OREGON PUBLIC EMPLOYEES RETIREMENT BOARD

Friday September 15, 2006 11:00 A.M. & 1:00 P.M.	PERS 11410 SW 68th Parkway Tigard, OR

	ITEM	PRESENTER
A. Contested Case Hearings – 11:00 A.M.		
1. 2. 3. 4. 5. 6. 7.	Contested Case Hearing for Christine Toomey Contested Case Hearing for Danny Byington Contested Case Hearing for Janet Bailey Contested Case Hearing for Edgardo L. Colón Contested Case Hearing for Kay Bell Contested Case Hearing for Lorinda Gauthier Contested Case Hearing for Larry Hamblin	KUTLER / RODEMAN
Break		
B. Administration – 1:00 P.M.		
1. 2.	July 21, 2006 Board Meeting Minutes Director's Report a. Forward-Looking Calendar b. OIC Investment Report c. Budget Report d. HB2020 Update e. 2007 Legislation Update	CLEARY
C. Consent Action and Information Items		
1. 2. 3. 4. 5. 6. 7. 8.	Action on Contested Cases Notice of Rulemaking on Employer Lump-Sum Payments Notice of Rulemaking on P & F Purchase of Unit Benefits Notice of Rulemaking on Credit for Military Service under USERRA First Reading of OAR 459-075-0200, P & F Definition of "Immediately" First Reading of Oregon Savings Growth Plan (OSGP) Rules a. OAR 459-050-0025, Advisory Committee b. OAR 459-050-0037, Trading Restrictions c. OAR 459-050-0070, Catch-up Programs d. OAR 459-050-0077, Loan Program and OAR 459-050-0150, Unforeseeable Emergency Withdrawal Adoption of OAR 459-080-0250, IAP Account Installments Repeal of OAR 459-070-0900, PERS/OPSRP Transitional Rules	RODEMAN
D. Action and Discussion Items		
1.	2005 Valuation System-wide Results	MERCER
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.*

Level 1 - Public

MEETING DATE	9/15/06
AGENDA ITEM	B.1. Minutes

PUBLIC EMPLOYEES RETIREMENT BOARD

PERS Board Meeting
1:00 P.M.

July 21, 2006
Tigard, Oregon

MINUTES

Board Members:	**Staff:**		
Mike Pittman, Chair	Paul Cleary, Director	Joe DeLillo	Gay Lynn Bath
Brenda Rocklin, Vice-chair	Steve Delaney	Dave Tyler	Jeff Marecic
Eva Kripalani	Donna Allen	Craig Stroud	David Crosley
Thomas Grimsley	Steve Rodeman	Dale Orr	Helen Bamford
James Dalton	Brendalee Wilson	Jeanette Zang	
	Brian DeForest	Dale Lucht	
Others:			
Dick McQueen	Bill Hallmark (phone)	Pat West	DeeAnn Hardt
Alison Chan	Annette Strand	Hasina Squires	Jim Green
Maria Keltner	Brenda Majdic	Kevin McCart	Linda Ely
Ardis Belknap	Betsy Hammond	Duane Bales	Bruce Adams
Nancy Brewer	Katie Schoals	Cathy Bloom	Deborah Tremblay
Denise Yunker	BethAnne Darby	Myrnie Daut	Greg Hartman
Karla Alderman	David Wimmer	Karen Artiaco	Bill McGee
Joseph Malkin	Jim Schillmoller	Keith Kutler	E. Marie Laird
Dallas Weyand			

Chair Pittman called the meeting to order at 1:00 P.M.

ADMINISTRATION

B.1. BOARD MEETING MINUTES OF JUNE 16, 2006

Brenda Rocklin moved and Eva Kripalani seconded to approve the minutes of the June 16, 2006 meeting. The motion passed unanimously.

B.2. DIRECTOR'S REPORT

Director Paul Cleary presented the Forward-Looking Calendar and noted that the October Board meeting will include an update on the RIMS conversion project that will be presented to the Joint Legislative Committee on Information Management and Technology (JLCIMT) in November. Cleary said the year-to date Oregon Investment Council (OIC) report shows a return of about 4% on the Regular account investments through May 31. Cleary said that the September Budget report would show actual expenditure through the end of fiscal year 2006 and the accumulated budget variances for the first half of the biennium. Cleary reported that additional employer outreach efforts are being planned by staff to ensure more accurate and timely employer reporting. Cleary introduced Jason Stanley who was recently hired as PERS Director of Internal Audits, coming to PERS from the Oregon Department of Transportation.

CONSENT ACTION AND INFORMATION ITEMS

C.1. ACTION ON CONTESTED CASE HEARINGS

Steve Rodeman, Policy, Planning and Legislative Analysis Division (PPLAD) administrator, presented staff recommendations as detailed below in the contested case hearings of Susan L. Boracci, Rosrin Toland, Christine Toomey, Danny Byington, and Janet Bailey.

It was moved by Mike Pittman and seconded by James Dalton to approve the staff recommendations. The motion passed unanimously.

Under that motion, the Board acted on each contested case item and direct staff as follows:

ITEM A.1. CONTESTED CASE HEARING FOR SUSAN L. BORACCI
Adopted the draft final order as presented in the contested case hearing of Susan L. Boracci.

ITEM A.2. CONTESTED CASE HEARING FOR ROSLIN TOLAND
Adopted the draft final order as presented, with grammatical changes, in the contested case hearing of Roslin Toland.

ITEM A.3. CONTESTED CASE HEARING FOR CHRISTINE TOOMEY
Postponed consideration in the contested case hearing of Christine Toomey to the September 2006 Board meeting.

ITEM A.4. CONTESTED CASE HEARING FOR DANNY BYINGTON
Postponed consideration in the contested case hearing of Danny Byington to the September 2006 Board meeting.

ITEM A.5. CONTESTED CASE HEARING FOR JANET BAILEY
Postponed consideration in the contested case hearing of Janet Bailey to the September 2006 Board meeting.

C.2. NOTICE OF OAR 459-075-0200, P & F DEFINITION OF "IMMEDIATELY"

Rodeman presented the required rulemaking notice, indicating that the proposed rules would clarify the requirements for retirement for Police and Fire (P & F) members under OPSRP by specifying what would be considered five years of continuous employment in a qualifying position "immediately" preceding the effective date of retirement.

C.3. NOTICE OF OAR 459-080-0250, IAP ACCOUNT INSTALLMENT PAYMENTS

Rodeman presented the required rulemaking notice, indicating that the proposed rule changes would improve processing of IAP installment retirement payments in conformance with statutory provisions as amended by the 2005 Legislature.

C.4. <u>NOTICE OF PROPOSED REPEAL OF OAR 459-070-0900, PERS/OPSRP TRANSITIONAL RULES</u>

Rodeman presented the required rulemaking notice, and noted that the transitional rules are no longer needed as administrative processes and forms have now been developed and are in use. Repealing the outdated rules would reduce potential confusion over administrative processes.

C.5. <u>OREGON SAVINGS GROWTH PLAN (OSGP) OVERVIEW, COMMITTEE APPOINTMENTS, AND RULE NOTICES</u>

Rodeman presented a history and overview of the Oregon Savings Growth Plan (OSGP) deferred compensation program prepared by OSGP Manager Gay Lynn Bath. Rodeman then discussed the recommended Advisory Committee member appointments and the required rulemaking notices for the following rules:

Notice of OAR 459-050-0025, Advisory Committee - Proposed changes would improve the process regarding committee member appointments and replacements.

Notice of OAR 459-050-0038, Trading Restrictions - Proposed changes would restrict trades and transfers of funds that may adversely effect overall fund performance.

Notice of OAR 459-050-0070, Catch-up Programs - Proposed changes would remove unnecessary restrictions on participants use of the 3-year Catch-Up program.

Notice of OAR 459-050-0077, Loan Program and OAR 459-050-0150, Unforeseeable Emergency Withdrawal – Proposed changes would create a loan program to allow participants to borrow from their deferred compensation account.

It was moved by Brenda Rocklin and seconded by Tom Grimsley to approve the appointment of Judy Scales as a new OSGP Advisory Committee member and approve a second term for Committee member Frank Goulard. The motion passed unanimously.

C.6. <u>*STRUNK / EUGENE* IMPLEMENTATION</u>

Craig Stroud, Administrator of the Benefit Payments Division, presented a final project management and business plan for the *Strunk / Eugene* implementation project. Stroud said that staff is presently refining and testing the tools and procedures for processing benefit adjustments and accounts receivable. Stroud said that regular progress reports would be presented at future Board meetings.

The Board commended Stroud for the hard work and dedication of the Benefits Payments Division staff in developing the *Strunk / Eugene* project plan.

<u>ACTION AND DISSCUSSION ITEMS</u>

D.1. <u>2005 EXPERIENCE STUDY: VALUATION METHODS AND ASSUMPTIONS APPROVAL</u>

Annette Stand, Bendra Majdic and Bill Hallmark of Mercer presented the 2005 Experience Study summarizing the results and the related recommended changes in actuarial valuation methods and assumptions. There were no recommended changes to the PERS actuarial methods that the Board had previously approved. Mercer recommended applying the same actuarial methods to OPSRP but to use a 20-year amortization period from the start. Mercer than detailed their recommended economic assumptions, demographic assumptions and allocation procedures for use in the 2005 system-wide valuation.

It was moved by James Dalton and seconded by Brenda Rocklin to approve Mercer's methodology and assumption recommendations outlined in the 2005 Experience Study except for the OPSRP amortization period, which Dalton recommended be reduced to 16 years. The motion passed unanimously.

D.2. HB 2189 – LUMP-SUM PAYMENT EMPLOYEE CONTRIBUTIONS

Cleary provided an update on HB 2189 implementation options for the required retroactive member contributions to the Individual Account Program (IAP) and associated account earnings. Cleary said final recommendations would be presented in November after the IAP remediation process was completed and more information was available on earnings rates and adjustment processes.

D.3. FY 2007 – 09 AGENCY REQUEST BUDGET – APPROVAL TO SUBMIT

Brian DeForest, Budget and Fiscal Operations Manager presented the agency's 2007 – 09 proposed budget. DeForest detailed the six policy packages proposed for inclusion in the Agency Request Budget. DeForest answered questions from the Board regarding the proposed permanent and limited duration positions associated with the policy packages. Cleary noted that the position count was substantially reduced from what Division Administrators had originally requested and that he and DeForest had further refined the packages and the overall budget presentation following review and discussion with Vice-chair Rocklin.

It was moved by Brenda Rocklin and seconded by Eva Kripalani to approve the August 1, 2006 submission of the Agency Request Budget for review and inclusion in the Governor's Recommended Budget. The motion passed unanimously.

D.4. 2007 LEGISLATIVE CONCEPTS UPDATE

Deputy Director Steve Delaney summarized nine legislative concepts that were approved by the Department of Administrative Services (DAS) for forwarding to Legislative Counsel.

Following Board discussion on the legislative concepts, Vice-chair Rocklin said that LC 459/03 – Elimination of "Break in Service" was more appropriately a legislative issue as it would impact benefits and she did not support it as a PERS Board legislative concept. Tom Grimsley indicated similar concerns with LC 459/06 - Modification of the Definition of Covered Salary and proposed that this concept be dropped as well.

James Dalton noted that neither proposal may ultimately be approved by the Board when up for final review in November, but that it would be useful to continue the dialogue with stakeholders on any concepts that could simplify the PERS plan and related administration. With that understanding, the Board directed staff to continue the bill drafting process with Legislative Counsel, and return in November for a final Board determination on which bills would actually be submitted to the 2007 Legislative Session.

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.
Chair Pittman adjourned the meeting at 4:15 P.M.

Respectfully submitted,

Paul R. Cleary
Executive Director

Prepared by Donna R. Allen, Executive Assistant

MEETING DATE	**9-15-06**
AGENDA ITEM	**B.2.a** **Calendar**

PERS Board Meeting
Forward-Looking Calendar

October 2006

Meeting: 1:00 P.M. October 20, 2006

Contested Case Hearing for Larry Lenon
Contested Case Hearing for Larry Hamblin
Petition for Reconsideration for Richard McQueen
Notice of Withdrawals/Redeposits Rules
First Reading of OAR 459-009-0090, Employer Lump-Sum Payments
First Reading of OAR 459-016-0100, P & F Units
First Reading of USERRA Rules
Adoption of OAR 459-075-0200, P & F Definition of “Immediately”
2007 Legislative Concepts Update
RIMS Conversion Project (RCP) Update

November 2006

Meeting: 1:00 P.M. November 17, 2006

Contested Case Hearing for Kathleen Jones
Adoption of Oregon Savings Growth Plan (OSGP) Rules
Adoption of OAR 459-009-0090, Employer Lump-Sum Payments
Adoption of OAR 459-016-0100, P & F Units
Adoption of USERRA Rules
2005 Valuation Employer Rates
Approval of 2007 Legislative Concepts

December 2006

OIC Meeting: December 6, 2006
Joint meeting with OIC on OPERF Asset/Liability Study

No PERS Board Meeting Scheduled

Oregon

Theodore R. Kulongoski, Governor

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	B.2.c. Budget

TO: Members of the PERS Board

FROM: Brian DeForest, Budget and Fiscal Operations Manager

SUBJECT: September 2006 Budget Report

2005-07 ACTUAL EXPENDITURES AND PROJECTIONS

Operating expenditures for the months of June and July totaled $2,372,974 and $2,795,381 respectively. With more than half of the biennium on the books, the agency has expended $35,130,883, or 44.83%, of the Legislatively Approved Budget for operations. The expenditure 'burn rate' is anticipated to continue at its current pace even as the agency fully implements the Strunk/Eugene project.

