATTERS

There were no Board governance matters.

EXECUTIVE SESSION

Pursuant to ORS 192.660 (2) (f), (h) and ORS 40.255, the Board went into executive session at 3:35 P.M.

The Board reconvened to open session.

Vice Chair Rocklin adjourned the meeting at 3:55 P.M.

Respectfully submitted,

Paul R. Cleary
Executive Director

Prepared by Donna R. Allen, Executive Assistant

MEETING DATE	**6-24-05**
AGENDA ITEM	**A.2.a.** Forward Calendar

PERS Board Meeting
Forward-Looking Calendar

<u>July 2005</u>

No July meeting scheduled

<u>August 2005</u>

Meeting: 1:00 P.M. August 5, 2005

Adoption of OAR 459-045-0030, Alternate Payee Withdrawal

<u>September 2005</u>

Meeting: 1:00 P.M. September 23, 2005

Adoption of Division 015 Disability Rules
Adoption of Division 076 Disability Rules
Adoption of Non-Substantive Changes to Miscellaneous Chapter 459 Rules
Adoption of OAR 459-035-0001, Health Insurance Programs Definitions

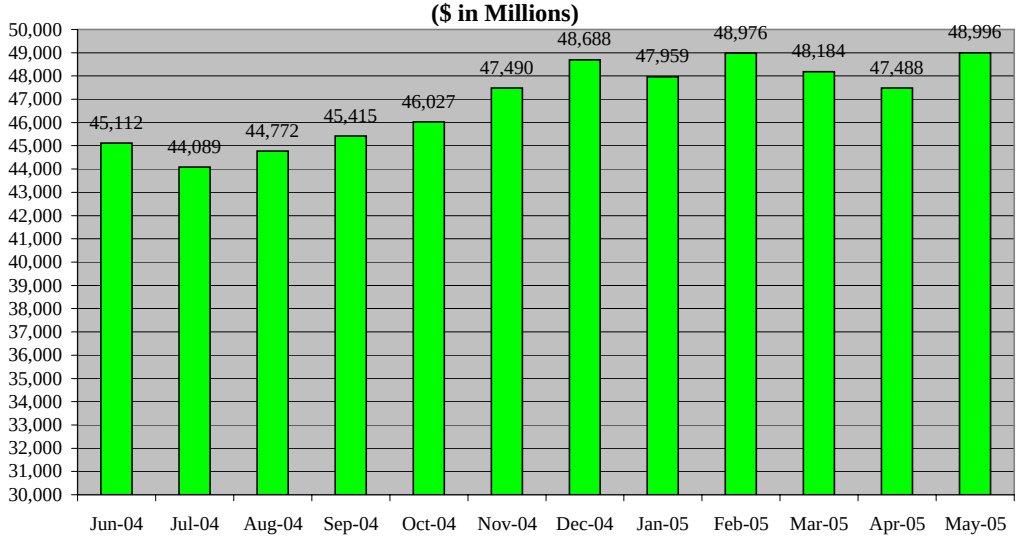
Returns for periods ending 5/31/05 **Oregon Public Employees Retirement Fund**

OPERF	Policy[1]	Target[1]	$ Thousands	Actual	Year-To-Date	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
	Regular Account				Historical Performance					
Domestic Equity	28-38%	33%	$ 17,059,939	36.0%	(1.01)	9.51	15.34	7.05	1.90	(0.21)
International Equity	15-25%	20%	10,154,856	21.4%	(1.59)	17.46	24.69	11.70	6.86	1.75
Alternative Equity	9-15%	12%	4,309,030	9.1%	16.16	33.13	22.33	11.64	3.73	3.76
Total Equity	**60-70%**	**65%**	**31,523,825**	**66.5%**						
Total Fixed	**22-32%**	**27%**	**12,643,523**	**26.7%**	**1.96**	**8.56**	**5.23**	**7.87**	**7.85**	**8.77**
Real Estate	**5-11%**	**8%**	**2,652,500**	**5.6%**	**8.48**	**25.85**	**23.11**	**17.16**	**14.80**	**14.75**
Cash	**0-3%**	**0%**	**581,734**	**1.2%**	**1.09**	**2.13**	**1.62**	**1.70**	**1.99**	**2.91**
TOTAL OPERF Regular Account		**100%**	**$ 47,401,582**	**100.0%**	**1.59**	**13.68**	**15.32**	**9.52**	**5.88**	**4.40**
OPERF Policy Benchmark					**1.51**	**11.34**	**14.78**	**8.68**	**5.48**	**3.77**
Value Added					**0.08**	**2.34**	**0.54**	**0.84**	**0.40**	**0.63**

Asset Class Benchmarks:

Russell 3000 Index	(0.70)	9.44	14.46	6.52	1.42	(0.91)
MSCI ACWI Free Ex US	(1.53)	17.28	25.02	11.72	6.51	1.23
Russell 3000 Index + 300 bps--Quarter Lagged	11.34	12.71	28.51	11.49	7.67	5.18
LB Universal--Custom FI Benchmark	1.98	7.44	3.79	6.36	6.59	7.77
NCREIF Property Index--Quarter Lagged	4.66	14.48	11.70	10.02	9.33	9.91
91 Day T-Bill	1.06	1.99	1.52	1.53	1.84	2.67

TOTAL OPERF NAV
(includes variable fund assets)
One year ending May 2005
($ in Millions)



[1]OIC Policy 4.01.18

Oregon

Theodore R. Kulongoski, Governor

June 13, 2005

(503) 598-7377
TTY (503) 603-7766
www.pers.state.or.us

MEETING DATE	**6/24/05**
AGENDA ITEM	**A.2.c.** **Budget Report**

TO: Members of the PERS Board

FROM: Brian DeForest, Budget and Fiscal Operations Manager

SUBJECT: June 2005 Budget Report

ACTUAL EXPENDITURES VS. PROJECTIONS

The projected budget surplus for the Administrative appropriation is approximately $2.2 million with accounting data for the month of April and re-forecasting remaining expenditures. Total actual expenditures for the Administrative appropriation were $1.9 million, a decrease of $323,919 from March expenditures and $388,807 below forecasted expenditures. (see attachments)

The Deferred Compensation appropriation shows a positive variance of $31,127 against the Legislatively Approved Budget (LAB) of $1.5 million. The AEF appropriation is also showing a positive variance of $1.0 million against the $5.0 million LAB.

The HB2020/OPSRP appropriation of $19.5 million, which covers start-up costs, the jClarety project and on-going operational costs associated with HB2020, shows a positive variance of $1.8 million. This amount is consistent with the estimated costs of anticipated project deliverables that will be delivered after June 30. The variance will be unspent in the 2003-05 biennium and project deliverables received after the end of the biennium will be directed toward the 2005-07 limitation. When invoices are received for these deliverables, the agency will draft an Emergency Board letter for the Board's review to effectively carry-forward limitation from the 2003-05 biennium into the 2005-07 biennium. Both the Budget and Management Division and Legislative Fiscal Office are aware of this action.

ISSUES/OPPORTUNITIES

Accounting staff will soon begin closing the biennial accounting books for the agency. During this process there will be some adjusting entries to complete modifications of cost allocation process that began last year. During the 2003-05 biennium, cost allocation activities and entries into the accounting system ran a consistent one-month lag time. New accounting codes and processes will be put in place as of July 1, to fully support automation of cost allocation activities. Beginning with the 2005-07 biennium, cost allocation accounting entries will be made within the same accounting period allowing for more current, up-to-date data retrieval and analysis.

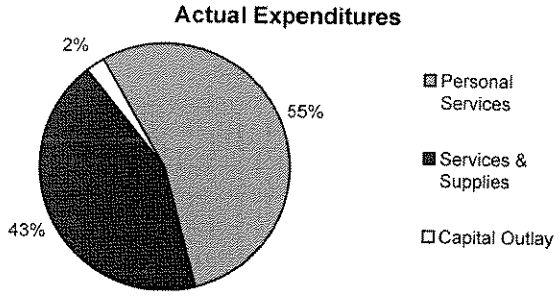
BUDGET VARIANCES

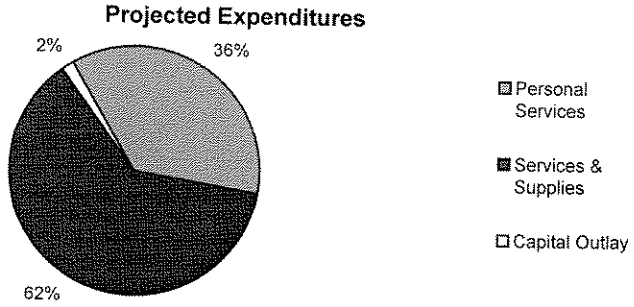
Budget variances remained relatively stable compared to the previous report.

2003-05 Admin Budget Execution
Summary Budget Analysis
For the Month of: Apr. 2005

Biennial Summary

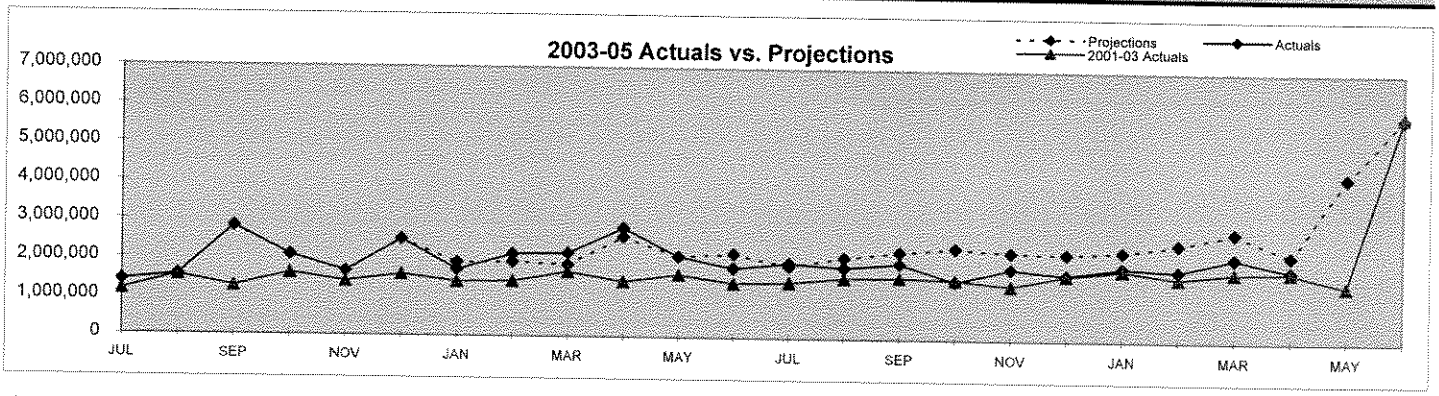
Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2003-05 LAB	Variance
Personal Services	22,612,791	4,343,872	26,956,663	32,782,666	5,826,003
Services & Supplies	18,128,574	7,453,026	25,581,600	22,242,381	(3,339,219)
Capital Outlay	996,037	205,501	1,201,538	968,686	(232,852)
Special Payments					
Total	41,737,403	12,002,399	53,739,802	55,993,733	2,253,931