BUDGET VARIANCES

Total accumulated limitation savings for the biennium now total approximately $8.2 million with the current positive variance on budget reports standing at $5.4 million. General operations produced little change in budget variances over the last two months increasing from $0.5 million to $0.8 million due mainly from re-projecting expenditures for the second half of the biennium. The analysis below illustrates how the savings are being utilized this biennium. There are two projects that utilized limitation savings. First, the Strunk/Eugene project was funded from $1.5 million of vacancy savings. Second, the HB2020 project was carried over from the 2003-05 biennium and completed with $1.3 million of current biennium savings (a similar amount went unspent last biennium and did not increase overall project costs). Restructuring the deliverable schedule for the RIMS Conversion Project resulted in an overall reduction of $4.4 million in anticipated expenditures for this biennium. That incremental expenditure amount will now be requested to be authorized in the next biennium. There is an additional $0.2 million of accumulated savings from dedicated funding for legal services.

Limitation savings analysis	
Accumulated limitation savings	$8.2 million
Less real/projected expenditures funded from savings:	
Strunk/Eugene Project	(1.5)
HB2020 project	(1.3)
Sub-total (as displayed on budget reports)	$5.4 million
Less projected savings:	
RCP – to be unscheduled for this biennium	(4.4)
Legal – dedicated funding savings	(0.2)
Remaining general operations savings	$0.8 million

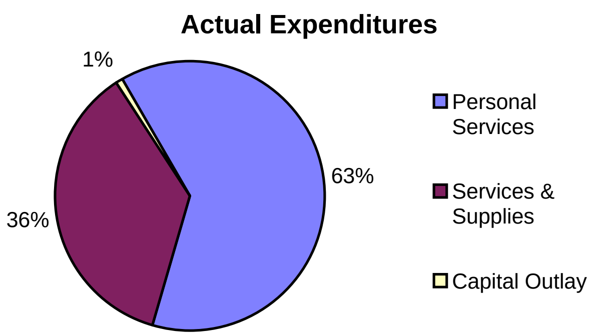
RIMS CONVERSION PROJECT

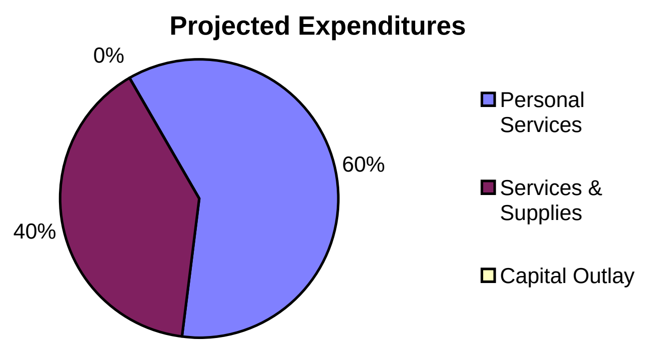
The Budget Unit worked with the RIMS Conversion Project to re-project expenditures for the remainder of the biennium to reflect the re-baselining of the Project. A significant amount of limitation, $4.4 million, will go unspent in the current biennium as the project deliverable timelines are modified and pushed into the 2007-09 biennium when the expenditures are now anticipated. The Budget Unit will request the limitation to be unscheduled by the Department of Administrative Services from the Agency's budget. There is no change to the total Project budget of $27.5 million.

2005-07 Agency-wide Operations - Budget Execution
Summary Budget Analysis
For the Month of: July 2006

Biennial Summary

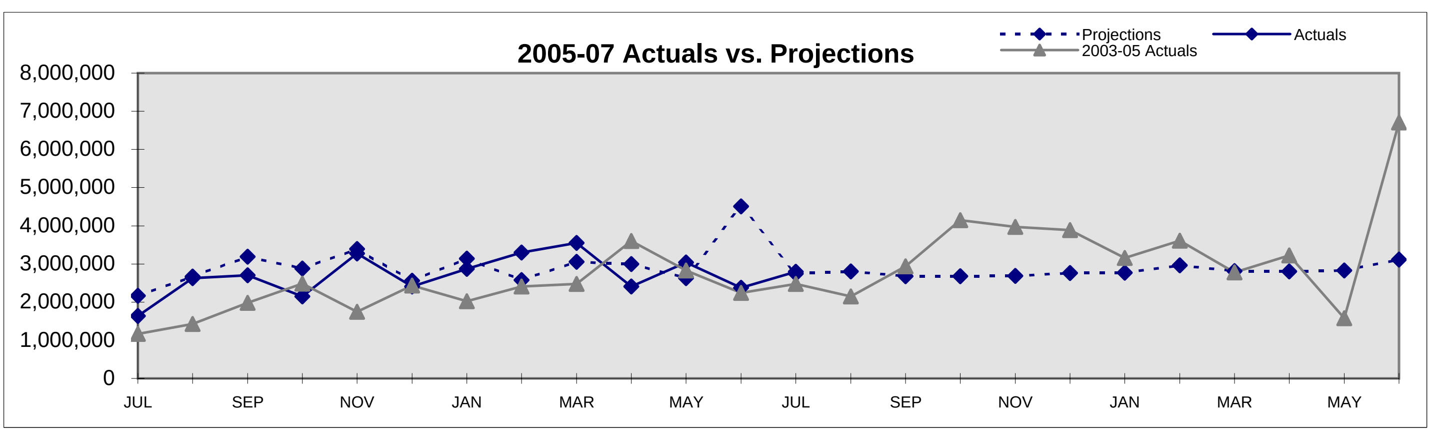
Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2005-07 LAB	Variance
Personal Services	22,084,511	22,802,537	44,887,048	46,953,971	**2,066,923**
Services & Supplies	12,796,413	15,046,693	27,843,106	30,384,327	**2,541,221**
Capital Outlay	249,959		249,959	1,033,494	**783,535**
Special Payments					
Total	**35,130,883**	**37,849,230**	**72,980,113**	**78,371,792**	**5,391,679**





Monthly Summary

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Projected Expenditures
Personal Services	1,747,456	1,991,187	243,731	1,698,809	2,072,958
Services & Supplies	1,047,925	755,008	(292,917)	984,339	1,367,881
Capital Outlay				19,228	
Special Payments					
Total	**2,795,381**	**2,746,195**	**(49,186)**	**2,702,376**	**3,440,839**



2005-07 Agency-wide Operations - Budget Execution

Spending Plan - Actual and Estimated Expenditures

2005-07 Summary

B.2.c. Attachment

	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.	05-07 LAB BUDGET	VARIANCE
Personal Services														
Salaries & Wages	3,102,084	3,128,099	3,252,118	3,275,416	3,666,846	3,920,654	4,024,993	4,078,992	**13,848,673**	14,600,530		**28,449,203**	29,846,673	**1,397,470**
Temporary Appointments	40,406	43,071	29,041	36,809	15,590	6,200	28,600	25,137	**163,916**	60,937		**224,853**	156,922	**(67,931)**
Overtime	33,466	71,029	79,550	56,890	39,263	14,072	45,005	33,238	**266,278**	106,235		**372,513**	540,505	**167,992**
Shift Differential	1,326	1,615	2,139	1,878	883	375	375	375	**7,591**	1,375		**8,966**	1,980	**(6,986)**
All Other Differential	34,599	54,556	65,171	63,587	35,785	16,932	17,049	17,069	**242,450**	62,298		**304,748**	209,350	**(95,398)**
ERB Assessment	1,289	1,311	1,341	1,352	1,765	1,979	1,979	1,979	**5,738**	7,258		**12,996**	12,700	**(296)**
Wokers' Comp. Insurance (SA														
PERS	449,000	451,927	439,938	427,041	524,941	578,182	597,990	604,171	**1,912,276**	2,160,915		**4,073,191**	4,481,716	**408,525**
Pension Bond Contribution	207,759	205,184	207,139	201,975	226,836	243,081	249,550	252,898	**889,188**	905,233		**1,794,420**	1,756,591	**(37,829)**
Social Security Taxes	243,827	249,974	261,324	262,386	287,289	302,805	314,876	317,843	**1,105,724**	1,134,600		**2,240,324**	2,356,099	**115,775**
Unemployment Comp.		16,576		4,077					**20,654**			**20,654**	37,388	**16,734**
Workers' Comp. Assess.	2,484	2,335	2,370	2,358	3,094	3,593	3,593	3,593	**10,246**	13,175		**23,420**	26,833	**3,413**
Mass Transit Tax	19,249	19,844	20,556	20,687	22,382	23,524	24,150	24,474	**87,262**	87,603		**174,865**	185,833	**10,968**
Flexible Benefits	756,424	772,987	849,681	861,809	908,045	969,217	1,034,367	1,034,367	**3,524,517**	3,662,378		**7,186,895**	7,308,467	**121,572**
Vacancy Savings													(155,537)	**(155,537)**
Reconciliation Adj.													188,451	**188,451**
Unscheduled P.S.														
Total Personal Services	**4,891,915**	**5,018,508**	**5,210,367**	**5,216,265**	**5,732,718**	**6,080,614**	**6,342,526**	**6,394,136**	**22,084,511**	**22,802,537**		**44,887,048**	**46,953,971**	**2,066,923**
		actual				*estimated*								
Services & Supplies														
Instate Travel	12,995	24,326	14,906	19,723	10,104	18,975	13,475	18,550	**75,305**	57,750	142	**133,197**	116,894	**(16,303)**
Out-of-state Travel			40	11,252	300	300	300	300	**11,292**	1,200		**12,492**	31,127	**18,635**
Employee Training	30,385	44,332	39,369	36,044	34,558	39,165	39,165	40,265	**157,029**	146,255		**303,284**	488,069	**184,785**
Office Expenses	91,727	121,888	283,010	200,313	245,074	240,431	240,790	243,449	**780,830**	885,851		**1,666,681**	2,063,722	**397,041**
Telecommunications	25,713	69,518	65,443	62,725	75,004	68,249	68,249	68,249	**252,904**	250,247		**503,151**	537,685	**34,534**
St. Gov. Svc. Chg.	595,854	135,567	109,154	43,618	417,083	67,620	67,620	67,620	**1,256,195**	247,940		**1,504,135**	1,504,171	**36**
Data Processing	266,701	506,983	426,702	317,110	489,627	495,000	495,000	525,000	**1,662,123**	1,860,000		**3,522,123**	5,256,990	**1,734,867**
Publicity/Publications	7,318	6,251	18,487	27,825	28,473	16,100	14,200	22,100	**75,456**	65,300		**140,756**	292,704	**151,948**
Professional Services	545,896	1,213,796	1,640,303	695,945	650,623	577,309	741,959	773,292	**4,246,095**	2,593,028	63,904	**6,903,028**	2,862,534	**(4,040,494)**
IT Professional Services		360,233	1,343,483	795,597	164,393	90,000	90,000	90,000	**2,603,707**	330,000	6,729,575	**9,663,282**	13,897,953	**4,234,671**
Attorney General	48,913	72,187	113,494	96,841	128,438	141,000	141,000	146,500	**365,873**	522,500		**888,373**	947,681	**59,308**
Dispute Res. Svc.	957	3,910	16,510	13,525	7,499	5,500	6,200	10,000	**37,901**	26,200		**64,101**	73,736	**9,635**
Empl. Recruit./Devel.	8,863	24,770	12,469	16,325	11,192	15,000	15,000	15,000	**63,619**	55,000		**118,619**	58,036	**(60,583)**
Dues & Subscriptions	4,943	10,106	5,799	5,388	2,334	1,775	2,175	2,275	**27,020**	7,775		**34,795**	50,702	**15,907**
Facility Rental	104,691	95,696	96,140	96,223	94,753	97,368	99,018	132,024	**424,791**	391,122		**815,913**	703,597	**(112,316)**
Fuels/Utilities	23,497	25,490	30,773	27,089	27,705	27,000	27,000	36,000	**116,554**	108,000		**224,554**	121,063	**(103,491)**
Facility Maint.	47,868	43,335	47,231	86,504	80,190	76,251	76,251	101,668	**254,294**	305,004		**559,298**	724,698	**165,400**
Agency/Program S & S														
Other COP Costs		371	1,090	765	736				**2,962**			**2,962**	6,500	**3,538**
Other S & S	1,095	8,915	(3,237)	5,246	1,068				**13,087**			**13,087**	2,700	**(10,387)**
Expendable Property	72,658	19,094	16,087	16,353	27,393	7,350	7,350	7,600	**145,985**	27,900		**173,885**	193,465	**19,580**
IT Expendable Property		23,267	35,037	161,673	43,411	60,000	60,000	60,000	**223,389**	220,000	152,000	**595,389**	450,300	**(145,089)**
Unscheduled S & S														
Total Services & Supplies	**1,890,074**	**2,810,037**	**4,312,289**	**2,736,087**	**2,539,960**	**2,044,393**	**2,204,752**	**2,359,892**	**12,796,413**	**8,101,072**	**6,945,621**	**27,843,106**	**30,384,327**	**2,541,221**
Capital Outlay														
Office Furn./Fixture													30,868	**30,868**
Telecomm. Equip.													5,589	**5,589**
Technical Equipment													57,161	**57,161**
Data Proc.-Software			197,783	(129,701)					**68,082**			**68,082**	447,019	**378,937**
Data Proc.-Hardware	181,877								**181,877**			**181,877**	492,857	**310,980**
Building & Structure														
Total Capital Outlay	**181,877**		**197,783**	**(129,701)**					**249,959**			**249,959**	**1,033,494**	**783,535**
Special Payments														
Total Special Payments														
Total Expenditures	**6,963,866**	**7,828,545**	**9,720,439**	**7,822,652**	**8,272,678**	**8,125,007**	**8,547,278**	**8,754,027**	**35,130,883**	**30,903,609**	**6,945,621**	**72,980,113**	**78,371,792**	**5,391,679**

Percent of 2005-07 LAB Expended:	**44.83%**
Percent of Biennium Expired:	**54.17%**

Oregon

Theodore R. Kulongoski, Governor

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September 15, 2006

MEETING DATE	09-15-06
AGENDA ITEM	B.2.d. HB2020 Update

TO: Members of the PERS Board

FROM: Paul Cleary, Executive Director

SUBJECT: Update of HB2020 Employer Reporting and Accounts Receivable Plans

The agency is in its third year of administering the HB2020 program and using the new employer electronic reporting system. The Membership and Employer Relations Section (MERS) is working with 875 employer-reporting units to process outstanding 2005 and 2006 employer reports, as well as to clear up any un-posted 2004 records. In addition in 2006, PERS implemented electronic payment for employers and a new accounts receivable process. Updates are provided below.

Employer Reporting
The table below shows the status as of September 1, 2006 of employer reports and member records for calendar years 2005 and 2006.

	Calendar Year 2005	Calendar Year 2006
Reports due (estimated):		
▪ Number	12,752	7,806
▪ Percent	99.6 %	97.4 %
Outstanding reports	49	203
Reports fully posted at 100%:		
▪ Number	12,442	6,643
▪ Percent	97.6 %	85.1 %
Records due (estimated)	3,120,504	1,930,036
Records not posted	4,223	32,424
Contributions posted	$ 406,908,624	$ 269,503,145
Contributions not posted	$ 107,560	$ 846,543

Employers' year-over-year statistics have improved. Last year at this time, only 99 % of prior year reports due were submitted and 96% of the prior year reports were 100% posted. Currently, for 2005 we have 99.6 % of all required reports submitted and 98 % of those are 100% posted. Likewise last year at this time, only 95% of the current year reports were submitted and only 80 % of those reports were 100 % posted. For 2006, 97% of current year reports have been submitted and 85% of those reports are 100% posted.

At the end of April 2006, PERS implemented a change to the employer reporting file format to assist employers in complying with HB2189. This change created an additional salary field for employers to report lump sum payments that are now considered subject salary for IAP purposes. Employers have until January 1, 2007 to comply with the new reporting format, so we anticipate some volatility in our statistics as employers correct prior year reports and move to the new file format. Since April, employers have made great strides in reporting in the additional data and this is reflected in the decrease in the number of unposted records for 2004 and 2005. Since our July report, the number of unposted records has decreased by 50%, and the dollar amount of contributions not posted is approximately $100,000 (or, less than .3% of anticipated total yearly contributions).

Accounts Receivable Plan

Besides assisting employers with overdue reports and electronic payment, PERS implemented an accounts receivable plan to proactively collect receivable balances that are more than 30 days overdue. As of September 1, 2006, we have 390 outstanding invoices with an aggregate balance of approximately $1,036,000. We are following up with these employers by phone and letters each month.

Oregon

Theodore R. Kulongoski, Governor

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MEETING DATE	**09-15-06**
AGENDA ITEM	**B.2.e.** **Legislative**

September 15, 2006

TO: Members of the PERS Board

FROM: Steve Delaney, PERS Deputy Director

SUBJECT: PERS 2007 Legislation Update

To date the PERS Board has approved nine legislative proposals for drafting by Legislative Counsel, and further discussion and review by the PERS Board's Legislative Advisory Committee. Legislative Counsel has begun to assign their own Legislative Concept numbering convention to those proposals, as indicated below in bold:

LP 459-01	**LC 456**	EQUAL TO OR BETTER THAN STUDY	Eliminate the mandatory biennial actuarial review.
LP 459-02	**LC 665**	EARNED WHEN EARNED	Use a modified "earned when paid" definition for all employers. Presently local governments use an "earned when earned" definition.
LP 459-03	**None yet**	ELIMINATE "BREAK IN SERVICE"	To simplify the plan and ease administrative burden.
LP 459-04	**LC 457**	WITHDRAWALS	A withdrawal (refund) from one program shall be considered a request to withdraw (refund) from all programs.
LP 459-06	**None yet**	MODIFY DEFINITION OF COVERED SALARY	Use a single definition for all programs.
LP 459-08	**LC 458**	NOTICE OF CONTEST	Change title of challenge to member's retirement benefit from Notice of Contest (with no option to go to Contested Case, despite the name) to Notice of Dispute.
LP 459-09	**LC 666**	TOTAL LUMP SUM RETIREMENT OPTION	Directs that members who take a total lump sum option may not return to PERS-covered employment for six months following retirement.

LP 459-10	**LC 635**	OREGON INVESTMENT COUNCIL MEMBERSHIP	Removes requirement for a PERS Board member to also serve on the OIC.
LP 459-11	**LC 636**	EXCEPTION TO "BREAK IN SERVICE"	Exempts member restored to employment by arbitration from "break in service" provisions.

PERS staff is actively developing proposal language in cooperation with Legislative Counsel. Three concepts have been provided by Legislative Counsel as finals, and have been provided to the PERS Board's Legislative Advisory Committee for comment:

LC 458 NOTICE OF CONTEST

LC 635 OREGON INVESTMENT COUNCIL MEMBERSHIP

LC 636 EXCEPTION TO "BREAK IN SERVICE"

Please note: *TWO* versions of LC 636 were received. The Legislative Advisory Committee had two differing viewpoints regarding this concept, so Legislative Counsel was asked to produce both versions.

- LC 636 Only exempts a member who is restored "pursuant to a judgment or administrative order."
- LC 636-1 Adds to the exemption language "pursuant to a judgment, administrative order, settlement or other resolution of the challenge."

NEXT STEPS

The Legislative Advisory Committee is not meeting to discuss the three concepts received to date, the committee is providing comment by e-mail instead. As soon as PERS receives concept language for the larger issues, such as LP 459-03 [Eliminate "Break In Service"] and LP 459-06 [Modify Definition of Covered Salary], PERS staff will contact representatives of both employer and labor stakeholders to determine if a meeting is to be held, and when.

PERS staff will provide a legislative update report in October 2006.

The PERS Board will consider all concepts in November 2006 for final review and approval of those concepts to be forwarded for introduction as bills.

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	**C.1.** **Contested Cases**

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Action on Contested Cases

OVERVIEW

Actions: Staff recommends the following actions be taken in relation to the cases scheduled for deliberation at this meeting:

1. Adopt the Draft Final Order as presented in the contested cases of Christine Toomey, Danny Byington, Janet Bailey, Kay Bell, Edgardo Colón, and Lorinda Gauthier.
2. Adopt a motion to delay consideration of the proposed order in the contested case of Larry Hamblin until the October 2006 Board Meeting.

BOARD OPTIONS

The Board may:

1. Adopt the staff recommendations as presented above.
2. Adopt one of the alternative directions specified in the memos related to each of these contested cases.
3. Take no action as to the Draft Final Orders. The proposed orders would become final as their respective deadlines passed.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- If the Board does not adopt: The specific outcomes and alternatives vary but are more fully explained in the memos accompanying each individual case.

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	C.2. UAL Lump-sum

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Notice of Rulemaking for Lump-Sum Payment Rules
OAR 459-009-0084, *Unfunded Actuarial Liability Lump-Sum Payments by Employers Participating in an Actuarial Group*
OAR 459-009-0085, *Unfunded Actuarial Liability Lump-Sum Payments by Employers Not Participating in an Actuarial Group*
OAR 459-009-0090, *Lump-Sum Payments by Employers in Excess of an Existing Unfunded Actuarial Liability*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reasons:

  1. Adopt a rule to provide a procedure for lump-sum payments by employers that do not have an existing unfunded actuarial liability; and

  2. Amend current lump-sum payment rules to eliminate the requirement that PERS and the employer enter into an intergovernmental agreement for the actuarial calculation, and to extend the deadline for completing the actuarial calculation.
- Subject: Employer Lump-Sum payments
- Policy Issues:
  1. Should employers be entitled to make lump-sum payments towards their PERS obligations when they do not have an existing unfunded actuarial liability?

BACKGROUND

ORS 238.225 allows a participating employer to make a voluntary lump-sum payment against its PERS liabilities. Current rules allow for such a payment by an employer with an unfunded actuarial liability, but do not provide a procedure for such a payment by an employer that is fully funded.

SUMMARY OF RULES AND POLICY ISSUE

1. *Should employers be entitled to make lump-sum payments towards their PERS obligations when they do not have an existing unfunded actuarial liability?*

The lump-sum payment program was developed predominantly for employers with an unfunded actuarial liability ("UAL") to make a single payment to be applied against that liability. Employers who do not have a UAL, based on the most recent actuarial valuation, have inquired about having access to the lump-sum program so that they can "buy down" their PERS rate even if they are considered fully funded. The statute certainly doesn't restrict lump-sum payments only to those employers who have a UAL, and staff could not identify any policy reasons against allowing employers that option.

OAR 459-009-0090 is a new rule that would provide a procedure for a fully funded employer (based on the most recent actuarial valuation) to make a lump-sum payment, including establishing a timeline for making a request and calculating the employer's total liability; minimum and maximum payment amounts; and treatment of the payment upon receipt. Different minimum payment thresholds are established based upon the employer's total liability, to ensure that small employers have the same opportunity to make lump-sum payments as large employers.

OAR 459-009-0084 and 459-009-0085 are existing rules dealing with lump-sum payments for employers with a UAL. Those rules currently require that the employer and PERS enter into an intergovernmental agreement (IGA) under which the employer prepays the PERS actuary for the cost of the required UAL calculation. In practice, these IGAs have not proven to be necessary because the provisions they must contain are already included in the rule language and/or in statute. The IGAs are therefore an unnecessary administrative burden; these rule modifications remove that requirement.

OAR 459-009-0084 and 459-009-0085 also provide a 30-day timeframe from receipt of the employer's initial UAL calculation request through completion of the calculation by the actuary. The current PERS actuary, Mercer Human Resource Consulting, uses a different billing process from the previous PERS actuary and cannot process the employer's prepayment and complete the requested UAL calculation in 30 days. The timeframe is therefore being extended to 45 days.

LEGAL REVIEW

The attached draft has been submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rules are presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing is scheduled for September 26, 2006 at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends on October 27, 2006 at 5:00 p.m.

IMPACT

Mandatory: No, but the rule is within the authority granted by statute.

Impact: The modifications conform to state law and do not have a material fiscal or economic impact.

Cost: Employers that elect to make a lump-sum payment under these rules will incur the cost of the actuarial calculation, the lump-sum payment amount, and administrative fees to maintain the resulting side account. There is not expected to be any significant cost incurred by members, PERS administration, or the PERS Fund.

RULEMAKING TIMELINE

August 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
September 1, 2006	*Oregon Bulletin* published the Notice.
September 15, 2006	PERS Board notified that staff began the rulemaking process.
September 26, 2006	Rulemaking hearing to be held at 2:00 p.m. in Tigard.
October 20, 2006	First Reading of rule.
October 27, 2006	Public comment period ends at 5:00 p.m.
November 17, 2006	Staff will propose adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

NEXT STEPS

A hearing is scheduled for September 26, 2006. The rule is scheduled to be brought before the PERS Board for the first reading on October 20, 2006 with adoption scheduled for the November 17, 2006 meeting.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 009 – PUBLIC EMPLOYER

459-009-0084

Unfunded Actuarial Liability Lump-Sum Payments by Employers Participating in an Actuarial Group

Purpose. The purpose of this rule is to establish procedures and requirements pursuant to ORS 238.225 for the adjustment of employer contribution rates when an unfunded actuarial liability lump-sum payment is made by an individual public employer participating in an actuarial group.

(1) Definitions. For the purposes of this rule:

(a) "Unfunded Actuarial Liability Lump-Sum Payment" means any employer payment:

(A) That is not regularly scheduled;

(B) That is not paid as a percentage of salary;

(C) That is made for the express purpose of reducing the employer's unfunded actuarial liability; and

(D) Where the employer has control over the timing or whether to make the payment.