Monthly Summary

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Projecte Expenditures
Personal Services	923,615	966,841	43,225	1,027,854	2,171,936
Services & Supplies	929,912	1,290,305	360,393	824,026	3,726,513
Capital Outlay	14,811		(14,811)	45,274	102,751
Special Payments					
Total	1,868,338	2,257,146	388,807	1,897,155	6,001,200



2001-03 Biennium Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2001-03 LAB	Variance
Personal Services					
Services & Supplies					
Capital Outlay					
Special Payments					
Total					

2003-05 Admin Budget Execution

Spending Plan - Actual and Estimated Expenditures

2003-05 Summary

	1st QTR	2nd QTR	3rd QTR	4th QTR	5th QTR	6th QTR	7th QTR	8th QTR	ACTUAL EXPEND. TO DATE	EST. EXPEND.	ENC. & PRE-ENC.	TOTAL ESTIMATED EXPEND.	03-05 LAB BUDGET	VARIANCE
Personal Services														
Salaries & Wages	2,264,380	2,242,259	2,331,581	2,111,846	2,198,765	1,749,056	1,947,640	3,284,063	14,845,527	3,284,063		18,129,591	23,463,108	5,333,517
Temporary Appointments	48,684	39,226	31,980	60,125	62,544	19,095	46,450	36,385	308,103	36,385		344,488	142,417	(202,071)
Overtime	60,190	95,131	137,755	89,225	54,015	26,795	76,017	47,467	539,128	47,467		586,595	353,978	(232,617)
O/Class, Leadwork, Sp. Qual.	8,254	16,585	21,115	22,038	20,922	19,319	22,217	21,613	130,449	21,613		152,062	157,382	5,320
OPE	980,231	916,481	937,669	966,339	1,094,410	854,074	1,040,381	954,344	6,789,584	954,344		7,743,928	9,534,991	1,791,063
Unscheduled P.S.													(869,210)	(869,210)
Total Personal Services	3,361,739	3,309,682	3,460,099	3,249,572	3,430,657	2,668,339	3,132,704	4,343,872	22,612,791	4,343,872		26,956,663	32,782,666	5,826,003
				actual				*estimated*						
Services & Supplies														
Instate Travel	14,168	14,982	12,717	21,299	15,760	14,836	12,516	18,519	106,278	18,519		124,797	126,634	1,837
Out-of-state Travel	568	205	94					2,000	867	2,000		2,867	23,549	20,682
Office Expenses	102,207	218,537	235,723	126,922	100,365	108,380	172,305	174,617	1,064,439	174,617		1,239,055	1,803,998	564,943
Dues & Subscriptions	5,801	15,006	3,329	4,867	4,896	9,508	3,333	8,365	46,740	8,365		55,105	45,394	(9,711)
Publicity/Publications	9,098	9,971	28,418	12,690	25,574	3,980	14,187	166,805	103,918	166,805		270,723	324,975	54,252
Telecommunications	26,567	64,495	51,413	99,762	60,835	59,425	51,744	82,921	414,240	82,921		497,161	650,658	153,497
Data Processing	592,626	334,904	328,478	215,861	405,252	224,322	510,723	1,223,806	2,612,167	1,223,806		3,835,973	3,521,385	(314,588)
Employee Training	18,309	43,398	13,426	16,359	13,723	18,342	22,665	133,801	146,223	133,801		280,024	280,048	24
Empl. Recruit./Devel.	20,585	27,678	17,520	16,187	20,679	10,942	10,896	17,940	124,487	17,940		142,426	55,354	(87,072)
Professional Services	779,983	1,282,876	1,353,423	1,490,396	1,239,143	1,696,611	1,557,560	5,058,835	9,399,993	5,058,835		14,458,828	11,767,992	(2,690,836)
Dispute Res. Svc.	1,447	5,271	4,276	4,142	7,201	4,530	6,133	14,338	33,001	14,338		47,339	68,508	21,169
Attorney General	7,593	213,220	91,416	115,707	68,304	50,218	85,641	158,786	632,099	158,786		790,885	703,007	(87,878)
St. Gov. Svc. Chg.	313,914	121,792	64,506	29,558	248,232	114,725	49,609	83,581	942,335	83,581		1,025,916	1,854,293	828,377
IntraAgency Charges														
Other S & S	1,101	3,515	2,428	933,804	1,576	896	87,803	7,561	1,031,122	7,561		1,038,683	1,005,500	(33,183)
Facility Rental	13,626	40,749	70,026	57,735	58,033	51,012	51,689	83,380	342,870	83,380		426,250	581,708	155,458
Fuels/Utilities	15,299	24,368	16,506	21,446	22,705	13,455	18,406	25,796	132,185	25,796		157,982	111,578	(46,404)
Facility Maint.	77,082	79,406	38,466	76,710	74,444	55,229	61,777	108,851	463,115	108,851		571,966	777,338	205,372
Other COP Costs		174		611	377	453			1,615			1,615	1,501	(114)
Expendable Property	19,583	306,195	110,879	46,527	13,608	1,153	32,937	83,125	530,881	83,125		614,005	935,711	321,706
Unscheduled S & S													(2,396,750)	(2,396,750)
Total Services & Supplies	2,019,556	2,806,743	2,443,043	3,290,581	2,380,706	2,438,019	2,749,925	7,453,026	18,128,574	7,453,026		25,581,600	22,242,381	(3,339,219)
Capital Outlay														
Office Furn./Fixture													30,145	30,145
Telecomm. Equip.			36,205	27,805			31,382	191,142	95,392	191,142		286,534	519,981	233,447
Technical Equipment													57,626	57,626
Data Proc.-Software													150,000	150,000
Data Proc.-Hardware	404,499	157,968	105,654	197,342	(5,720)	(4,162)	45,063	14,359	900,645	14,359		915,005	210,934	(704,071)
Building & Structure														
Total Capital Outlay	404,499	157,968	141,858	225,147	(5,720)	(4,162)	76,445	205,501	996,037	205,501		1,201,538	968,686	(232,852)
Special Payments														
Total Special Payments														
Total Expenditures	5,785,794	6,274,394	6,045,000	6,765,301	5,805,643	5,102,196	5,959,075	12,002,399	41,737,403	12,002,399		53,739,802	55,993,733	2,253,931

Percent of 2003-05 LAB Expended:	74.54%
Percent of Biennium Expired:	91.67%

MERCER
Human Resource Consulting

111 SW Fifth Avenue, Suite 2800
Portland, OR 97204-3693
503 273 5900 Fax 503 273 5999
marcia.chapman@mercer.com
bill.hallmark@mercer.com
www.mercerHR.com

June 14, 2005

MEETING DATE	6/24/05
AGENDA ITEM	C.1. ETOB / MERCER

Public Employees Retirement Board
Oregon Public Employees Retirement System
PO Box 23700
Tigard, OR 97281-3700

Via E-Mail

Subject:
Equal to or Better Than Test Under ORS 237.620 as of January 1, 2005

Dear Members of the Board:

At the May 20, 2005, meeting of the Board, we presented a draft report of our analysis of local public entities in Oregon providing retirement benefits for police officers and firefighters under a plan other than OPSRP. To date, we have not received any comments or questions on the draft report from employers or employee representatives. Consequently, this letter confirms that there are no changes between our draft report and our final report.

Summary of Results

A public employer that provides retirement benefits to its police officers and firefighters under a plan other than OPSRP may petition the Board for an exemption from participation in OPSRP for those employees. Under the current statute, the plan offered by such a public employer to its police officers and firefighters must be tested against OPSRP every two years to determine if the benefits are equal to or better than those provided under OPSRP.

In order for an employer to be granted the exemption, the employer's benefits must be at least 80 percent of the OPSRP benefit provided under each benefit category specified in OAR 459-030-0025, and at least 100 percent of the total OPSRP benefit. The table below shows the total employer plan benefits as a percentage of the total OPSRP benefits.

Employer	Benefits as a Percentage of OPSRP Benefits
City of Forest Grove	220%
Mid-Columbia Police and Fire	183%
Morrow County	205%
City of Portland	274%
City of Seaside	193%

MERCER
Human Resource Consulting

Employer	Benefits as a Percentage of OPSRP Benefits
City of Springfield	198%
City of The Dalles	142%
Tillamook County	205%
Union County	121%
Wheeler County	163%

Based on the data, methods, assumptions and plan provisions described in the draft report, all of the employers evaluated comply with the requirements to provide benefits that are equal to or better than the value of the benefits provided by OPSRP, including the requirement that benefits be at least 80 percent as valuable in each benefit category. Consequently, we believe these employers are eligible for the exemption from participation in OPSRP under OAR 459-030-0025.

For additional information, please refer to the draft reports provided to the Board on May 20, 2005.

Sincerely,

[MLC]

Marcia L. Chapman, FSA, EA

[WRH]

William R. Hallmark, ASA, EA, MAAA

MLC/WRH/wrh:gjw

Copy:
Paul Cleary

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Oregon

Theodore R. Kulongoski, Governor

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June 13, 2005

MEETING DATE	**6/24/05**
AGENDA ITEM	**C.2.** **Health Insurance**

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Notice of Rulemaking for OAR 459-035-0001, *Health Insurance Programs Definitions*

OVERVIEW

- Action: None. This is notice that staff began rulemaking on OAR 459-035-0001.
- Reason: The definition of "Dependent Domestic Partner of a PERS Retiree" must be amended if the rule is to apply to the same persons who were included in the definition before the federal Working Families Tax Act of 2004 became law.
- Policy Issues: Should PERS continue to define "Dependent Domestic Partner of a PERS Retiree" so that it applies to the same persons that were included in the definition before the Working Families Tax Act of 2004 became law?

SUMMARY OF RULE AND POLICY ISSUES

In 2002, the PERS Board adopted amendments to OAR 459-035-0001 that defined a "Dependent Domestic Partner of a PERS Retiree." Persons that fit within that definition are eligible to participate in the PERS-sponsored retiree health insurance programs. The definition, in part, requires that a PERS retiree claims the dependent on the PERS retiree's most recent federal tax return.
However, recent amendments to the Internal Revenue Code ("IRC") through the 2004 Working Families Tax Relief Act ("Act"), P.L. 108-311, impacted who is eligible to be claimed as a dependent on a federal tax return. The key change was the limit on gross income that a person can earn and still be claimed as a dependent: the dependent must have gross income less than the exemption amount under section 151(d) (for 2004, that was $3,100).

As a result of the new law, a taxpayer cannot claim a domestic partner as a dependent on a federal tax return if the domestic partner's income exceeds $3,100. Because the PERS definition of "Dependent Domestic Partners of PERS Retirees" relies on the dependent to be claimed on the retiree's federal tax return but does not set an income threshold, the change in federal law limits the number of people eligible for PERS-sponsored retiree health insurance programs.

A separate section of the Act preserved the definition of "dependent" for the purposes of employer-provided medical care reimbursements in conforming amendments to section 105 of the IRC. If the domestic partner's income is the only reason why the domestic partner cannot be claimed as a dependent on the taxpayer's return, the domestic partner continues to be considered "dependent" for purposes of IRC section 105(b).

The rule modifications would allow all persons who would qualify as "Dependent Domestic Partners of PERS Retirees" under OAR 459-035-0001 before Congress passed the Act to continue to qualify by shifting to the definition of "dependent," defined in IRC section 105(b). Staff recommends this broader approach, but encourages public comment on whether the narrower definition should be adopted so the PERS Board can consider the merits of both approaches.

LEGAL REVIEW

The proposed rule modification will be submitted to legal counsel for review and any comments or changes will be incorporated before the rule is presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing is scheduled for 2:00 p.m. on July 26, 2005 in the PERS headquarters building in Tigard. The comment period ends on August 5, 2005 at 5:00 p.m.

IMPACT

Mandatory: No.

Impact: None. This proposed rule modification maintains current eligibility standards.

Cost:

- *Members*: There will be no new costs to members.
- *Employers*: There is no new cost to employers.
- *Administration*: There is no added administrative cost.
- *Fund*: There is no cost to the fund.

RULEMAKING TIMELINE

June 10, 2005	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
June 24, 2005	Board notified that staff began the rulemaking process.
July 1, 2005	*Oregon Bulletin* to publish the Notice.
July 26, 2005	Rulemaking hearing to be held at PERS headquarters in Tigard.
August 5, 2005	Public comment period ends at 5:00 p.m.
September 23, 2005	Rule is presented to the PERS Board for adoption, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

Following the hearing and the public comment period, PERS staff will return to the Board for adoption, including any modifications.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 035 – HEALTH INSURANCE PROGRAMS

MEETING DATE	**6-24-05**
AGENDA ITEM	**C.2.** Definitions

459-035-0001

Definitions

The words and phrases used in this Division have the same meaning given them in ORS chapter 238. Additional terms are defined as follows unless the context requires otherwise.

(1) "Board" shall have the same meaning as the Public Employees Retirement Board in ORS 238.630.

(2) "Carrier" shall have the same meaning as provided in ORS 238.410(1)(a).

(3) "Competitive Negotiations" means the procurement method whereby proposals are requested from a number of sources and the Request for Proposals is publicized.

(4) "Creditable Service" shall have the same meaning as provided in ORS 238.005(5).

(5) "Dependent" means a PERS member's or retiree's dependent child who has never married. For the purpose of this rule a "child" is defined as follows:

(a) A natural child.

(b) A legally adopted child, or a child placed in the home pending adoption.

(c) A step-child who resides in the household of the stepparent who is an eligible retired member.

(d) A grandchild, provided that at the time of birth, at least one of the grandchild's parents was covered under a PERS-sponsored health insurance plan as a dependent child of the PERS member or retiree and resides in the household of the member or retiree.

(6) "Dependent Domestic Partner of a PERS Retiree" means a person who has a relationship with a PERS retiree that has the characteristics described below. To qualify as a "dependent domestic partner of a PERS retiree," the person and the PERS retiree must:

(a) Share a close personal relationship and be responsible for each other's common welfare, including but not limited to having joint financial responsibilities;

(b) Be each other's sole domestic partner;

(c) Not be married to anyone, nor have had another domestic partner within the previous 12 months;

(d) Not be related by blood so closely as to bar marriage in the State of Oregon;

(e) Have jointly shared the same regular and permanent residence for at least 12 months immediately preceding the effective date of coverage with the intent to continue doing so indefinitely; and

(f) Have the PERS retiree providing over one-half of the financial support for the person and *[have claimed that person on the PERS retiree's most recent federal tax return.]* **that person qualifies as a dependent of the PERS retiree as determined under section 105(b) of the Internal Revenue Code, 26 USC 105(b), as amended by the Working Families Tax Relief Act of 2004, P.L. 108-311.**

(7) "Eligible Person" means a person who is eligible for coverage under a PERS-sponsored health insurance plan. The conditions for such eligibility are set forth in OAR 459-035-0020.

(8) "Eligible Retired Member" means an eligible person who is eligible for payments toward the cost of the Medicare Companion Plan from RHIA. The conditions for such eligibility are set forth in OAR 459-035-0030.

(9) "Eligible Retired State Employee" means an eligible person who is eligible for non-Medicare insurance premium payments from the RHIPA. Conditions for such eligibility are set forth in OAR 459-035-0040.

(10) "Fund" shall have the same meaning as the Public Employees Retirement Fund in ORS 238.660.

(11) "Health Insurance" means insurance for health care, as that term is defined in ORS 238.410(1)(c).

(12) "Medicare" means the federal health care insurance plan established under Title XVIII of the Social Security Act as amended.

(13) "Medicare Companion Plan" means a PERS-sponsored health insurance plan for eligible persons who are eligible for and enrolled in Medicare.

(14) "Non-Competitive Negotiation" means procurement through solicitation of a proposal from only one source.

(15) "PEBB" means the Public Employees' Benefit Board established under ORS 243.061.

(16) "PERS" shall have the same meaning as the Public Employees Retirement System in ORS 238.600.

(17) "PERS Member" shall have the same meaning as "member" provided in ORS 238.005(12).

(18) "Plan Year" means a 12-month period beginning January 1 and ending December 31.

(19) "Qualifying Service" means creditable service, as defined in ORS 238.005(5), plus any periods of employment with an employer participating in PERS that are required of the employee before becoming a PERS member.

(20) "Retiree" means a PERS member who is receiving a service or disability retirement allowance or benefit under PERS or who received an optional lump sum payment under ORS 238.315, or a person who is receiving retirement pay or pension calculated under ORS 1.314 to 1.380 (1989 Edition).

(21) "RHIA" means the Retirement Health Insurance Account established under ORS 238.420 to help defray the cost of the Medicare Companion Plan.

(22) "RHIPA" means the Retiree Health Insurance Premium Account established under ORS 238.415 to help defray the cost of PERS-sponsored health plans other than the Medicare Companion Plan.

(23) "Small Purchase Procedures" (informal bidding) means the relatively simple and informal procurement methods whereby price and rate quotations are obtained from at least three sources and selection is made on the basis of cost and other applicable criteria.

(24) "SRHIA" means the Standard Retiree Health Insurance account established within the Public Employees Retirement Fund separate from the General Funds to administer employee and the employer contributions to the PERS sponsored health insurance program.

(25)"Staff" means the employees of the Public Employees Retirement System.

(26) "Third Party Administrator" means the individual or organization that the Board contracts with to provide administrative services as specified in the contract.

Stat. Auth.: ORS 238.410 & ORS 238.650
Stats. Implemented: ORS 238.410, ORS 238.415 & ORS 238.420

Oregon

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June 13, 2005

MEETING DATE	**6/24/05**
AGENDA ITEM	**C.3.** **Misc Rule**

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Notice of Rulemaking for Non-Substantive Changes to Miscellaneous Chapter 459 Rules

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: To correct typographical errors, incorrect citations, and make other non-substantive changes to 35 administrative rules.
- Policy Issues:

  There are no policy issues associated with this rulemaking.

SUMMARY OF RULE MODIFICATIONS

Staff undertook an overall review of the agency's administrative rules to clean up errors in citations, spelling, cross-references, etc. Although not affecting the substance of the rule, these changes must none-the-less be adopted through the rulemaking process.

Because the affected rules are voluminous but the changes non-substantive, copies of the rules to be affected by this rulemaking are not attached to this memo. They are available on request or through the agency's web site once notice has been published in the *Oregon Bulletin* on July 1, 2005.

The following is a detailed summary of the proposed modifications:

459-001-0015, *Conduct of Meetings of the Board:* Update statutory authority citation.

459-001-0025, *Delegation to Director and Staff:* In section (2), change the term "a hearings officer" to "an administrative law judge" to be consistent with the terminology used in the Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure. Update statutory authority citation.

459-001-0035, *Contested Case Hearing:* In section (6), change the word "objections" to "exceptions" and change the term "Hearings Officers" to "administrative law judge's" to be consistent with the terminology used in the Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure. Update statutory authority citation.

459-005-0010, *Public Employees Retirement Fund, A Trust:* Section (1), delete "(s)"; Section (2)(a), add space after (a).

459-005-0150, *Effective Date of Power of Attorney Rules:* Correct spelling of "Employees" in first paragraph.

459-005-0210, *Transmittal of Reports and Documents:* Correct citation in Section (2)(b).

459-005-0215, *Receipt Date for Reports, Documents and Remittances:* Correct statutory citation in (3)(b).

459-005-0220, *Transmittal of Remittances or Payments:* Correct typographical error in section (4)(a), change the word "it" to "its" in section (5)(a). In section (4)(b)(C), remove the word "thirty" to be consistent with the Oregon Attorney General's style guide for administrative rules (as found in the Administrative Law Manual).

459-005-0599, *Election Procedures – Direct Rollovers:* In section (1), add space after "(f)." In sections (1)(a), (2) and (4), remove the word "thirty" and in section (2), remove the word "ninety" to be consistent with the Oregon Attorney General's style guide for administrative rules (as found in the Administrative Law Manual).