(b) "Unfunded Actuarial Liability" or "UAL" means the excess of the actuarial liability over the actuarial value of assets.

(c) "Employer Contribution Account" means that portion of the Fund designated by the Board, as a portion of the net assets of the Fund, that is funded by employer contributions which are to be used for the sole benefit of members of the trust with the purpose of paying future retirement and death benefits.

(d) "Fair Value UAL" means the unfunded actuarial liability calculated using the fair **market** value of assets *[rather than the smoothed actuarial value of assets used in the most recent actuarial valuation of PERS]*.

(e) "Transition Unfunded Actuarial Liabilities" means the unfunded actuarial liabilities attributed to an individual employer for the period prior to entry into the Local Government Rate Pool, or the State and Local Government Rate Pool if the employer did not participate in the Local Government Rate Pool.

(2) Lump-sum payment amount. If an individual employer elects to make a UAL lump-sum payment under this rule, the payment must be at least 25 percent of the individual employer's UAL calculated under section *[(5)]* **(6)** of this rule or $1 million, whichever is less. Alternatively, an employer may elect to pay 100 percent of the individual employer's UAL calculated under section *[(5)]* **(6)** of this rule.

(3) Requirements. In order to make a UAL lump-sum payment, an employer must *[enter into an agreement with PERS for pre-payment of actuarial services and]* comply with the process described in sections (4) through *[(9)]* **(10)** of this rule.

(4) Initiating UAL lump-sum payment process. At least *[30]* **45** calendar days prior to the date the employer intends to make a UAL lump-sum payment, the employer shall notify the PERS *[Actuarial Services]* **Employer Liability** Coordinator in writing that it intends to make a UAL lump-sum payment. The notification shall specify:

(a) The amount of the intended lump-sum payment;

(b) Whether the intended payment is to be for 100 percent of the individual employer's calculated UAL; and

(c) No more than two potential dates for the payment. PERS staff shall notify the employer within five business days of receipt of the notification if the notification is incomplete or the process cannot be completed by the intended dates of the UAL lump-sum payment.

(5) Payment to the actuary. At least 30 calendar days prior to the date the employer intends to make a UAL lump-sum payment, the employer shall remit payment for the cost of the UAL calculation directly to the PERS consulting actuary according to the instructions on the invoice provided by the PERS consulting actuary. Failure to remit payment according to the terms of this section may result in the PERS consulting actuary not completing the employer's UAL calculation by the proposed UAL lump-sum payment date.

[(5)] **(6)** Calculation of the individual employer's UAL. Upon receipt of a complete notification and verification of payment to the actuary for actuarial services, PERS staff shall request **that** the PERS consulting actuary *[to]* calculate:

(a) 100 percent of the employer's share of the UAL for the actuarial group in which the employer is participating. This calculation shall be:

(A) Based on the fair value UAL of the actuarial pool in which the employer participates**,** from the most recent actuarial valuation;

(B) Based on the *[PERS-]*covered salary, as a proportion of the pool, reported by the employer for the year of most recent actuarial valuation; and

(C) Adjusted to reflect the effect of time from the most recent actuarial valuation to the intended date**(**s**)** of payment, using generally recognized and accepted actuarial principles and practices.

(b) The effect of the following UAL lump-sum payment amounts on the individual employer's contribution rate using the one or two potential dates for payment specified by the employer in its notification in section (4) above:

(A) 100 percent of the individual employer's UAL calculated in subsection *[(5)]***(6)** (a) of this rule;

(B) The UAL lump-sum payment amount specified by the employer in its notification, if provided; and

(C) The minimum amount of the UAL lump-sum payment under section (2) of this rule.

[(6)] **(7)** Notification of calculation. PERS staff shall notify the employer in writing of the results of the individual employer's calculation in section *[(5)]* **(6)** above, including the effective date**(s)** for the reduced employer contribution rates based on the one or two potential dates for payment. In addition, PERS shall send the employer a notification describing risks and uncertainties associated with the calculation of the individual employer's UAL.

[(7)] **(8)** Notification of UAL lump-sum payment. The employer or its agent shall notify the PERS [Actuarial Services] **Employer Liability** Coordinator in writing at least three business days prior to making a UAL lump-sum payment. This notification shall be in addition to the notification in section (4) of this rule and shall specify the amount of the payment and the date it intends to make the payment.

[(8)] **(9)** Method of payment. A UAL lump-sum payment must be made by either electronic transfer or check payable to the Public Employees Retirement System.

[(9)] **(10)** Receipt of UAL lump-sum payment. In order to adjust the employer contribution rate to that reported by PERS in section *[(6)]* **(7)** of this rule, PERS must receive the correct funds no later than five business days after the corresponding intended date of the UAL lump-sum payment specified in the notification described in section *[(7)]* **(8)** of this rule.

(a) If the UAL lump-sum payment is received by PERS on or before the intended date specified in the notification described in section *[(7)]* **(8)** of this rule or within the five business days following the intended date, the new employer contribution rate will be effective for payrolls dated on or after:

(A) The date specified in the notification; or

(B) The first of the month following receipt of the UAL lump-sum payment by PERS, whichever is later.

(b) If the UAL lump-sum payment is received by PERS more than five business days after the intended payment date, the employer's contribution rate shall be adjusted in the next actuarial valuation based on the date of receipt of the UAL lump-sum payment.

(c) If the UAL lump-sum payment received is other than any amount specified in the notification under section *[(7)]* **(8)** of this rule, the employer's contribution rate shall be adjusted to *[that]* **the** rate *[in which]* the payment amount fully funds using the actuarial calculation in subsection *[(5)]***(6)**(b) of this rule.

(d) If the UAL lump-sum payment received is less than the minimum amount described in section (2) of this rule, the funds will be returned to the employer and no adjustment will be made to the employer contribution rate.

(e) Nothing in this rule shall be construed to prevent the Board from:

(A) Adjusting employer contribution rates based upon the date of receipt of funds or errors in the notification described in section *[(6)]* **(7)** of this rule; or

(B) Taking action pursuant to ORS *[228.225]* **238.225**.

[(10)] **(11)** Actuarial treatment of the UAL lump-sum payment. For actuarial purposes, the UAL lump-sum payment made by the employer shall first be applied to any transition unfunded actuarial liabilities. The remainder of the payment shall offset any pooled unfunded actuarial liabilities and shall be treated as pre-funded contributions and additional assets for the payment of obligations of the employer under ORS *[Chapter]* **chapters** 238 **or 238A**, rather than as a reduction of those obligations.

(a) The UAL lump-sum payment shall be held in a *[UAL Lump-Sum]* **Side** Account for the benefit of the employer making the UAL lump-sum payment. On an annual basis the PERS consulting actuary shall notify PERS staff of the amount of pre-funded contributions held in the *[UAL Lump-Sum]* **Side** Account that are to be amortized for that year.

(b) After earnings or losses have been credited for the year, the amount amortized shall be transferred from the *[UAL Lump-Sum]* **Side** Account to the Employer Contribution Account of the actuarial group in which the employer is participating.

[(11)] **(12)** Crediting earnings or losses. For the purposes of this rule, *[UAL Lump-Sum]* **Side** Accounts shall be credited with all interest and other income received from investment of the account funds during the calendar year, less any amounts withheld from earnings for administrative expenses under ORS 238.610 or paid into the reserve account established under ORS 238.670(1).

[(12)] **(13)** Nothing in this rule shall be construed to convey to an employer making a UAL lump-sum payment any proprietary interest in the Public Employees Retirement Fund or in the UAL lump-sum payment made to the fund by the employer.

[(13)] **(14)** Effective date of rule. This rule shall apply to all UAL lump-sum payments initiated on or after the effective date of this rule.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.225

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 009 – PUBLIC EMPLOYER

459-009-0085

Unfunded Actuarial Liability Lump-Sum Payments by Employers Not Participating in an Actuarial Group

Purpose. The purpose of this rule is to establish procedures and requirements pursuant to ORS 238.225 for the adjustment of employer contribution rates when an unfunded actuarial liability lump-sum payment is made by an individual public employer not participating in an actuarial group.

(1) Definitions. For the purposes of this rule:

(a) "Unfunded Actuarial Liability Lump-Sum Payment" means any employer payment:

(A) That is not regularly scheduled;

(B) That is not paid as a percentage of salary;

(C) That is made for the express purpose of reducing the employer's unfunded actuarial liability; and

(D) Where the employer has control over the timing or whether to make the payment.

(b) "Unfunded Actuarial Liability" or "UAL" means the excess of the actuarial liability over the actuarial value of assets.

(c) "Employer Contribution Account" means that portion of the Fund designated by the Board, as a portion of the net assets of the Fund, that is funded by employer contributions which are to be used for the sole benefit of members of the trust with the purpose of paying future retirement and death benefits.

(d) "Fair Value UAL" means the unfunded actuarial liability calculated using the fair **market** value of assets *[rather than the smoothed actuarial value of assets used in the most recent actuarial valuation of PERS]*.

[(e) "Transition Unfunded Actuarial Liabilities" means the unfunded actuarial liabilities attributed to an individual employer for the period prior to entry into the Local Government Rate Pool, or the State and Local Government Rate Pool if the employer did not participate in the Local Government Rate Pool.]

(2) Lump-sum payment amount. If an employer elects to make a UAL lump-sum payment under this rule, the payment must be at least 25 percent of the employer's UAL calculated under section *[(5)]* **(6)** of this rule or $1 million, whichever is less. Alternatively, an employer may elect to pay 100 percent of the employer's UAL calculated under section *[(5)]* **(6)** of this rule.

(3) Requirements. In order to make a UAL lump-sum payment, an employer must *[enter into an agreement with PERS for pre-payment of actuarial services and]* comply with the process described in sections (4) through *[(9)]* **(10)** of this rule.

(4) Initiating UAL lump-sum payment process. At least *[30]* **45** calendar days prior to the date the employer intends to make a UAL lump-sum payment, the employer shall notify the PERS *[Actuarial Services]* **Employer Liability** Coordinator in writing that it intends to make a UAL lump-sum payment. The notification shall specify:

(a) The amount of the intended lump-sum payment;

(b) Whether the intended payment is to be for 100 percent of the employer's calculated UAL; and

(c) No more than two potential dates for the payment. PERS staff shall notify the employer within five business days of receipt of the notification if the notification is incomplete or the process cannot be completed by the intended dates of the UAL lump-sum payment.

(5) Payment to the actuary. At least 30 calendar days prior to the date the employer intends to make a UAL lump-sum payment, the employer shall remit payment for the cost of the UAL calculation directly to the PERS consulting actuary according to the instructions on the invoice provided by the PERS consulting actuary. Failure to remit payment according to the terms of this section may result in the PERS consulting actuary not completing the employer's UAL calculation by the proposed UAL lump-sum payment date.

[(5)] **(6)** Calculation of an employer's UAL. Upon receipt of a complete notification and verification of payment to the actuary for actuarial services, PERS staff shall request **that** the PERS consulting actuary *[to]* calculate:

(a) 100 percent of the employer's UAL. This calculation shall be:

(A) Based on the fair value UAL from the most recent actuarial valuation; and

(B) Adjusted to reflect the effect of time from the most recent actuarial valuation to the intended date**(**s**)** of payment, using generally recognized and accepted actuarial principles and practices.

(b) The effect of the following UAL lump-sum payment amounts on the employer's contribution rate using the one or two potential dates for payment specified by the employer in its notification in section (4) above:

(A) 100 percent of the employer's UAL calculated in subsection *[(5)]***(6)**(a) of this rule;

(B) The UAL lump-sum payment amount specified by the employer in its notification, if provided; and

(C) The minimum amount of the UAL lump-sum payment under section (2) of this rule.

[(6)] **(7)** Notification of calculation. PERS staff shall notify the employer in writing of the results of the employer's calculation in section *[(5)]* **(6)** above, including the effective date**(s)** for the reduced employer contribution rates based on the one or two potential dates for payment. In addition, PERS shall send the employer a notification describing risks and uncertainties associated with the calculation of the individual employer's UAL.

[(7)] **(8)** Notification of UAL lump-sum payment. The employer or its agent shall notify the PERS [Actuarial Services] **Employer Liability** Coordinator in writing at least three business days prior to making a UAL lump-sum payment. This notification shall be in addition to the notification in section (4) of this rule and shall specify the amount of the payment and the date it intends to make the payment.

[(8)] **(9)** Method of payment. A UAL lump-sum payment must be made by either electronic transfer or check payable to the Public Employees Retirement System.

[(9)] **(10)** Receipt of UAL lump-sum payment. In order to adjust the employer contribution rate to that reported by PERS in section *[(6)]* **(7)** of this rule, PERS must receive the correct funds no later than five business days after the corresponding intended date of the UAL lump-sum payment specified in the notification described in section *[(7)]* **(8)** of this rule.

(a) If the UAL lump-sum payment is received by PERS on or before the intended date specified in the notification described in section *[(7)]* **(8)** of this rule or within the five business days following the intended date, the new employer contribution rate will be effective for payrolls dated on or after:

(A) The date specified in the notification; or

(B) The first of the month following receipt of the UAL lump-sum payment by PERS, whichever is later.