459-007-0050, *Crediting Earnings for a Deceased Tier One Active or Inactive Member:* Correct statute cited in "Statutes Implemented" line.

459-007-0060, *Crediting Earnings to the Tier One Employer Death Benefit:* Correct statute cited in "Statutes Implemented" line.

459-009-0020, *Public Employer:* Correct citation in section (1).

459-009-0070, *Actuarial Pooling of Employer Liability:* In Section (15)(b), add space between "(7)(b)" and "of."

459-009-0120, *Employer Recordkeeping for Multiple Qualified Retirement Plans:* Correct spelling of "Employees" in section (1).

459-010-0010, *Leave of Absence:* Correct citation in section (2)(b).

459-010-0011, *Authorized Paid Leave of Absence:* Correct citations in sections (1), (2) and (3). In section (3)(b), add a dash between "12" and "month."

459-010-0012, *Membership of Community College Employees:* Correct citations in sections (3), (5), (6) and (7). In section (1), add a dash between "12" and "month."

459-010-0030, *Determination of Employee Status:* Corrected citations in section (1) and in the "Statutes Implemented" line.

459-010-0165, *Transfer into a New Classification:* Correct spelling of "Employees" in section (1).

459-010-0205, *Retention of Membership by School Employees:* Correct spelling of "Employees" in the title and the first paragraph.

459-011-0200, *Re-Establishment of Membership:* Correct spelling of "Employees" in the first paragraph.

459-013-0060, *Payment of Retirement Benefits:* Correct spelling of "Employees" in section (2).

459-014-0030, *Designation of Beneficiary:* In section (1), delete "ORS 238.390." Correct spelling of "Employees" in section (3).

459-015-0030, *Hearings on Denial or Discontinuance of Disability Retirement Allowances:* In section (3), replace the term "hearings officer designated by the Board" with "administrative law judge designated by the Office of Administrative Hearings" and in section (4), change the term "hearings officer's" to "administrative

law judge's" to be consistent with the practices described in and the terminology used in the Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure. Update statutory authority citation.

459-015-0035, *Evidence -Contested Case Hearings:* In sections (1)(a), (1)(b) and (2), change the term "hearings officer" to "administrative law judge" to be consistent with the terminology used in the Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure. Update statutory authority citation.

459-015-0040, *Proof of Case -- Contested Case Hearings:* In section (3)(c), change the term "hearings officer" to "administrative law judge" to be consistent with the terminology used in the Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure. Update statutory authority citation.

459-020-0015, *Collection of Pro Rata Share of Expenses:* Correct spelling of "Employees" in section (1).

459-020-0050, *Governmental Unit Contracting with Board Must Have Legal Status:* Correct spelling of "Employees" in the first paragraph and remove reference to "Public Law 96-88".

459-020-0055, *All Prior Rules Superseded:* Correct spelling of "Employees" in the first paragraph.

459-035-0150, *Continuation of Insurance Coverage Under COBRA:* Remove hyphen from "Admin-istrator" in section (2).

459-045-0000, *Authority and Purpose:* Correct spelling of "Employees" in the first paragraph.

459-045-0001, *Definitions:* Correct statutory reference in section (21).

459-060-0000, *Purpose:* Correct spelling of "Employees" in the first paragraph.

459-080-0150, *Employee Contributions into the IAP Account:* Correct typographical error in section (2)(b).

459-080-0250, *IAP Account Installments:* Correct statutory authority citation.

LEGAL REVIEW

The proposed rule modification will be submitted to legal counsel for review and any comments or changes will be incorporated before the rules are presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

Because the modifications in this rulemaking are non-substantive in nature, these rules will not be subject to a rulemaking hearing. The comment period ends on August 5, 2005 at 5:00 p.m.

IMPACT

Mandatory: No.

Impact: None. This proposed rule modification maintains current eligibility standards.

Cost:

- *Members*: There will be no new costs to members.
- *Employers*: There is no new cost to employers.
- *Administration*: There is no added administrative cost.
- *Fund*: There is no cost to the fund.

RULEMAKING TIMELINE

June 10, 2005	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
June 24, 2005	Board notified that staff began the rulemaking process.
July 1, 2005	*Oregon Bulletin* to publish the Notice.
August 5, 2005	Public comment period ends at 5:00 p.m.
September 23, 2005	Rule is presented to the PERS Board for adoption, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

Following the hearing and the public comment period, PERS staff will return to the Board for adoption, including any modifications.

Oregon

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June 13, 2005

MEETING DATE	**6/24/05**
AGENDA ITEM	**D.1.** **Elec. Funds.**

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Adoption of 459-005-0225, *Requirement to Make Payments by Electronic Funds Transfer*

OVERVIEW

- Action: Adopt new permanent rule OAR 459-005-0225.
- Reason: ORS 293.525 allows state agencies to require payments via Electronic Fund Transfers (EFT).
- Policy Issues:
  - Should PERS require employers to submit payments via EFT?
  - When should PERS process debits to employer accounts?
  - Should PERS assess a penalty to employers that do not use the EFT process?
  - If penalties are assessed, when should they begin?
  - Should there be a provision for a waiver of the penalty by the Director?

SUMMARY OF RULE AND POLICY ISSUES

1. Should PERS require employers to submit payments via EFT?

ORS 293.525 provides the parameters for state agencies to require that payments made to the agency be sent via electronic funds transfer (EFT). Instituting an EFT program, which would require employers to remit payments through an automated clearinghouse (ACH), will provide for safer, more efficient processing of payments. Additionally, employers have been requesting this process.

2. When should PERS process debits to employer accounts?

Under the EFT process, an employer may elect to make their payments to PERS by one of two methods: by an ACH credit, which would be initiated by the employer and cleared through the ACH network for deposit to PERS; or by an ACH debit, which would be initiated by PERS and cleared through the ACH.

Employer payments are currently due 7 business days after the statement date. Staff recommends that ACH debits be processed 3 business days after the statement date. This would make the debit effective on the 5th business day and allow 2 business days for NSF processing. Also, because some employers have statement dates at the end of the month, the seven-day deadline is preventing the posting of those contributions in a timely

manner. Changing the remittance deadline from seven to five days will help to insure contributions are posted in a timely manner.

3. Should PERS assess a penalty to employers that do not use the EFT process?

ORS 293.525 allows state agencies that institute an EFT process to assess a penalty of up to 5% of the payment amountfor failure to comply with the agency's rules on the use of the EFT process. Staff recommends a penalty of 1% on payments not made through EFT. This amount would be consistent with other PERS penalty provisions.

4. If penalties are assessed, when should they begin?

Staff recommends that assessing penalties begin January 2006 to allow employers time to get the ACH payments set up with their banks or with PERS. This will also allow time to submit a Change Request to implement the penalty in jClarety, so hopefully this functionality will be automated.

5. Should there be a provision for a waiver of the penalty by the Director?

Currently, the Director has the discretion to waive penalties upon written petition from the employer. Staff recommends that the same waiver provision be provided for EFT payment penalties.

LEGAL REVIEW

The proposed rule amendments were submitted to the Department of Justice for review. They had no substantive comments or changes.

PUBLIC COMMENTS AND HEARING TESTIMONY

PERS received public comment during the comment period that ended on June 3, 2005. The subject was also discussed at the April 6 Employer Advisory Committee meeting and PERS held a rulemaking hearing on May 24, 2005.

On April 7, 2005, Newberg City Councilor Bob Andrews telephoned the PERS Administrative Rules Coordinator to indicate that the City of Newberg supports the rule as written.

On April 6, 2005, Finance Manager Lori A. Keim of the Jackson County Fire District #5 wrote to PERS to indicate her opposition to the rule (Ms. Keim's letter is attached to this Board memo). PERS staff contacted Ms. Keim to seek clarification on her concerns.

Ms. Keim reiterated her concerns about costs associated with ACH payments. PERS staff informed her that the higher fees she referenced are associated with ACH Credit payments. The proposed rule gives employers the choice to use the ACH Debit process instead of ACH Credit. Ms. Keim was not aware that the rule gives employers the ACH Debit option.

Ms. Keim does not agree that the EFT process would result in any savings to her employer compared with their current process of manually filling out and mailing a check to PERS. She also dismissed concerns about checks being stolen or lost in the mail.

She also voiced a concern that in the past, PERS has made billing mistakes and charged her employer more than was owed and saw the EFT process as providing an additional opportunity to exacerbate a billing error.

Ms. Keim's primary concern is over what she terms the "arbitrary nature" of the rule; she does not believe that PERS should "force" all employers to utilize this process. Staff mentioned that PERS has not heard other concerns from employers about this proposed rule and that, in fact, employers have requested this. She said it may work for other employers, but she wished it were optional. She wanted her opposition to be on record, and staff assured her that the PERS Board will receive her comments when the Board considers the rule for adoption.

On June 3, PERS received comment from Hasina Squires, representing the Special Districts Association of Oregon.

Ms. Squires is concerned that there may be some small districts that do not have experience transferring money electronically. She encourages PERS to commit early to communicating with small employers about the new requirements. She feels that this outreach will be important in educating these employers so that they utilize the process without incurring penalties.

Ms. Squires added that the Special Districts Association of Oregon supports the intent of this rule and asked that her comment be shared with the Board.

On April 6, 2005 the Electronic Funds Transfer rule was discussed at the monthly Employer Advisory Committee meeting. While most of the discussion centered on how this new process is to be communicated to employers, there were no concerns raised about the plan to require employers to submit payments through the electronic funds transfer process. The employer representatives participating on the committee indicated their support for the rule.

There were no attendees at the rulemaking hearing held on May 24, 2005 in the PERS headquarters in Tigard.

MODIFICATION TO RULE SINCE NOTICE

Section (4) has been modified to clarify that ACH Debits from a public employer's account will be processed on the third business day after the statement date and be effective on the fifth business day after the statement date.

IMPACT

Mandatory: No, but the process is authorized by statue. The EFT process will provide for safer, more efficient processing of payments.

Impact: While employers will have to spend a minimal amount of time submitting a form and enabling electronic funds transfer from their accounts, the net result of this rule will be fiscal and economic benefits to employers and PERS because electronic fund transfers are much more cost effective to submit and process than checks. Additionally, employers have been requesting this process.

Cost:

- *Members*: There will be no cost to members.
- *Employers*: While financial institutions may impose fees associated with electronic funds transfer, employers should see a net benefit from the more efficient and cost-effective process. The bank fees should be offset by reduced check drafting and postage costs.
- *Administration*: Reduced administrative costs are expected because processing electronic fund transfers are more efficient than processing checks.
- *Fund*: There may be a modest positive impact to the fund due to decreased administrative costs.

TIMELINE

April 1, 2005	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
April 6, 2005	Rule discussed at PERS Employer Advisory Committee meeting.
April 15, 2005	Board notified that staff began the rulemaking process.
May 1, 2005	*Oregon Bulletin* published the Notice.
May 24, 2005	Rulemaking hearing held at PERS headquarters in Tigard.
June 3, 2005	Public comment period ended at 5:00 p.m.
June 24, 2005	Rule is presented to the PERS Board for adoption.

BOARD OPTIONS

The Board may:

1. Make a motion to "adopt OAR 459-005-0225, as presented, effective upon filing."
2. Take no action and direct staff to make changes to the rules or take other action.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Adopting this rule would allow employers to process payments in a safer, more efficient manner.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board's policy direction if the Board determines that a change is warranted.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 005 – ADMINISTRATION

MEETING DATE	**6-24-05**
AGENDA ITEM	**D.1.** Elec. Funds

459-005-0225

Requirement to Make Payments by Electronic Funds Transfer

(1) As used in this rule, the following words and phrases have the following meanings:

(a) "Public employer" has the same meaning given the term in ORS 238.005(17) and includes all public school districts and educational service districts.

(b) "Electronic funds transfer" has the same meaning given the term in ORS 293.525.

(c) "ACH credit" means the electronic funds transfer from the public employer's account, initiated by the public employer and cleared through the Automated Clearing House (ACH) network for deposit to PERS.

(d) "ACH debit" means the electronic funds transfer from the public employer's account, initiated by PERS and cleared through the ACH network to debit the public employer's account and credit the PERS account.

(2) Public employers are required to make all payments to PERS by means of electronic funds transfer (EFT).

(3) On a form provided by PERS, public employers shall authorize EFT payments to PERS, and submit the form to PERS by December 1, 2005.

(a) The public employer shall provide PERS with all information necessary to allow for EFT payments, including the method of EFT payment (ACH debit or ACH credit).

(b) A public employer must complete a new EFT authorization form to change the method of transfer or to update the employer's account information.

(4) ACH Debits from a public employer's account will be processed on the third business day after the statement date and be effective on the fifth business day after the statement date.

(5) Effective January 1, 2006, a penalty shall be assessed equal to one percent of payments made by means other than EFT. This penalty is in addition to any penalties incurred under ORS 238.710 and OAR 459-020-0025.

(6) The PERS Executive Director will have the discretion to waive the penalty described in section (5) of this rule. The employer must submit any such requests in writing.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 293.525

Received 4/11/05

D.1. Attachment

JACKSON COUNTY FIRE DISTRICT #5

5811 South Pacific Highway • Phoenix, OR 97535

Phone (541) 535-4222 • Fax (541) 535-4226

David K. Martin
PERB
PO Box 23700
Tigard, Oregon 97281

April 6, 2005

Dear Mr. Martin:

Jackson County Fire District 5 would like to go on record opposing Chapter 459 rule change, amending ORS 293.525, requiring employers to remit payments through an automated clearinghouse.

Firstly, ACH payments have an additional transaction fee that can be substantial for smaller employers.

Secondly, would you set up a transaction automated system, similar to the kind used for State and Federal employer taxes? We have no easy way to send ACH transfers through our own bank, and of course, the LGIP, while offering telephone ACH transfers, does not transfer funds to any third party accounts (like PERS).

Thirdly, don't you think the timing is inappropriate to try to make it yet more difficult for employers? Most of us are still reeling from employer rate increases (ours was 130%) and have very little leftover goodwill towards our State Retirement System.

And finally, IF PERS established an automated telephone transaction system, you will find that most employers will have little confidence in it, given the recent problems implementing the employer remittance software.

You have a significant customer relations problem with your employers; part of it is not your fault, but nonetheless, the problem is yours. Please consider the customers you serve and listen to what they tell you.

Sincerely,

Lori A. Keim, Finance Manager
Jackson County Fire District 5

Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System
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June 13, 2005

MEETING DATE	**6/24/05**
AGENDA ITEM	**D.2.** **Emp. Report**

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Adoption of OAR 459-070-0100 and 459-070-0110, *Employer Reporting, and Remittance of Contributions*

OVERVIEW

- Action: Adopt permanent rule modifications to OAR 459-070-0100 and -0110.
- Reason: PERS staff has simultaneously proposed OAR 459-005-0225 to the Board for adoption. That rule implements ORS 293.525, which provides parameters for state agencies to require that payments be sent via electronic funds transfer (EFT). These rules modifications conform existing rules to the requirements of that new rule.

  Additionally, statutory language incorporated from ORS Chapter 238 into the OPSRP programs imposes harsh penalties on employers that fail to remit reports or contributions in a timely manner. These rules were initially amended to streamline the Executive Director's process to waive penalties. With administrative complications still being worked out, these rule modifications extend the duration of that streamlined process.
- Subjects: OAR 459-070-0100 and 459-070-0110 direct participating employers to submit required information and contributions to PERS for each pay period and specify penalties for incomplete or late reporting.
- Policy Issues:
  - When should PERS process debits to employer accounts?
  - Should the PERS Board extend the period of time during which employers will not incur a penalty for late data or contribution reporting?

SUMMARY OF RULES AND POLICY ISSUES

OAR 459-070-0100 and 459-070-0110 direct employers to submit required information and contributions to PERS and specify penalties for incomplete or late reporting. In their current form, these rules require contributions to be remitted no later than seven business days after the statement date, and give the Executive Director discretion to waive penalties for 2004.

1. *When should PERS process debits to employer accounts?*

If the PERS Board adopts OAR 459-005-0225, PERS would institute an EFT program by December 1, 2005, which would require employers to remit payments through an automated clearinghouse (ACH). OAR 459-007-0110 currently requires remittances to be submitted not later than seven business days from the statement date. Because some employers have statement dates at the end of the month, the seven-day deadline extends posting contributions until the next calendar month. Changing the remittance deadline from seven to five days will help to insure contributions are posted to accounts in the month submitted. Using the more efficient EFT process means shortening this deadline should not impact an employer's ability to remit in a timely manner.

Staff recommends that the remittance date be shortened to five days so members' contributions are posted to their accounts more promptly.

2. *Should the PERS Board extend the period of time during which employers will not incur a penalty for late data or contribution reporting?*

Employers and PERS staff have made tremendous strides toward implementing the new OPSRP reporting structure. However, technical problems still cause some individual records to fail to post. While efforts are being made to resolve these problems, PERS staff recommends that the Executive Director's streamlined process to waive penalties be extended instead of requiring employers to follow a cumbersome administrative procedure to request such a waiver.

Given the high degree of cooperation employers have exhibited in trying to implement the new reporting and contribution structure, staff recommends this approach to avoid adding an additional burden.

PUBLIC HEARING AND HEARING TESTIMONY

PERS received public comment from one employer during the comment period that ended on June 3, 2005. The subject was also discussed at the April 6 Employer Advisory Committee meeting and PERS held a rulemaking hearing on May 24, 2005.

On April 7, 2005, Newberg City Councilor Bob Andrews telephoned PERS to indicate that the City of Newberg supports the modifications to OAR 459-070-0100 and 0110.

On April 6, 2005 these rule amendments were discussed at the monthly Employer Advisory Committee meeting. The participating employer representatives asked about the reasoning behind changing the remittance deadline from seven to five days and once this was answered, they indicated their support for the rule. The discussion continued about how this is to be communicated to employers.

There were no attendees at the rulemaking hearing held on May 24, 2005 in the PERS headquarters in Tigard.

LEGAL REVIEW

The proposed rule amendments were submitted to the Department of Justice for review. They had no substantive comments or changes.

IMPACT

Mandatory: No. However, insuring the timely posting of contributions will more closely reflect member expectations. Additionally, extending the waiver period will reduce the burden on employers and PERS staff to seek, review, and respond to individual waiver requests that, in all likelihood, would probably be granted.

Impact: Adopting these rule amendments will lead to more timely posting of member contributions as well as relieve employers from concerns over imposition of penalties through the remainder of calendar year 2005 as they continue to seek resolution to individual problems with PERS' new reporting structure.

Cost:

- *Members.* There is no cost to members; rather, more timely posting of contributions will benefit members.
- *Employers.* Employers will save the costs associated with seeking individual waivers from PERS for penalties the agency would otherwise be compelled to impose.
- *Administration.* PERS will save the costs of processing and, most likely, waiving penalties that would otherwise be imposed automatically.
- *Fund.* There is no direct cost to the Fund.

TIMELINE

April 1, 2005	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
April 6, 2005	Rules discussed at PERS Employer Advisory Committee meeting.
April 15, 2005	Board notified that staff began the rulemaking process.
May 1, 2005	*Oregon Bulletin* published the Notice.
May 24, 2005	Rulemaking hearing held at PERS headquarters in Tigard.
June 3, 2005	Public comment period ended at 5:00 p.m.
June 24, 2005	Rule is presented to the PERS Board for adoption.

BOARD OPTIONS

The Board may:

1. Make a motion to "adopt permanent rule modifications to OAR 459-070-0100 and 0110, as presented, effective January 1, 2004."
2. Take no action and direct staff to make changes to the rules or take other action.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Adopting this rule would minimize the burden on employers by streamlining the process followed by the PERS Executive Director to waive reporting penalties. Additionally, changing the remittance deadline from seven to five days will help to insure contributions are posted to accounts in the month submitted when an employer submits payments through the electronic funds transfer process.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board's policy direction if the Board determines that a change is warranted.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 070 – OREGON PUBLIC SERVICE RETIREMENT PLAN, GENERALLY

MEETING DATE	**6/24/05**
AGENDA ITEM	**D.2.** **Emp. Report**

OAR 459-070-0100 is amended as follows:

459-070-0100

Employer Reporting

(1) Definition. "Pay period" means the span of time covered by an employer's report to PERS.

(2) Unless otherwise agreed upon between the PERS Executive Director and the employer, the employer shall transmit to PERS an itemized report of all information required by PERS. Reports shall include wage, service, and demographic data related to that pay period.