(b) If the UAL lump-sum payment is received by PERS more than five business days after the intended payment date, the employer's contribution rate shall be adjusted in the next actuarial valuation based on the date of receipt of the UAL lump-sum payment.

(c) If the UAL lump-sum payment received is other than any amount specified in the notification under section *[(7)]* **(8)** of this rule, the employer's contribution rate shall be adjusted to *[that]* **the** rate *[in which]* the payment amount fully funds using the actuarial calculation in subsection *[(5)]***(6)**(b) of this rule.

(d) If the UAL lump-sum payment received is less than the minimum amount described in section (2) of this rule, the funds will be returned to the employer and no adjustment will be made to the employer contribution rate.

(e) Nothing in this rule shall be construed to prevent the Board from:

(A) Adjusting employer contribution rates based upon the date of receipt of funds or errors in the notification described in section *[(6)]* **(7)** of this rule; or

(B) Taking action pursuant to ORS *[228.225]* **238.225**.

[(10)] **(11)** Actuarial treatment of the UAL lump-sum payment. For actuarial purposes, the UAL lump-sum payment made by the employer shall *[first be applied to any transition unfunded actuarial liabilities. The remainder of the payment shall]* be treated as pre-funded contributions and additional assets for the payment of obligations of the employer under ORS *[Chapter]* **chapters** 238 **or 238A**, rather than as a reduction of those obligations.

(a) The UAL lump-sum payment shall be held in a *[UAL Lump-Sum]* **Side** Account for the benefit of the employer making the UAL lump-sum payment. On an annual basis the PERS consulting actuary shall notify PERS staff of the amount of pre-funded contributions held in the *[UAL Lump-Sum]* **Side** Account that are to be amortized for that year.

(b) After earnings or losses have been credited for the year, the amount amortized shall be transferred from the *[UAL Lump-Sum]* **Side** Account to the Employer Contribution Account.

[(11)] **(12)** Crediting earnings or losses. For the purposes of this rule, *[UAL Lump-Sum]* **Side** Accounts shall be credited with all interest and other income received from investment of the account funds during the calendar year, less any amounts withheld from earnings for administrative expenses under ORS 238.610 or paid into the reserve account established under ORS 238.670(1).

[(12)] **(13)** Nothing in this rule shall be construed to convey to an employer making a UAL lump-sum payment any proprietary interest in the Public Employees Retirement Fund or in the UAL lump-sum payment made to the fund by the employer.

[(13)] **(14)** Effective date of rule. This rule shall apply to all UAL lump-sum payments initiated on or after the effective date of this rule.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.225

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 009 – PUBLIC EMPLOYER

459-009-0090

Lump-Sum Payments by Employers in Excess of an Existing Unfunded Actuarial Liability

Purpose. The purpose of this rule is to establish procedures and requirements pursuant to ORS 238.225 for the adjustment of employer contribution rates when a lump-sum payment is made by an individual public employer that does not have an existing unfunded actuarial liability, or when an individual employer makes a lump-sum payment in excess of the employer's unfunded actuarial liability.

(1) Definitions. For the purposes of this rule:

(a) "UAL Lump-Sum Payment" means any employer payment:

(A) That is not regularly scheduled;

(B) That is not paid as a percentage of salary;

(C) That is made for the express purpose of reducing the employer's unfunded actuarial liability; and

(D) Where the employer has control over the timing or whether to make the payment.

(b) "Surplus Lump-Sum Payment" means any employer payment:

(A) That is not regularly scheduled;

(B) That is not paid as a percentage of salary;

(C) That is made for the express purpose of creating an actuarial surplus or increasing an existing actuarial surplus; and

(D) Where the employer has control over the timing or whether to make the payment.

(c) "Unfunded Actuarial Liability" or "UAL" means the excess of an employer's actuarial liability over the actuarial value of assets.

(d) "Actuarial Surplus" means the excess of the actuarial value of an employer's assets over the employer's actuarial liability.

(e) "Employer Contribution Account" means that portion of the Fund designated by the Board, as a portion of the net assets of the Fund, that is funded by employer contributions to be used for the sole benefit of members of the trust with the purpose of paying future retirement and death benefits.

(f) "Fair Value UAL" or "Fair Value Actuarial Liability" means the UAL or actuarial liability calculated using the fair market value of assets.

(g) "Pension Program Contributions" means the total calculated employer contribution due in any reporting period for both the PERS and OPSRP pension programs, excluding any IAP contribution due.

(2) For employers making a combined surplus lump-sum payment and UAL lump-sum payment, the provisions of this rule apply only to the surplus lump-sum payment unless otherwise indicated.

(3) Minimum surplus lump-sum payment amount. If an individual employer elects to make a surplus lump-sum payment under this rule, the payment must be at least:

(a) $100,000 or 100 percent of the individual employer's actuarial liability, whichever is less, for an employer whose actuarial liability as calculated under section (9) of this rule is less than $1 million; or

(b) Ten percent of the individual employer's actuarial liability, for an employer whose actuarial liability as calculated under section (9) of this rule is equal to or greater than $1 million.

(4) Maximum surplus lump-sum payment amount. If an individual employer elects to make a surplus lump-sum payment under this rule, the payment shall not be greater than the amount required to bring the employer's total defined-benefit pension program contributions to zero percent of payroll based upon the individual employer's reported payroll in the most recent actuarial valuation.

(5) Requirements. In order to make a surplus lump-sum payment, an employer must comply with the process described in sections (6) through (14) of this rule.

(6) Initiating surplus lump-sum payment process. At least 45 calendar days prior to the date the employer intends to make a surplus lump-sum payment, the employer shall notify the PERS Employer Liability Coordinator in writing that it intends to make a surplus lump-sum payment. The notification shall specify:

(a) Whether the intended payment is to be for 100 percent of the individual employer's calculated actuarial liability or, if other than 100 percent, the percent of the individual employer's calculated actuarial liability or amount of the intended payment; and

(b) No more than two potential dates for the payment.

(7) PERS staff shall notify the employer within five business days of receipt of the notification if the notification is incomplete or the process cannot be completed by the intended date(s) of the surplus lump-sum payment.

(8) Payment to the actuary. At least 30 calendar days prior to the date the employer intends to make a surplus lump-sum payment, the employer shall remit payment for the cost of the actuarial liability calculation directly to the PERS consulting actuary according to the instructions on the invoice provided by the PERS consulting actuary. Failure to remit payment according to the terms of this section may result in the PERS consulting actuary not completing the employer's actuarial liability calculation by the proposed surplus lump-sum payment date.

(9) Calculation of the individual employer's actuarial liability. Upon receipt of a complete notification and verification of payment to the actuary for actuarial services, PERS staff shall request that the PERS consulting actuary calculate:

(a) 100 percent of the employer's actuarial liability, or 100 percent of the employer's share of the actuarial liability for the actuarial group in which the employer is participating, as applicable;

(b) The minimum amount of the surplus lump-sum payment under section (3) of this rule;

(c) The maximum amount of the surplus lump-sum payment under section (4) of this rule;

(d) The alternative percentage or dollar amount specified by the employer in its notification under section (6) of this rule; and

(e) The effect of the following surplus lump-sum payment amounts on the individual employer's contribution rate using the potential date(s) for payment specified by the employer in its notification in section (6) of this rule:

(A) 100 percent of the individual employer's actuarial liability calculated in subsection (9)(a) of this rule;

(B) The surplus lump-sum payment amount specified by the employer in its notification, if other than 100 percent;

(C) The minimum amount of the surplus lump-sum payment calculated in subsection (9)(b) of this rule; and

(D) The maximum amount of the surplus lump-sum payment calculated in subsection (9)(c) of this rule.

(10) The calculations described in section (9) of this rule shall be:

(a) Based on the individual employer's fair value actuarial liability from the most recent actuarial valuation;

(b) Based on the covered salary, for the individual employer or as a proportion of the pool, as applicable, reported by the employer for the year of the most recent actuarial valuation; and

(c) Adjusted to reflect the effect of time from the most recent actuarial valuation to the intended date(s) of payment, using generally recognized and accepted actuarial principles and practices.

(11) Notification of calculation. PERS staff shall notify the employer in writing of the results of the individual employer's calculation under section (9). In addition,

PERS shall send the employer a notification describing risks and uncertainties associated with making a lump-sum payment.

(12) Notification of payment. The employer or its agent shall notify the PERS Employer Liability Coordinator in writing at least three business days prior to making a surplus lump-sum payment. This notification shall be in addition to the notification in section (6) of this rule and shall specify the dollar amount of the payment and the date the employer intends to make the payment.

(13) Method of payment. A surplus lump-sum payment must be made by either electronic transfer or check payable to the Public Employees Retirement System.

(14) Receipt of payment. In order to adjust the employer contribution rate to that reported by PERS in section (11) of this rule, PERS must receive the correct funds no later than five business days after the corresponding intended date of the surplus lump-sum payment specified in the notification described in section (12) of this rule.

(a) If the surplus lump-sum payment is received by PERS on or before the intended date specified in the notification described in section (12) of this rule or within the five business days following the intended date, the new employer contribution rate will be effective for payrolls dated on or after the first of the month following receipt of the payment by PERS.

(b) If the surplus lump-sum payment is received by PERS more than five business days after the intended payment date, the employer's contribution rate shall be adjusted in the next actuarial valuation based on the date of receipt of the payment.

(c) If the surplus lump-sum payment received by PERS is other than any amount specified in the notification under section (12) of this rule, the employer's contribution rate shall be adjusted to the rate the payment amount fully funds using the actuarial calculation in section (9) of this rule.

(d) If the surplus lump-sum payment received by PERS is less than the minimum amount described in section (3) of this rule, or greater than the maximum amount described in section (4) of this rule, the funds will be returned to the employer and no adjustment will be made to the employer contribution rate.

(e) Nothing in this rule shall be construed to prevent the Board from:

(A) Adjusting employer contribution rates based upon the date of receipt of funds or errors in the notification described in section (11) of this rule; or

(B) Taking action pursuant to ORS 238.225.

(15) Frequency of surplus lump-sum payments. An employer may make only one surplus lump-sum payment per calendar year.

(16) Actuarial treatment of the payment. For actuarial purposes, the surplus lump-sum payment made by the employer shall be treated as pre-funded contributions and additional assets for the payment of obligations of the employer under ORS chapters 238 or 238A, rather than as a reduction of those obligations.

(a) If the employer makes a combined surplus lump-sum payment and UAL lump-sum payment, the UAL lump-sum payment amount shall be held in a separate Side Account to which the provisions of OAR 459-009-0084 or 459-009-0085, as applicable, shall apply.

(b) The surplus lump-sum payment shall be held in a Side Account for the benefit of the employer making the surplus lump-sum payment. On an annual basis the PERS consulting actuary shall notify PERS staff of the amount of pre-funded contributions held in the Side Account that are to be amortized for that year.

(c) After earnings or losses have been credited for the year, the amount amortized shall be transferred from the Side Account to the Employer Contribution Account of the individual employer or of the actuarial group in which the employer is participating, as applicable.

(17) Crediting earnings or losses. For the purposes of this rule, Side Accounts shall be credited with all interest and other income received from investment of the account funds during the calendar year, less any amounts withheld from earnings for administrative expenses under ORS 238.610 or paid into the reserve account established under ORS 238.670(1).

(18) Nothing in this rule shall be construed to convey to an employer making a surplus lump-sum payment any proprietary interest in the Public Employees Retirement Fund or in the surplus lump-sum payment made to the fund by the employer.

(19) Effective date of rule. This rule shall apply to all surplus lump-sum payments initiated on or after the effective date of this rule.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.225

Oregon

Theodore R. Kulongoski, Governor

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	C.3. P&F Units

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Notice of Rulemaking for OAR 459-016-0100, *Purchase of Additional Units of Income by a Policeman or Fireman*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: To clarify the administration of unit benefits for police and fire members of the PERS Chapter 238 Program (Tier One and Tier Two).
- Subject: Chapter 238 Program P & F unit benefits.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

Although the current rule sets forth the basic criteria for the purchase and distribution of unit benefits for police officer and firefighter (P & F) members of the PERS Chapter 238 Program, it provides no guidelines or direction for the administration of the unit benefit program. Because of the lack of clear guidelines, the unit benefit program has been administered in an arbitrary manner and has resulted in several administrative appeals.

Some of the statutory provisions that need to be clarified are: that unit purchases may be made only by active and current P & F members; that total lump-sum unit purchases may be made only by those members under the age of 60 and must be made prior to retirement; that the cancellation of contributions into the unit benefit program prevents future participation; and that an involuntary cancellation of a unit account results in the automatic refund of the amount in the account. All of these points reflect how the program is currently administered and do not reflect policy changes. Such clarification will provide clear direction, for both members and staff, on the requirements for eligibility in the unit benefit program and the process for administrating the benefits.

LEGAL REVIEW

The attached draft has been submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rule is presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held on September 26, 2006 at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends on October 27, 2006 at 5:00 p.m.