(3) The report required under section (2) of this rule shall be acceptable to PERS and transmitted on forms furnished by the agency or in an equivalent format. The report shall be transmitted electronically, faxed, or postmarked, as applicable, no later than three business days following the end of each pay period listed in section (4) below.

(4) PERS shall assign the employer to one of the following pay periods which most closely matches the employer's pay cycle:

(a) Monthly: the pay period ends on the last day of the month;

(b) Semi-monthly: the pay period ends on the fifteenth of the month and the last day of the month;

(c) Weekly: the pay period ends the Friday of every week, commencing January 2, 2004; or

(d) Biweekly: the pay period ends every other Friday, commencing January 9, 2004.

(5) If the report required under section (2) of this rule is accepted by PERS, PERS shall notify the employer of any exceptions and the employer will have 10 business days to reconcile its report. The corrected report must be transmitted electronically, faxed, or postmarked, as applicable, to PERS no later than 10 business days from the date of notification to avoid the penalty described under section (6) of this rule.

(6) Failure of an employer to transmit the report required under section (2) of this rule shall make the employer liable for a penalty equal to one percent of the total amount of the prior year's annual contributions or $2000, whichever is less, for each month the employer is delinquent.

(7) The PERS Executive Director will have the discretion to waive the penalty described in section (6) of this rule for all reports due from January 1, 2004 through December 31, 2005[*4*]. Following that period of time, penalties may be waived by the Director only upon written petition from the employer.

(8) The effective date of this rule is January 1, 2004.

Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.050, 238.705

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 070 – OREGON PUBLIC SERVICE RETIREMENT PLAN, GENERALLY

MEETING DATE	**6-24-05**
AGENDA ITEM	**D.2.** *ER Reporting and Remittance*

OAR 459-070-0110 is amended as follows:

459-070-0110

Employer Remittance of Contributions

(1) Definition. "Statement date" means the date a statement of contributions or penalty due is generated by PERS.

(2) Once PERS receives the report described in OAR 459-070-0100(2) and (5), it shall issue a statement of contributions and any penalty due, if applicable.

(3) Unless otherwise agreed upon by the PERS Executive Director and the employer, an employer shall transmit the amount of employee contributions, employer paid employee contributions, and employer contributions for the Individual Account Program along with the corresponding contributions to fund the pension programs, for each pay period to the Board so that it shall be *[postmarked or]* electronically transferred no later than *[seven]* **five** business days from the statement date**, under the provisions of OAR 459-005-0225**.

(4) Failure of any employer to transmit contributions within the time limit specified in section (3) will make the employer liable for a penalty equal to one percent of the total amount of contributions due for that pay period for each month the employer is delinquent.

(5) If an employer transmits an amount less than the contributions required by section (3) of this rule, PERS shall allocate the contributions received in the following order:

(a) To the Individual Account Program;

(b) To the Pension Program;

(c) To the PERS Fund.

(6) The PERS Executive Director will have the discretion to waive the penalty described in section (4) of this rule for all contributions due from January 1, 2004 through December 31, 2005*[4]*. Following that period of time, penalties may be waived by the Director only upon written petition from the employer.

(7) If PERS is required to invoice an employer for employee contributions and corresponding employer contributions on wages paid in previous reporting periods, an amount equal to the earnings that would have been credited to affected members and employers for those years, if any, may be added to the applicable account and charged to the employer.

(8) The effective date of this rule is January 1, 2004.

Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.050, 238.705

Oregon

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June 13, 2005

MEETING DATE	**6/24/05**
AGENDA ITEM	**D.3. IAP**

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman

SUBJECT: IAP Remediation & Related Policy Issues

OVERVIEW

- Subject: Posting of contributions and earnings to member's accounts in the Individual Account Program (IAP) has not produced results consistent with member and employer expectations. This memo explores the possible remedial actions to consider that would align the IAP more closely with stakeholders' views.
- Action: Staff will be seeking policy direction from the PERS Board as to the appropriate remedial steps, if any. When that direction is provided, staff will solicit stakeholder input and return with the specific supporting actions (i.e., administrative rule modifications, amended agreements, etc.) necessary to support that direction.
- Reasons: Systemic problems continue to prevent the IAP from meeting agency and stakeholder expectations. When members received their IAP account statements and gained access to their current account status via the web site, they could compare their status to their expectations, and these inconsistencies became readily apparent. Staff suggests a range of options that could either modify these expectations or move the program closer to the results anticipated.
- Policy Issue:
    - Which alternative would result in an IAP that best fits the PERS Board's policy direction?

BACKGROUND

The IAP was created by HB 2020 (2003) to serve two purposes. First, it provided a component of the retirement program for newly hired workers that resulted in part of their benefit being based on their member contributions (6% of salary). Second, it became the repository for the member contributions that the 2003 PERS Reform Legislation diverted from PERS Chapter 238 Program (Tier One and Tier Two) members' regular and variable accounts. The law that was passed in August 2003 required the IAP to be established in time to receive member contributions on salary paid on and after January 1, 2004.

This relatively short implementation time frame was compounded by the program's second purpose. PERS had to create a new program, similar to but not exactly like the old member account structure. It had to be built on a new technology platform that would interact with the agency's antiquated system that was neither designed nor adaptable to support such a program. Employers would need to learn and adopt an entirely new reporting structure that accelerated and altered the format and scope of the employee demographic and financial data that needed to be transmitted.

PERS and its employers have been scrambling ever since. Through extraordinary efforts, the vast majority of the 2004 transactions that should have been posted to member IAP accounts have been completed. 173,240 IAP accounts have been established and, as of June 3, 2005, $503.9 million in account balances are invested under the program. At this point, only 3,075 accounts having contributions totaling $165,036.61 that perhaps should have been posted in 2004 are not reconciled.

Even with these efforts by all parties, the following issues continue with the program as it now stands:

- Because 2004 contributions were not posted in a regular and systematic fashion, some members who are apparently similarly situated (same employer, job, salary) did not receive similar results. One member may have received a higher apparent rate of return because his contributions were posted *en masse* mid-year when the unit values were favorable, while the other's account with regularly posted contributions went through the flat or negative return periods through the year.
- The IAP contains structural delays to allow for processing and posting contributions. Members expect that once the contributions are made on their behalf, they should begin to receive the benefit of any earnings on those funds. The system's inherent structural delays make substantiating that assumption very difficult.
- Employers continue to experience difficulty in adapting their payroll systems to make automated reports that comply with the format standards PERS created in the jClarety system. Getting two computer systems to interact is always problematic, and this situation is compounded by many factors including available time, budget, and expertise, disparate requirements, or inadequate training. Over the course of the last year, the effect of these problems has lessened, but by no means has it been consistently resolved across the some 775 reporting employer units.
- Members don't understand the IAP and the role it's intended to play in their retirement. Many were unaware of the shift from PERS Chapter 238 Program accounts, others expect the IAP to operate in a parallel manner to their pre-reform Tier One/Tier Two accounts, and some believe it should reflect their expectations of a benefit funded by member contributions with associated self-direction from a menu of investment choices, like a 401(k) account.

PROGRAM PRINCIPLES

Reviewing the principles that PERS has tried to follow in forming the IAP is important to understanding the current state of affairs and deciding the best remedy for the situation. The program's developers tried to incorporate these precepts:

1. IAP contributions and related earnings on those contributions would be held and used exclusively for the benefit of IAP members. Conversely, administrative costs of the program will be recovered from members' accounts, as required by ORS 238A.350
2. The program would be transparent as to earnings, contributions, and administrative costs. Members would be enabled to openly review their account status and history. Previously, members did not know what was going on with their account(s) between annual statement periods.
3. Employer reporting would incorporate rigorous data standards. RIMS is riddled with erroneous data, in a depth, breadth, and quality that even today cannot be reliably determined. The advent of web-based reporting was to allow filters and controls to be installed that would hopefully improve the quality of the data provided and retained.
4. Eligibility determination would be automated. One of the fundamentally vexing features of the PERS plan is the complexity involved in answering the threshold question of whether someone is eligible to participate. IAP designers hoped the automated reporting system could assume the responsibility for this determination.
5. Financial impacts would be isolated to the parties involved in the transaction. For example, a member's contribution is late in posting and earnings that would have accrued to that contribution are not credited to that member. The philosophy was that the impact of that resolution should be limited to the parties involved (employer, member, PERS) and not spread generally to other participants in the fund.

Now having some 18 months experience with the IAP and the struggles to reach "normal" operations, PERS staff would restate the principles as follows:

1. IAP contributions and related earnings are still tracked discretely. Earnings are to be applied exclusively for the benefit and use of IAP participants. Costs are also tracked discretely and allocated to the program.
2. Transparency is still a value. Member access to account information should be as close to real-time as possible and the operations of the IAP should be clearly stated so expectations can be matched against actual production.
3. High data standards do not automatically result in higher data accuracy. Inability to post records led in some circumstances to manipulating data so it will post instead of always driving to actually correcting the record. Predominantly, errors are occurring in demographic data, so making the entire report subject to high standards before posting adds a financial consequence when that's not necessarily the area in error.
4. Eligibility determinations cannot be efficiently automated. Determining whether an employee is an IAP member can be simple or extremely complex; building a system to filter for the extremely complex determinations makes everyone subject to that rigor. In the IAP alone, our philosophy on this evolved from:

- Report all data. When the system determines a member is eligible (600 hours in a calendar year), we'll bill for contributions. That built in complex determinations, inherent delays, and unacceptable financial consequences.
- Report all data and make estimated contributions. If the system later determines the member isn't eligible, we'll return the contributions. That placed an unacceptable financial burden on employers and members to make "loans" to PERS until it could determine whether the member was eligible.

These approaches all tried to solve for the difficult cases; instead, perhaps employers should make the eligibility determination with the system providing verification and notification when circumstances arise. This does push the eligibility determination back to the employers, but is aligned with historical practice.

5. Financial impacts should continue to be isolated to the transaction and involved parties. System operations have to be clear so accountability can be assessed and responsible parties need to agree to absorb the financial consequence of their actions.

BASELINE PRINCIPLES

Staff recommends that whatever remediation plan the PERS Board ultimately adopts, the plan should reflect the following principles:

1. Because the IAP contributions and earnings (or losses) are discretely tracked, the only issue regarding IAP earnings allocation is the method by which the earnings (or losses) are to be distributed, not the amount of IAP earnings (or losses) available.
2. Members should not be harmed financially. PERS should undertake to determine what member account balances would have been had every process worked as it should have and credit or debit accounts accordingly.
3. Transparency and simplicity should continue to be core values for the IAP. Member access should continue through established channels. The IAP structure should be explained in more explicit terms and greater detail.
4. The IAP structure and reporting system should be as simple and understandable as possible. The IAP should not be expected or designed to be more than the statute directs. The purpose, design, and scope of the IAP was not determined until the very close of the 2003 legislative session, with a four month implementation window. The statute itself requires a very simple account structure: contribute 6% of subject salary to an individual member's account that's adjusted at least annually for earnings, losses, and administrative charges. Account balances are invested by the OIC in conjunction with the PERS Fund.

   The program as implemented, however, provided much more than this simple model, with wage and contribution reports reconciled at least monthly, on-going account balance fluctuations depending on month-to-month market performance, and inconsistent analogies to private sector 401(k) plans that blurred or obscured expectations. PERS staff would instead recommend considering a return to basics; let's get a simpler model working acceptably before we look to expand functionality to accomplish additional purposes (e.g., self-directed investments).

IAP SYSTEMIC CHANGE ALTERNATIVES

PERS staff has identified the following alternatives to address the issues raised by the current situation with the IAP:

1. Maintain Status Quo

   Possible Actions:

   1) Develop procedures to avoid future mistakes, based on lessons learned in administering the system to date.
   2) Assess staff allocations and training and modify as necessary.
   3) Assess employer assistance and training efforts and modify as necessary.
   4) Assess relationship/procedures with CitiStreet and modify as necessary.
   5) Assess member and employer communications and modify as necessary.

2. Minor Modifications to Status Quo

   Possible Actions:

   1) Change to more frequent posting of member contributions and determining associated strike price to reduce structural posting delays.
   2) Remove 85% posting bar for employer reports. Instead, post all valid records as received and have employers adjust unposted/invalid wage and/or demographic data as off-line adjustments.
   3) Modify procedures, staff allocations/training, employer assistance/training, CitiStreet contract, and member/employer communications as necessary.

3. Major Modifications to Status Quo

   Possible Actions:

   1) Change earnings crediting to annual adjustments.
   2) Recalculate 2004 and 2005 IAP account transactions and correct accounts accordingly in one 24-month period adjustment.
   3) Modify CitiStreet contract or find alternative administrative support structure.
   4) Modify procedures, staff allocations/training, employer assistance/training, and member/employer communications as necessary.

4. Fundamental Systemic Changes

   Possible Actions:

   1) Work with stakeholders, the legislature, and Governor's office to develop a common vision and change the statutory structure of IAP accordingly during the 2007 Legislative Session. For example, a more traditional defined contribution plan model with payroll-based reporting and minimal eligibility requirements could be developed.
   2) Outsource IAP component to third party administrator, similar to OSGP model.

PROPOSED COURSE OF ACTION

The above alternatives address the issues raised by the current situation with the IAP are just preliminary. They have not been subjected to stakeholder review and input, nor have we fully analyzed the consequences of each alternative to members, employers, and the agency. Staff proposes that we concentrate our efforts in the following areas in the interim between now and the PERS Board meeting in August:

- Determine a dollar figure for the aggregate impact to member accounts from how contributions were actually posted in 2004 to assess the extent to which systemic anomalies may have impacted their overall projected value.
- Determine what would be involved in synthesizing each separate IAP member account to compare its actual balance with the value it would have reached had the system operated as designed.
- Open discussions with stakeholders (using the Legislative stakeholder and Employer Advisory Committees) on the alternative approaches described above and engage them in developing a consensus suggestion on how to address the current situation and principles to apply in developing any systemic changes.
- Develop a strategy to correctly adjust IAP member accounts (probably a combined 24-month adjustment to reflect 2004 and 2005), to incorporate systemic changes starting with account balances as of January 1, 2006, and to issue corrected adjustments to members who have withdrawn or retired in the interim period.
- Assess how to implement these strategies and system changes within existing staff and budget limitations.
- Report interim findings at the PERS Board's August meeting with opportunity for additional Board and stakeholder feedback, then develop final recommended actions for consideration at the September Board meeting.

STAFF RECOMMENDATION

- Staff recommend that the Board authorize the above described course of action and provide additional policy direction, if necessary, to guide the process.

Oregon

Theodore R. Kulongoski, Governor

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June 13, 2005

MEETING DATE	**6/24/05**
AGENDA ITEM	**D.4. Legislative**

TO: Members of the PERS Board

FROM: Steve Delaney, PERS Deputy Director
Tom Grimsley, PERS Board Member

SUBJECT: 2005 Legislative Update as of June 13, 2005

PERS BOARD-SPONSORED BILLS

SB 54 [Modifies start date for "pop up" to higher retirement benefits due to divorce or death of beneficiary] This bill was signed by Governor Kulongoski on June 7. As it did not have an emergency clause, it becomes effective January 1, 2006.

SB 108 [Modifies interaction of PERS Tier 1/Tier 2 programs and OPSRP] This bill was signed by Governor Kulongoski on June 7. As it did not have an emergency clause, it becomes effective January 1, 2006.

SB 109A [Amends unclear statutory direction regarding interest earnings for estimated payments] This bill passed out of the House with a minor technical change that has caused it to be returned to the Senate for concurrence with the change.

SB 110A [Provides that withdrawal of an account invalidates any beneficiary notification on file with PERS.] This bill passed out of the House with a minor technical change that has caused it to be returned to the Senate for concurrence with the change. SB 111B as amended presently has problems in the House, so PERS staff is working to have SB 110A moved to a conference committee, where the original SB 111 language dealing solely with tax qualification issues could then be added.

SB 111B [Clarifies that PERS is one plan with component programs; also provides for modification to judge member benefits] Scheduled for a House vote, this bill was pulled from the calendar last week and rereferred to the House Business, Labor and Consumer Affairs Committee. Several House members have indicated their opposition to the judge member benefit language that was amended into this bill while in the Senate Rules Committee.

OTHER BILLS

While there are still other PERS-related bills alive and some even getting hearings, the primary remaining PERS bill at this point is HB 2189B.

HB 2189B: The PERS Omnibus Bill. Containing only those concepts approved by both the PERS Employer and the PERS Labor coalitions, this bill passed the Senate floor on Monday, June 13 on a vote of 21-9. It now moves to the House for concurrence on the changes made in the Senate.

The primary issues contained in HB 2189B:

Sections 1, 2, 3 Modifies salary to include “wages of a deceased member paid to surviving spouse or child.”

Sections 4, 5 Add OHSU academics to list of employees who can receive a year’s credit for less than 2,000 hours worked.

Section 6(f) Provides that a member entitled to a disability retirement benefit does not incur a "break in service."

Section 6(g) Provides that the seasonal nature of a member’s employment cannot cause a "break in service." (This was crafted to assist especially wild land firefighters and parks employees, who due to a drier or wetter season than normal, might not have more than six months of employment in a calendar year.)

Section 7 Provides that the two provisions above apply only to periods of time "on or after August 29, 2003."

Section 8 Provides that a member who was inactive on August 28, 2003 does not incur a "break in service" if the member - (1) is vested; (2) returns to employment prior to October 1, 2005; and (3) is employed by the same employer that had employed the member immediately prior to his or her separation. (The sponsors are trying to help individuals who might have been caught unaware by the passage of HB 2020 in the 2003 session.)

Sections 9, 10, 11, 12 Allows for creditable service under Tier 1/Tier 2 to be used to qualify for benefits under OPSRP pension, and vice versa.

Section 13 Allows individuals who are eligible for retirement benefits under both Tier 1/Tier 2 and OPSRP pension to retire at the earliest eligible retirement age under Tier 1/Tier 2.

Section 14 Allows for OPSRP pension survivorship options, similar to Option 2A and 3A available to Tier 1 / Tier 2 members under ORS Chapter 238.

Section 15 Allows the payment of an OPSRP pension death benefit to the surviving spouse when requested, rather than requiring the beneficiary to wait until the year in which the member would otherwise have reached retirement age, as is presently required by statute.

Section 16 Allows DAS by rule to set up various state employee overtime standards based on geographic area.

Sections 17, 18 Restores the use of Tier 1/Tier 2 salary definitions for purpose of contributing to IAP on behalf of Tier 1/Tier 2 members.

Sections 19, 20, 21, 22 Establishes standard for community colleges when converting FTE positions into hours for PERS reporting purposes.

SUMMARY OF ALL PERS-RELATED BILLS

As of Monday, June 13, 2005, the following 47 bills have been introduced relating to PERS:

Bill Numbers	Basic Concept
SB 54	Modifies commencement date for increased monthly benefits payable to retired member of Public Employees Retirement System who selects optional retirement allowance that provides increased benefit if beneficiary dies before retired member or if retired member and spouse divorce. Provides that increased benefit is applicable to first full month following death or entry of judgment of divorce.
SB 105	Modifies break in service rule. Provides that employee does not have break in service by reason of period of time during which employee leaves public employment because of injury or disease that entitles employee to receive service disability allowance. Provides that person who was inactive member on August 28, 2003, does not have break in service upon return to employment if person was on leave authorized by law or by employer and both person and employer anticipated that person would return to employment with employer upon completion of period of leave.
SB 108	A PERS Board Bill – Housekeeping measure pertaining to the interaction of PERS 238 and OPSRP 238A.
SB 109	A PERS Board Bill – Amends unclear statutory direction regarding interest earnings for estimated payments.
SB 110	A PERS Board Bill – Provides that withdrawal of an account invalidates any beneficiary notification on file with PERS.
SB 111B	A PERS Board Bill – For tax qualification purposes, clarifies that PERS is a single plan with component parts. As amended, this bill also provides for increased retirement benefits to judge members.