IMPACT

Mandatory: No, but clarification of the unit benefit program will benefit both members and staff.

Impact: Minimal. Stakeholders will have a clearer understanding of the administration of P & F unit benefits.

Cost: There are no perceived costs to stakeholders or the Fund as a result of the adoption of this rule. To the contrary, failure to adopt it could result in increased inquiries and appeals if the administration of unit benefits is not clearly established.

RULEMAKING TIMELINE

August 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
September 1, 2006	*Oregon Bulletin* published the Notice.
September 15, 2006	PERS Board notified that staff began the rulemaking process.
September 26, 2006	Rulemaking hearing scheduled for 2:00 p.m. in Tigard.
October 20, 2006	First reading of the rule.
October 27, 2006	Public comment period ends at 5:00 p.m.
November 17, 2006	Staff proposes adopting the permanent rule, including any amendments warranted by public comment or further research.

NEXT STEPS

A hearing is scheduled for September 26, 2006. The rule is scheduled to be brought before the PERS Board for a first reading at its October 20, 2006 meeting and adoption at the November 17, 2006 meeting.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 016 – POLICE OFFICERS AND FIRE FIGHTERS

459-016-0100

Purchase of *[Additional]* Units *[of Income]* by a *[Policeman]* Police Officer or *[Fireman]* Firefighter to Provide Increased Benefits

(1) For the purposes of this rule:

(a) "Active" means an "active member" as defined in ORS 238.005(12)(b).

(b) "Current" means a member who is currently employed as a police officer or firefighter.

(c) "Firefighter" has the same meaning as set forth in ORS 238.005(9).

(d) "Five calendar years" means 1,865 calendar days.

(e) "Police officer" has the same meaning as set forth in ORS 238.005(16).

(2) Eligibility to Purchase Additional Units. An active and current police officer or firefighter member may purchase additional units to provide increased benefits between the date of retirement and age 65.

(3) Additional Contributions for Police Officers or Firefighters Retiring Prior to Age 60. The additional contributions of *[a]* **an active and current** *[policeman]* **police officer** or *[fireman]* **firefighter** who is purchasing additional units *[of income]* to be payable upon retirement after age 60 but prior to age 65, who retires before age 60, either voluntarily or because of disability, shall remain in *[his]* **the police officer's or firefighter's** account, earning interest, until *[he]* **the police officer or firefighter** reaches age 60, at which time those contributions will purchase additional [*income*] **benefits** actuarially computed. The employee contributions in these instances will purchase less than a ten dollar unit and the benefit purchased by the employer shall be reduced to the same amount as the employee benefit. If death occurs after voluntary retirement or disability retirement, but prior to age 60, the unit account shall be refunded to the named beneficiary in a lump sum.

(4) Police Officers or Firefighters Who Work Until the Age of 65. Contributions for unit benefits are not permitted once the member reaches the age of 65. The amount in the unit account of a police officer or firefighter who works until age 65 will be refunded to the member in a lump sum.

(5) Cancellation of Contributions. A police officer or firefighter who has elected to make unit contributions may elect, in writing, to cancel the additional contributions at any time. Once canceled, the member will not be permitted to participate in the unit benefit program at a future time.

(6) Refund of Unit Account.

(a) Voluntary Refund. A police officer or firefighter may request a refund of their unit account if they are separated from all participating employers or their control groups.

(b) Involuntary Refund. A police officer or firefighter who has elected to make unit contributions and transfers to an inactive or non-qualifying PERS position will:

(i) Retain their unit account for five years immediately following the transfer.

(ii) If at the end of the five calendar years, the member has not turned age 50 or returned to a qualifying position, their election will be canceled and the amount in their unit account automatically refunded.

(c) A voluntary or involuntary refund results in a cancellation of the unit account. Once a unit account is canceled, the member may not participate in the unit benefit program at a future time.

(d) A police officer or firefighter who requests a refund of their PERS member account will automatically receive a refund of their unit account.

(7) Disability Retirement. Police officers or firefighters approved for a PERS Chapter 238 Program disability retirement are eligible to purchase the balance of their police and fire units or make an initial purchase equal to the maximum eight units.

(8) Lump Sum Payment at Retirement. An active and current police officer or firefighter may choose to purchase police and fire units within the 60 days prior to their effective retirement date.

(a) If previous payroll contributions have been made, final payment of any remaining units, for a maximum of eight units, may be made within 60 days prior to the member's retirement date if the member is less than age 65.

(b) If no payroll contributions have been made, a lump sum purchase of units may be made within the 60 days prior to the member's retirement date only if the member is less than age 60.

(9) Reemployment under USERRA. An eligible PERS Chapter 238 Program police officer or firefighter who leaves a qualifying position to serve in the Uniformed Services is eligible upon initiating reemployment to make up the unit benefit contributions which would have been made to their unit account had the employee not left to serve in the Uniformed Services.

Stat. Auth.: ORS *[237.650]* **238.650**

Stats. Implemented: ORS 238.440

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	C.4. USERRA

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Notice of Rulemaking for OAR 459-011-0100 and 459-080-0100, *Credit for Military Service under USERRA*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reasons: Clarify payment methods of member-paid contributions under USERRA.
- Subject: Make-up of member contributions under USERRA for pension and Individual Account Program (IAP) purposes.
- Policy Issues: No policy issues have been identified at this time.

BACKGROUND

Under ORS 238.156 and 238A.415, an eligible employee who leaves a qualifying position to serve in the Uniformed Services is eligible, upon reemployment, to make up the amount of member-paid contributions the member would have made if he or she had not left to serve in the Uniformed Services.

OAR 459-011-0100 and 459-080-0100 implement the provisions of ORS 238.156 and 238A.415, respectively. If an employee's member contributions were member-paid pre-tax (MPPT) or member-paid after-tax (MPAT) contributions, the member may make-up part or all of the member contributions that would have been made if the member had remained in the employment of the employer during the period of military service. The current rules, however, do not specify how these member contributions may be remitted to PERS. The proposed rule amendments clarify that these member-paid contributions may be remitted to PERS through payroll deduction.

LEGAL REVIEW

The attached draft has been submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rules are presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing is scheduled for September 26, 2006 at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends on October 27, 2006 at 5:00 p.m.

IMPACT

Mandatory: No, but the rule is within the authority granted by statute.

Impact: The modifications conform to state law and do not have a material fiscal or economic impact.

Cost: There is not expected to be any cost incurred by members, employers, PERS administration, or the PERS fund.

RULEMAKING TIMELINE

August 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
September 1, 2006	*Oregon Bulletin* published the Notice.
September 15, 2006	PERS Board notified that staff began the rulemaking process.
September 26, 2006	Rulemaking hearing to be held at 2:00 p.m. in Tigard.
October 20, 2006	First Reading of rule.
October 27, 2006	Public comment period ends at 5:00 p.m.
November 17, 2006	Staff will propose adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

NEXT STEPS

A hearing is scheduled for September 26, 2006. The rule is scheduled to be brought before the PERS Board for the first reading on October 20, 2006 with adoption scheduled for the November 17, 2006 meeting.

459-011-0100

Credit for Military Service under USERRA

(1) Purpose. The purpose of this rule is to implement ORS 238.156(1).

(2) Limitation of scope of rule. Contributions, benefits and service credit provided under this rule shall not exceed contributions, benefits and service credit required under federal law for periods of military service.

(3) Definitions. For purposes of this rule:

(a) "Employee" means an individual employed by a participating public employer in a qualifying position, as defined in ORS 238.005(19) and who is not excluded from the definition of employee as set forth in ORS 238.005(7).

(b) "Employee contributions" means contributions made to the Fund.

(c) "Employer" means the legal entity that employed an individual at the time that individual left for military service. For purposes of this rule, the state of Oregon is a single legal entity. Each separate school district is a separate legal entity.

(d) "Military service" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes:

(A) Active duty;

(B) Active duty for training;

(C) Initial active duty for training;

(D) Inactive duty training;

(E) Full-time National Guard duty;

(F) A period for which an employee is absent from a position of employment for the purpose of an examination to determine the fitness of the employee to perform any of the above types of duty; or

(G) A period for which an employee is absent from employment for the purpose of performing funeral honors duty as authorized by 10 U.S.C. § 12503 or 32 U.S.C. § 115.

(e) "Salary" means the rate of pay the employee would have earned if he or she had remained employed during the period of military service, including any increases that would have been awarded the employee based on longevity of employment or seniority of position. If such rate of pay is not reasonably certain, the rate shall be based on the employee's average rate of pay from the employer. The average rate of pay shall be calculated for a period not to exceed the 12-month period immediately preceding the period of military service.

(f) "Uniformed services" means the following:

(A) Armed Forces;

(B) Army National Guard;

(C) Air National Guard;

(D) Commissioned corps of the Public Health Service; and

(E) Any other category of individuals designated by the President in time of war or national emergency.

(g) "USERRA" means the 1994 federal Uniformed Services Employment and Reemployment Rights Act as in effect on the effective date of this rule.

(4) Retirement credit under USERRA.

(a) Eligibility. An employee shall be eligible for the benefits of this section if:

(A) The employee leaves PERS-covered employment to perform military service;

(B) The cumulative length of the employee's absence from employment with the employer for military service does not exceed the limits set forth in USERRA §4312;

(C) The employee initiates reemployment on or after December 12, 1994, with the same PERS-covered employer within the time limits specified in USERRA §4312; and

(D) All other eligibility requirements for benefits under USERRA are met.

(b) Credit for military service. An employee who meets the eligibility requirements of subsection (a) of this section shall be credited with the amount of retirement credit the employee would have accrued if he or she had remained in employment with the employer during the period of military service, only to the extent that the employee contributions have been made.

(c) Termination. An employee's eligibility for the benefits of this rule terminates upon the occurrence of one of the disqualifying events listed in USERRA §4304.

(5) Employee contributions.

(a) Employee contributions shall be made upon reemployment for eligible military service in accordance with the following:

(A) Contributions to be made by the employer. If the employee was entitled to employer-paid pre-tax (EPPT) contributions as described in OAR 459-009-0200(2) as of the date the employee left employment to perform military service, the employer shall pay, in a lump sum payment, the amount of employee contributions that would have been made if the employee had remained in the employment of the employer during the period of military service, based on salary as defined in section (3) of this rule.

(B) Contributions to be made by the employee. If the employee was entitled to only member-paid pre-tax (MPPT) or member-paid after-tax (MPAT) contributions, the employee may contribute part or all of the employee contributions that would have been made if the employee had remained in the employment of the employer during the period of military service, based on salary as defined in section (3) of this rule. **Contributions made under this paragraph must be remitted to PERS by:**

(i) Payroll deduction; or

(ii) Monthly payment of no less than one month of contributions; or

(iii) Lump-sum payment.

(b) Any individual, agency, or organization may pay the *[amounts]* **employee contributions** specified in paragraph (5)(a)(B) on behalf of the employee **under the payment provisions set forth in subparagraph (5)(a)(B)(ii) or (iii)**.

(c) Contributions made under this section must be made during the period beginning with reemployment and whose duration is three times the period of the employee's military service, such period not to exceed five years.

(d) Any contributions made under this section shall be added to the employee's regular account.

(e) Contributions made under this section shall not include nor be entitled to earnings or losses that would have been credited during the period of military service.

(6) Employer contributions. Any employer contributions associated with credit for military service under this rule shall be made as directed by PERS in accordance with ORS 238.225.

Stat. Auth.: ORS 238.650 & 238.156

Stats. Implemented: ORS 238.156

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 080 – OPSRP INDIVIDUAL ACCOUNT PROGRAM

459-080-0100

Credit for Military Service under USERRA

(1) Purpose. The purpose of this rule is to implement *[section 43, chapter 733, Oregon Laws 2003 (Enrolled HB 2020)]* **ORS 238A.415**.

(2) Limitation of scope of rule. Contributions, benefits and service credit provided under this rule shall not exceed contributions, benefits and service credit required under federal law for periods of military service.

(3) Definitions. For purposes of this rule:

(a) "Employee" means:

(A) An eligible employee, as defined in *[section 1, chapter 733, Oregon Laws 2003 (Enrolled HB 2020)]* **ORS 238A.005**;

(B) An active member of PERS, as defined in ORS 238.005, on or after January 1, 2004; or

(C) An employee who is entitled to credit toward the probationary period required by ORS 238.015.

(b) "Employer" means the legal entity that employed an individual at the time that individual left for military service. For purposes of this rule, the state of Oregon is a single legal entity. Each separate school district is a separate legal entity.

(c) "Military service" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes:

(A) Active duty;

(B) Active duty for training;

(C) Initial active duty for training;

(D) Inactive duty training;

(E) Full-time National Guard duty;

(F) A period for which an individual is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any of the above types of duty; or

(G) A period for which an individual is absent from employment for the purpose of performing funeral honors duty as authorized by 10 U.S.C. § 12503 or 32 U.S.C. § 115.

(d) "Salary" means the rate of pay the eligible employee would have earned if he or she had remained employed during the period of military service, including any increases that would have been awarded the employee based on longevity of employment or seniority of position. If such rate of pay is not reasonably certain, the rate shall be based on the employee's average rate of pay from the employer. The average rate of pay shall be calculated for a period not to exceed the 12-month period immediately preceding the period of military service.

(e) "Uniformed services" means the following:

(A) Armed Forces;

(B) Army National Guard;

(C) Air National Guard;

(D) Commissioned corps of the Public Health Service; and

(E) Any other category of persons designated by the President in time of war or national emergency.

(f) "USERRA" means the 1994 federal Uniformed Services Employment and Reemployment Rights Act as of the effective date of this rule.

(4) Eligibility for retirement benefits under USERRA. An eligible employee shall be entitled to the benefits of this rule if:

(a) The employee leaves employment with a participating public employer to perform military service;

(b) The cumulative length of the employee's absence from employment with the employer for military service does not exceed the limits set forth in USERRA §4312;

(c) The employee initiates reemployment with the same participating public employer within the time limits specified in USERRA §4312;

(d) All employee contributions have been made; and

(e) All other eligibility requirements for benefits under USERRA are met.

(5) Service credit for military service under USERRA. An employee who meets the eligibility requirements of section (4) of this rule shall receive the amount of credit toward the period of employment required under *[section 29, chapter 733, Oregon Laws 2003 (Enrolled House Bill 2020)]* **ORS 238A.300***[,]* and the vesting requirements described under *[section 31, chapter 733, Oregon Laws 2003 (Enrolled House Bill 2020)]* **ORS 238A.320**, the employee would have accrued if he or she had remained in employment with the employer during the period of military service.

(6) Termination. An employee's eligibility for the benefits of this rule terminates upon the occurrence of one of the disqualifying events listed in USERRA §4304.

(7) Employee contributions.

(a) Employee contributions shall be made upon reemployment for eligible military service in accordance with the following:

(A) Employee contributions to be made by the employer. If the employee's employer had agreed to pay employee contributions under *[section 34(2)(b), chapter 733, Oregon Laws 2003 (Enrolled HB 2020)]* **ORS 238A.335** as of the date the employee left employment to perform military service, the employer shall pay, in a lump sum payment, the amount of contributions that would have been made if the employee had remained in the employment of the employer during the period of military service, based on salary as defined in section (3) of this rule.

(B) Employee contributions to be made by the employee. If the employee's employer had not agreed to pay employee contributions, or had agreed to pay employee contributions under *[section 34(2)(a), chapter 733, Oregon Laws 2003 (Enrolled HB 2020)]* **ORS 238A.335** as of the date the employee left employment to perform military service, the employee may pay all or part of the contributions that would have been made if the employee had remained in the employment of the employer during the period of military service, based on salary as defined in section (3) of this rule. **Contributions made under this paragraph may be remitted to PERS by:**

(i) Payroll deduction; or

(ii) Monthly payment of no less than one month of contributions; or

(iii) Lump-sum payment.

(b) Any individual, agency or organization may pay the *[amount]* **employee contributions** specified in paragraph (7)(a)(B) on behalf of the employee **under the payment provisions set forth in subparagraph (5)(a)(B)(ii) or (iii)**.

(c) Employee contributions may only be paid during the period beginning with reemployment and whose duration is three times the period of the employee's military service, such period not to exceed five years.

(d) Employee contributions shall be credited to the employee account established in *[section 37(2), chapter 733, Oregon Laws 2003 (Enrolled HB 2020)]* **ORS 238A.350**.

(e) Employee contributions shall not include nor be entitled to earnings or losses that would have been credited during the period of military service.

(8) Employer contributions.

(a) If the employee's employer had agreed to make employer contributions under *[section 36, chapter 733, Oregon Laws 2003 (Enrolled HB 2020)]* **ORS 238A.340** as of the date the employee left employment to perform military service, the employer shall pay, in a lump sum payment, the amount of contributions that would have been made if the employee had remained in the employment of the employer during the period of military service, based on salary as defined in section (3) of this rule.

(b) Any contributions made under this section shall be added to the employee's employer account established in *[section 37(3), chapter 733, Oregon Laws 2003 (Enrolled HB 2020)]* **ORS 238A.350**.

(c) Contributions made under this section shall not include nor be entitled to earnings or losses that would have been credited during the period of military service.

(9) Military service that includes January 1, 2004. If an employee as defined in section (3)(a)(B) or (C) of this rule performs military service over a period including January 1, 2004:

(a) Retirement credit and contributions for military service prior to January 1, 2004, shall be determined in accordance with OAR 459-011-0100.

(b) Retirement credit and contributions for military service on or after January 1, 2004, shall be determined in accordance with this rule and OAR 459-011-0100.

Stat. Auth.: *[OL 2003 Ch. 733]* **ORS 238A.450 & 238A.415**

Stats. Implemented: *[OL 2003 Ch. 733]* **ORS 238A.415**

Oregon

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	C.5. P&F Retirement Eligibility

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: First Reading for OAR 459-075-0200, *Retirement Eligibility for Police Officer and Firefighter Members*

OVERVIEW

- Action: None. This is the first reading for OAR 459-075-0200, Retirement Eligibility for Police Officer and Firefighter Members.
- Reason: To clarify the requirements for retirement for Police and Fire (P&F) members under OPSRP.
- Subject: OPSRP P&F retirement eligibility.
- Policy Issue:
  1. How should the requirement for OPSRP P&F retirement eligibility being tied to the five years immediately before retirement be administered?

BACKGROUND

Under OPSRP, a P&F member is eligible for retirement if they are holding a qualifying position as a police officer or firefighter continuously for a period of five years "immediately before/preceding (both terms are used in different sections) the effective date of retirement." The term "immediately" is not defined in statute.

To clarify this requirement, staff originally introduced a legislative concept for the 2007 Legislative session. The Legislative Advisory Committee, however, directed staff to establish the definition by rule, leaving a statutory change as an option if the administrative definition proved too restrictive.

SUMMARY OF RULE AND POLICY ISSUE

1. How should the requirement for OPSRP P & F retirement eligibility being tied to the five years immediately before retirement be administered?

The proposed rule would require the member to be employed as a police officer or firefighter in a qualifying position (at least 600 hours per calendar year) in each of the five consecutive years immediately preceding the effective date of retirement. Alternatively, if the member separated from service for some years prior to retirement, their last five consecutive years prior to becoming inactive would have to be in a qualifying P&F position with an OPSRP employer. Adopting the rule clarifying the

SL1

definition of "immediately" will provide stakeholders with a clearer understanding of the requirements to qualify for P&F status under an OPSRP retirement.

LEGAL REVIEW

The attached draft has been submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rule is presented for adoption. To date, no public comment has been received.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on July 25, 2006 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ends on September 22, 2006 at 5:00 p.m.

IMPACT

Mandatory: No, but since there is no clear definition of "immediately" this rule will provide much needed clarification.

Impact: Minimal. Stakeholders will have a clearer understanding of the requirements for OPSRP P & F retirement eligibility.

Cost: There are no perceived costs to stakeholders or the Fund as a result of the adoption of this rule. To the contrary, failure to adopt it could result in increased inquiries and disputes if retirement eligibility for OPSRP P&F members is not clearly established.

RULEMAKING TIMELINE

June 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 1, 2006	*Oregon Bulletin* published the Notice.
July 21, 2006	PERS Board notified that staff began the rulemaking process.
July 25, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.
September 15, 2006	First reading of the rule.
September 22, 2006	Public comment period ends at 5:00 p.m.
October 20, 2006	Staff proposes adopting the permanent rule, including any amendments warranted by public comment or further research.

NEXT STEPS

The rule is scheduled to be brought before the PERS Board for adoption at the October 20, 2006 Board meeting.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 075 – OPSRP PENSION PROGRAM

459-075-0200

Retirement Eligibility for Police Officer and Firefighter Members

(1) "Police officer" and "Firefighter" have the same meaning given them in ORS 238A.005.

(2) For the purpose of establishing eligibility for normal retirement under ORS 238A.160(2) and early retirement under 238A.165(2), an OPSRP Pension Program member will be considered to have held a position as a police officer or firefighter continuously for a period of not less than five years immediately preceding the effective date of retirement if:

(a) The member was employed in a qualifying position as a police officer or firefighter in each of the five calendar years preceding the effective date of retirement; or

(b) The member was employed in a qualifying position as a police officer or firefighter in each of the five calendar years preceding separation from that employment and has not returned to a qualifying position.

Stat. Auth.: ORS 238A.450

Stats. Implemented: 238A.160 & 238A.165

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	C.6.a. OSGP Advisory Committee

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: First Reading for OAR 459-050-0025, *Deferred Compensation Advisory Committee*

OVERVIEW

- Action: None. This is the first reading for OAR 459-050-0025, Deferred Compensation Advisory Committee.
- Reason: The current rule is administratively burdensome and can be improved to enhance the process to appoint members to the Deferred Compensation Advisory Committee.
- Subject: Oregon Savings Growth Plan (OSGP) Deferred Compensation Advisory Committee.
- Policy Issues: None. Minor changes for administrative efficiency.

SUMMARY OF RULE MODIFICATIONS

The current rule provides for a review of Advisory Board membership applications by the Board's Investment Oversight Committee, who then recommends candidates to the full PERS Board. The Board's Investment Oversight Committee no longer exists. The proposed rule would have the review and recommendation done by a committee consisting of the deferred compensation manager and four members of the PERS executive or managerial staff designated by PERS Executive Director. The proposed rule also eliminates the requirement that the recommendation be made to the full PERS Board to avoid any implication that the Board may not act on the recommendation unless the full Board is present.

The proposed rule would eliminate the requirement in section (7) to present draft Advisory Committee minutes to the Board. In practice, Advisory Committee meeting minutes are posted on the OSGP website. Draft minutes have not been presented to the Board for several years. It is also unlikely that a Board meeting will be held less than fifteen days following an Advisory Committee meeting.

The proposed rule would avoid additional cost and administrative burden by changing the time line to coincide with the OSGP's regularly published "Plan Update." The March 1 date of notice publication in the current rule would be changed to April 15 to accommodate the use of the first publication of "Plan Update" for that calendar year. The May 1 application close date of the current rule would be changed to May 15. The period during which applications would be accepted is reduced from approximately 60 days to 30 days, still sufficient to allow interested persons to apply.

The current rule provides that in the case of a vacancy for an unexpired term, the Deferred Compensation Manager shall select applications from the most recent list of interested persons established following the publication of a vacancy. The most recent list of interested persons may not coincide with the requirements for the vacant position. For example, the previous vacancy may have required a participant in the state plan but the unexpired term may be for a participant in a local government plan. The proposed rule would allow the Manager to accept the applications of persons other than those on the most recent list, if appropriate.

SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

There have been no further modifications to the proposed rule.

LEGAL REVIEW

The attached draft has been submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rules are presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on July 25, 2006 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ends on September 22, 2006 at 5:00 p.m. To date, no public comment has been received.

IMPACT

Mandatory: No, the Board could retain the existing rule language. The current rule, however, is inconsistent with established practices and presents administrative obstacles.

Impact: Administrative efficiency will be enhanced. Notice will be more effective by the use of the most widely distributed OSGP publication.

Cost:

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

RULEMAKING TIMELINE

June 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 1, 2006	*Oregon Bulletin* published the Notice.
July 21, 2006	PERS Board notified that staff began the rulemaking process.

July 25, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.
September 15, 2006	First Reading of rule.
September 22, 2006	Public comment period ends at 5:00 p.m.
November 17, 2006	Staff will propose adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

NEXT STEPS

The rule is scheduled to be brought before the PERS Board for adoption at the November 17, 2006 Board meeting.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 050 – DEFERRED COMPENSATION

459-050-0025

Deferred Compensation Advisory Committee

(1) The seven members of the Deferred Compensation Advisory Committee *[(Committee)]* provided for under ORS 243.505, shall be subject to the following qualification**s** and limitations:

(a) *[A]* **Each** member shall be a participant in a deferred compensation plan **established** under ORS 243.401 to 243.507, and **shall** have knowledge of the **Program** *[respective current plan]*.

(b) Four members shall be participants in the state deferred compensation plan.

(c) Two members shall be participants in a local government deferred compensation plan.

(d) One member shall be a retired **deferred compensation** plan participant.

(e) No two members *[shall]* **may** be employed by the same state agency or local government *[unless]* **except that** a member **who** transfers employment *[from one employing entity]* to **the employer of** another **member may continue to serve on the Advisory Committee, but** *[and]* only for the balance of the term of appointment of the *[member]* transferring **member**.

(f) No member *[shall]* **may** serve more than two consecutive full terms.

(g) No member *[shall]* **may** be an employee of PERS during the term of appointment.

(2) The **Advisory** Committee shall study and advise the *[Public Employees Retirement]* Board on all aspects of the *[deferred compensation p]***P**rogram, including but not limited to:

(a) The *[deferred compensation p]***P**rogram fee structure and *[program]* procedures;

(b) State and federal legislative issues relative to the administration of deferred compensation **plans**;

(c) The administration of the catch**-**up and the financial hardship provisions in Section 457 of the Internal Revenue Code; *[.]*

(d) Ways and means to inform and educate eligible employees about the *[deferred compensation p]***P**rogram;

(e) The expressed desires of eligible employees as to the *[Deferred Compensation]* Program.