SB 188	Modifies break in service rule governing membership in Oregon Public Service Retirement Plan by person who leaves public employment for more than six months. Provides that seasonal employee does not have break in service by reason of period of time during which employee leaves employment based on seasonal nature of employment.
SB 271	Provides that judge member of PERS who fails to make plan election be retired under Plan B. Allows judge to retire under Plan B if judge is at least 58 years of age and has at least 21.75 years of creditable service as judge. Modifies calculation of Plan B service retirement allowance. Increases maximum number of years of service using 3.75 multiplier under formula from 16 to 18.
SB 302	Limits number of terms to which member of Oregon Investment Council may be appointed. Limits number of years a chairperson may serve. Requires sound recording be made of every meeting. Requires monthly meetings.
SB 497	Prohibits Public Employees Retirement Board from paying increased benefit by reason of state income taxation of payments made by board if person receiving payments is not resident of State and does not pay Oregon income tax. Provides procedures for enforcing prohibition. Imposes similar prohibition for certain public employers that provide retirement benefits for police officers and firefighters other than by participation in Public Employees Retirement
SB 499	Classifies telecommunicators certified by Department of Public Safety Standards and Training as police officers for purposes of benefits under Public Employees Retirement System. Applies to all service rendered by telecommunicator, whether rendered before, on or after effective date of Act, if person is employed as telecommunicator on effective date of Act.
SB 506	Classifies dog control officers and persons commissioned by sheriff to perform animal control duties as police officers for purposes of benefits under Public Employees Retirement System. Applies to all service in position, whether rendered before, on or after effective date of Act, if person is employed in position on effective date of Act.
SB 508	Removes limit on number of hours retired member may work and still qualify for retirement under Public Employees Retirement System if retired member is employed by school district or education service district as other than teacher or management employee, or by community college as other than faculty member or management employee. Applies to Oregon Public Service Retirement Plan.

SB 766	Limits amount of salary and benefits that school district, education service district or public charter school may pay administrator at end of contract. { + Defines 'administrator' for purposes of Act. + } Prohibits district or school from granting administrator retirement benefits that are not available to other employees. { + Provides that district or school may make contributions to retirement plan of administrator in lieu of making contributions to Public Employees Retirement System. + } Declares emergency, effective on passage.
SB 767	Provides that employee of Oregon School Boards Association may not become member of Public Employees Retirement System by reason of service to association. Specifies that provision does not affect employees of association who are members on effective date of Act, or who are serving probationary period on effective date of Act.
SB 874	Requires Public Employees Retirement Board to allow retired members and beneficiaries to make voluntary annual contributions to organizations representing interests of retirees that have at least 100 members who are retired members of Public Employees Retirement System and to certain charitable organizations. Authorizes eligible organization to enclose information about organization in one mailing of monthly benefit checks once each calendar year. Requires that cost of administering Act be paid from contributions made by members and beneficiaries.
SB 893	Allows school district or education service district to employ retired member of Public Employees Retirement System to teach technology courses for any number of hours without affecting right of member to receive service retirement allowance if member has teaching license related to professional technical education.
SB 941	Identical to SB 893, allows retired member hired by a school district or education service district “to teach technology courses” to work unlimited hours.
SB 980	Classifies doctors and nurses who work at Oregon State Hospital as police officers for purposes of benefits under Public Employees Retirement System. Applies only to service rendered on or after effective date of Act.
SB 1010	Allows member of Public Employees Retirement System who served in elective office before becoming member of system to acquire retirement credit for periods of service in elective office. Requires that member pay employee contributions for period of service sought, and interest. Requires that payment be made within 36 months after effective date of Act.

SB 1019	Modifies break in service rule for members of Public Employees Retirement System. Provides that person who is inactive member of Public Employees Retirement System on August 28, 2003, and who is reemployed in qualifying position on or before August 27, 2005, does not have break in service. Provides exceptions. Provides that person does not have break in service by reason of period of time during which person is receiving temporary total disability payments under Workers' Compensation Law. Requires that service under Oregon Public Service Retirement Plan by person who has break in service be treated as creditable service under ORS chapter 238 for purpose of any statute in ORS chapter 238 that requires that member complete specified period of creditable service as condition of retiring or receiving other benefit. Requires that creditable service under ORS chapter 238 by person who has break in service be treated as retirement credit under ORS chapter 238A for purpose of any statute in ORS chapter 238A that requires that member complete specified period of retirement credit as condition of retiring or receiving other benefit. Provides that earliest retirement age under Oregon Public Service Retirement Plan for person who has break in service is earliest retirement age for service under ORS chapter 238.
SB 1020	Provides that member of Public Employees Retirement System who retires under Oregon Public Service Retirement Plan and who is also receiving retirement allowance under ORS chapter 238 may be reemployed for period of time allowed under ORS chapter 238 and continue to receive pension under Oregon Public Service Retirement Plan. Provides that member of Public Employees Retirement System who retires under ORS chapter 238 may be reemployed for specified number of hours without regard to whether member is receiving retirement allowance.
SB 1021	Requires that Public Employees Retirement Board credit community college employee engaged in teaching with hours of service based on number of credit hours taught. Provides formula for determining number of hours of service attributable to each credit hour.
SB 1022	Requires that Public Employees Retirement Board commence payment of death benefit under Oregon Public Service Retirement Plan as of date of death of member. Allows surviving spouse or other person entitled to payment to elect to delay payment of death benefit until specified date. Provides that death benefit under ORS chapter 238 includes amount contributed by employer equal to amount in employee account established for member under individual account program of Oregon Public Service Retirement Plan. Provides pension options for members of Oregon Public Service Retirement Plan.

SB 1023	Provides that member of Public Employees Retirement System does not have break in service by reason of period of time during which member leaves employment with participating public employer pursuant to agreement with employer. Requires that agreement specify length of leave or provide that member will return to employment upon occurrence of specified event.
SB 1024	Modifies definition of 'final average salary' used to compute pension of member of Oregon Public Service Retirement Plan. Modifies overtime limitation on salary used for determination of pension under Oregon Public Service Retirement Plan. Allows public employer to establish more than one overtime average for class of employees based on geographic placement of employees. Requires that Public Employees Retirement Board use definition of 'salary' provided by ORS chapter 238 for purpose of computing employee contributions of certain members of individual account program of Oregon Public Service Retirement Plan.
SB 5558	The PERS Budget – The Senate Version. This appears to be the version that both House and Senate have agreed to work.
SB 5559	Approves new or increased fee adopted by Public Employees Retirement Board – The Senate Version. This appears to be the version that both House and Senate have agreed to work.
HB 2060	Authorizes community college districts to offer alternative retirement programs.
HB 2104	Modifies provisions governing Optional Retirement Plan established by State Board of Higher Education. Provides that employer contribution rate for plan be based on employer contributions to PERS without adjustment for lump sum payments to system by employers. Establishes procedures for employees who are members of Oregon Public Service Retirement Plan and who elect to become members of Optional Retirement Plan.
HB 2189	[Provides that salary used to determine benefits of members of PERS includes wages of deceased member paid to spouse or dependent children.] This bill has been expanded to become the PERS Omnibus bill, addressing issues such as “break in service,” overtime standards, salary definitions, and community college reporting requirements, among others.

HB 2434	Requires that employer of Tier One or Tier Two members continue to make contributions for member as though member continued to work during period in which member receives temporary total disability benefits under Workers' Compensation Law. Provides that contributions be based on salary of member at time member left work. Provides that final average salary of member be calculated as though member continued to work during period of temporary total disability, based on salary of member at time member left work.
HB 2436	Expands definition of 'salary' for purposes of benefits under Public Employees Retirement System. Provides that salary includes amounts contributed by employee to Health Savings Account or Health Reimbursement Arrangement. Expands definition of 'salary' for purposes of benefits under Public Employees Retirement System. Provides that salary includes amounts contributed by employee to Health Savings Account or Health Reimbursement Arrangement. Declares emergency, effective on passage.
HB 2572	Directs Public Employees Retirement Board to calculate or recalculate retirement benefits of member of Public Employees Retirement System if member is convicted of certain work related felonies. Requires board to pay convicted member only benefits that are funded by employee contributions.
HB 2615	Provides that rules for accrual of retirement credit by school employees under Oregon Public Service Retirement Plan apply to employees of Oregon Health and Science University engaged in teaching or other school activity.
HB 2641	Provides that employer-funded portion of pension or retirement plan of public employee is subject to execution if employee is convicted of felony and court determines that conduct on which conviction is based occurred while employee was engaged in performance of duties, or that employee's position allowed employee to engage in conduct that is basis of conviction.

HB 2735	Provides that state agency may employ retired member of Public Employees Retirement System to fill position only if state agency certifies to Oregon Department of Administrative Services that state agency has made good faith efforts for at least 45 days to fill position and public employer has been unable to find suitable person who is not retired member to fill position. Requires school district to make similar certification to Department of Education. Provides that state agency may not pay retired member higher wage than wage provided for lowest step of state pay classification for position. Provides that school district may not pay retired member higher wage than lowest wage paid by school district for position
HB 2925	Classifies certain public employees as police officers for purposes of benefits under Public Employees Retirement System. Applies only to service rendered on or after effective date of Act.
HB 3041	Allows member of Public Employees Retirement System who is police officer to receive retirement credit for service as public safety officer with another state, or political subdivision of another state, before being employed in position that entitled member to credit in system. Requires lump sum payment of full cost of retirement credit
HB 3237	Requires state agencies to prepare fiscal impact statement for each agency rule in effect. Requires agencies to submit report summarizing fiscal impacts of rules to President of Senate and Speaker of House of Representatives by October 1, 2006.
HB 3262	Provides that member of Public Employees Retirement System who acquires retirement credit for active service in Armed Forces may elect to have service retirement allowance determined under any calculation for which person is eligible, even if calculation does not produce largest service retirement allowance.
HB 3410	Allows eligible state employee who has deferred compensation to direct Public Employees Retirement Board to pay all or part of deferred amounts to individual rollover account. Allows use of moneys in rollover accounts established by members of Public Employees Retirement System to pay costs of restoring forfeited creditable service and purchasing retirement credit as authorized by law.

HB 3471	Imposes minimum fine for certain persons convicted of felony if court determines that conduct on which conviction is based occurred while person was engaged in performance of person's duties as official or employee, or that person was able to engage in conduct because of person's job or position. Provides that if person has retirement plan funded in part by person's employer, fine may not be less than 25 percent of value of employee's interest in plan. Provides that 25 percent of beneficiary's interest in retirement plan is subject to execution for purpose of satisfying judgment in criminal action.
HB 5059	The PERS budget. [Essentially dead. See SB 5558]
HB 5060	Approves new or increased fee adopted by Public Employees Retirement Board. [Essentially dead. See SB 5559]
HB 5093	The PERS budget – The House version.
HB 5094	Approves new or increased fee adopted by Public Employees Retirement Board – The House version.