(f) The actuarial characteristics of eligible employees.

(3) Upon the request of the OIC, the Advisory Committee shall study and advise the Board on the following:

(a) Investment programs, including options and providers; and

(b) Information furnished by the OIC or *[the staff of]* the State Treasurer concerning the types of available investments, the respective balance of risk and return of each investment, and the administrative costs associated with each investment.

(4) The **Advisory** Committee shall meet at least four times during a calendar year.

(5) A majority of the Advisory Committee shall constitute a quorum for transacting business. However, the Advisory Committee may establish such other procedures for conducting business that it deems necessary.

(6) Pursuant to the Public Meetings Law, ORS 192.610 to 192.690, the **Deferred Compensation** Manager *[of the Deferred Compensation Program]* shall distribute to the Advisory Committee *[members,]* and other interested parties, an agenda for a regular meeting **a reasonable time** *[at least one week]* prior to the meeting.

[(7) The Manager of the Program shall submit a draft copy of the Advisory Committee minutes to the Board at its next regular meeting which is not less than fifteen working days following each Committee meeting.]

[(8)] **(7)** Nominations of *[C]***c**andidates for the Advisory Committee shall be made as follows:

(a) Notice of **a** position*[(s)]* on the Advisory Committee **expected** to become vacant upon the expiration of **a** term of appointment shall be published not later than *[March 1]* **April 15** of each calendar year;

(b) Persons interested in serving on the **Advisory** Committee must apply in writing to the Manager *[of the Deferred Compensation Program]* not later than May 1**5** following the publication of a*[ny]* vacanc**y***[ies]*;

(c) The Manager *[of the Deferred Compensation Program]* shall review the written applications of interested persons for completeness, accuracy**,** and **satisfaction of the minimum requirements of** **the** vacant position on **the Advisory** Committee**.** *[, and forward the acceptable applications to the Board's Investment Oversight Committee.]*

(d) *[The Board's Investment Oversight Committee]* **A committee consisting of the Manager and four members of PERS executive or managerial staff designated by the PERS Executive Director** shall review the acceptable applications and recommend to the *[full]* Board candidates for appointment to the Advisory Committee that:

(A) Reflect a cross section of state agencies, participating local governments, and classification level**s**;

(B) Reflect **a** mixture of expertise, knowledge, and experience useful to the Advisory Committee;

(C) Appear to have a sincere interest in the *[deferred compensation p]* **P**rogram; and

(D) Appear to be willing and able to work in a group setting to review and recommend policies governing the *[p]***P**rogram.

(e) In the event of a vacancy *[of]* **for** an unexpired term, **the Manager** *[the Board shall select an appointee]* **may select applications** from the **most recent** list of interested persons established **under subsection (7)(c) of this rule and the applications of other persons as deemed appropriate for consideration.** *[following the most recent publication of vacancy]* **A committee consisting of the Manager and four members of PERS executive or managerial staff designated by the PERS Executive Director shall review the selected applications and recommend to the Board candidates for appointment to the Advisory Committee. The appointment shall be** *[to become]* immediately effective for the remainder of the unexpired term. **If no candidate is recommended or appointed, the vacancy must be filled under the provisions of section (7) of this rule.**

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.505

Oregon

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	C.6.b. Trading Restrictions

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: First Reading for OAR 459-050-0037, *Trading Restrictions*

OVERVIEW

- Action: None. This is the first reading for OAR 459-050-0037, Trading Restrictions.
- Reason: The Oregon Savings Growth Plan (OSGP) has determined that frequent trading by participants drives up administrative costs for the deferred compensation program and adversely affects investment returns and liquidity management. Previous restrictions have been applied on a case-by-case basis with limited success. OSGP seeks to avoid the adverse consequences of such activity by establishing procedures to restrict trades for all participants.
- Subject: Oregon Savings Growth Plan trading restrictions
- Policy Issue:
  1. Should OSGP by rule impose restrictions upon participant trades?

BACKGROUND

The Board has given OSGP the authority to implement the following trading restrictions to prevent increases in administrative costs or fees, negative investment performance, or other detrimental effects that would arise or be imposed by excessive trading activities. These restrictions were available for application to all participants but only implemented on an individual basis when excessive trading practices were identified:

1. Restricting the number of trades permitted during a given period.
2. Limiting the dollar amount of a trade.
3. Imposing a 90-day “round-trip” restriction (investment in and out of the same option).
4. Implementing redemption fees.

The application of these restrictions has had some success but excessive trading persists.

POLICY ISSUE

1. Should OSGP be authorized by rule to impose restrictions upon participant trades?

Excessive trading activity can be detrimental to the performance of mutual funds and adversely affect the investment return of those funds. The Securities and Exchange

Commission may require that mutual funds charge redemption fees on monies not held for a given number of days. Mutual funds participating in OSGP may eliminate OSGP as an allowable investor.

To more effectively and comprehensively address this activity, staff recommends codifying OSGP's trading restrictions in administrative rule. The proposed rule would apply the following restrictions to all participants:

1. A participant may not make a trade that exceeds $100,000.
2. A purchase in an investment option that is attributable to a trade must remain in the investment option for a minimum of 30 days.

SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

The following modifications have been made to the rule since it was first presented to the Board (and are shown as tracked changes in the attached rule):

The preamble was edited to eliminate references to "transfers" and "market timing." Transfers are included in the transactions described in the edited definition of "trades" in Section (1), so references to that term here and throughout the rule were deleted. "Market timing" as a term connotes an intent underlying the trading activity that is not necessarily relevant to the resulting adverse impacts, so it was eliminated here and throughout the rule. A statement was added to note that the risk and adverse impact of frequent trading is not limited to participants but may affect the OSGP at a program level. Subsection (1)(c), now (1)(b), was rewritten to clarify the specific transactions subject to the rule's restrictions.

Subsection (2)(b) was rewritten to more clearly describe the transactions affected by the restriction and to permit restriction of "shares" purchased in the investment option rather than the funds used for the purchase. The restriction of "shares" is consistent with the functionality offered by the third party administrator.

The deletions in section (3) reflect the elimination of "market timing" restrictions. Instead, this section now provides discretion to the Deferred Compensation Manager to establish additional temporary restrictions if necessary to comply with limits imposed by a participating mutual fund or the SEC.

A new Section (4) was added to clarify that the Automatic Rebalancing Feature will not be subject to the restrictions of this rule. Automatic rebalancing of investment allocation will occur on a quarterly basis and dollar amounts are not expected to exceed the $100,000 trade limitation. Opportunities to change automatic reallocation percentages are limited. Attempts to alter automatic reallocation percentages outside defined periods will terminate the automatic reallocation program for the participant and any resulting trades will be subject to the restrictions of the rule.

LEGAL REVIEW

The attached draft has been submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rule is presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on July 25, 2006 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ends on September 22, 2006 at 5:00 p.m.

To date, PERS has received public comment from one person. Jim Wallace, OSGP participant, commented by email. His concern was that the rule should "…not make the holding period for any option any longer than the longest period of any fund in the option." He noted that the 30-day period proposed in the rule is less than the 90-day period of some mutual funds within the investment options and expressed concern that an agreement should exist between OSGP and member mutual funds permitting the shorter holding period.

OSGP staff concur that the 30-day period established in the rule is less restrictive than the 90-day holding period of some funds. However, when combined with the dollar amount restriction, it represents an effective response to the problem at this time. OSGP staff also report there are no agreements specific to less restrictive holding periods, but that member mutual funds are very supportive of establishing restrictions to prevent frequent trading. They also note that the imposition of such restrictions for the protection of participants and the program are compelled by and consistent with OSGP's fiduciary obligation.

IMPACT

Mandatory: No. The Board need not adopt the rule.

Impact: Restrictions will reduce risks and costs for all participants and the program.

Cost:

- *Members:* There will be no new costs to members.
- *Employers:* There will be no new costs to employers.
- *Administration:* OSGP would pay CitiStreet a one-time fee of $38,000 for system changes required to implement the restrictions. The payment would be derived from revenue sharing funds received by OSGP and held for the purpose of program enhancement.
- *Fund:* There is no cost to the Fund.

RULEMAKING TIMELINE

June 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 1, 2006	*Oregon Bulletin* published the Notice.
July 21, 2006	PERS Board notified that staff began the rulemaking process.
July 25, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.

September 15, 2006	First Reading of rule.
September 22, 2006	Public comment period ends at 5:00 p.m.
November 17, 2006	Staff will propose adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

<u>NEXT STEPS</u>

The rule is scheduled to be brought before the PERS Board for adoption at the November 17, 2006 Board meeting.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 050 – DEFERRED COMPENSATION

OAR 459-050-0037

Trading Restrictions

The purpose of this rule is to establish criteria under which a participant may make trades in the Deferred Compensation Program. The Program is designed for long-term investment and periodic adjustment of asset allocation. Restrictions upon trades are necessary to protect participants and the Program from adverse financial impacts attributable to frequent trading . Frequent trading by some participants can lower returns and increase transaction costs for all participants. Frequent trading also can trigger the imposition of redemption fees and restrictions by mutual funds within the Program and may cause the Program to be eliminated as an allowable investor in a mutual fund.

(1) Definitions. For the purposes of this rule:

(a) "Investment Option" means an investment alternative made available under ORS 243.421.

(b) "Trade" means a purchase or redemption in an investment option for the purpose of moving monies between investment options.

(2) Restrictions. The following restrictions apply to all participants:

(a) A participant may not make a trade that exceeds $100,000.

(b) A purchase that is attributable to a trade may not be redeemed from the investment option in which the purchase was made for a period of 30 days following the date of the trade.

(3) The Deferred Compensation Manager, if necessary to comply with trading restrictions imposed by a participating mutual fund or the Securities and Exchange Commission, may establish additional temporary trading restrictions. Temporary trading restrictions so established will remain in effect until such time as the Board acts upon the restrictions. (4) The provisions of this rule are not applicable to trades attributable to the operation of an automatic account rebalancing function offered by the Program.

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 – 243.507

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	**C.6.c.** Catch-Up Programs

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: First Reading for OAR 459-050-0070, *Catch-Up Programs*

OVERVIEW

- Action: None. This is the first reading for OAR 459-050-0070, Catch-Up Programs.
- Reason: The current rule's provisions regarding participation in the 3-Year Catch-Up Program are unnecessarily restrictive.
- Subject: Oregon Savings Growth Plan (OSGP) Catch-Up Program
- Policy Issue:
  1. Should OSGP participants be permitted to participate in the 3-Year Catch-Up Program in the calendar year of the participant's retirement date?

BACKGROUND

OSGP participants who enroll in the 3-Year Catch-Up Program must designate a proposed retirement date for the purpose of establishing the period during which catch-up contributions may be made. OSGP's current rule prohibits a participant who in fact retires in a year during the catch-up period, i.e., prior to the designated proposed retirement date, from making the maximum amount of catch-up contributions for the year of retirement unless the participant continues active employment until December 31 of that year. Excess contributions are refunded.

POLICY ISSUE

1. Should OSGP participants be permitted to participate in the 3-Year Catch-Up Program in the calendar year of the participant's retirement date?

OSGP has determined that IRS regulations do not prohibit a participant from making the maximum amount of contributions to the 3-Year Catch-Up Program in the year of the participant's actual retirement provided the year of actual retirement is not the year containing the designated proposed retirement date. For example, if a participant designated June 1, 2010 as his proposed date of retirement and planned to participate in the 3-Year Catch-Up Program during 2007, 2008, and 2009, but then retired in May of 2009, IRS regulations would allow him to contribute the maximum allowable amount for 2009 because 2010 was the year of his designated proposed retirement date. The proposed rule modifications would eliminate the current prohibition and allow the participant to contribute up to the maximum allowable amount.

Numerous non-substantive edits were incorporated in the proposed rule for clarity and consistency.

SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

There have been no further modifications to the proposed rule.

LEGAL REVIEW

The attached draft has been submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rules are presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on July 25, 2006 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ends on September 22, 2006 at 5:00 p.m. To date, no public comment has been received.

IMPACT

Mandatory: No, the Board could retain the existing rule language. The current rule, however, is unnecessarily restrictive.

Impact: Administrative efficiency will be enhanced by the reduction of refunds of contributions and a more easily understood standard for participation. Participants will benefit from the opportunity to make contributions during the year of retirement.

Cost:

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

RULEMAKING TIMELINE

June 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 1, 2006	*Oregon Bulletin* published the Notice.
July 21, 2006	PERS Board notified that staff began the rulemaking process.
July 25, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.
September 15, 2006	First Reading of rule.
September 22, 2006	Public comment period ends at 5:00 p.m.
November 17, 2006	Staff will propose adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

NEXT STEPS

The rule is scheduled to be brought before the PERS Board for adoption at the November 17, 2006 Board meeting.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 050 – DEFERRED COMPENSATION

459-050-0070

Catch-Up Programs

The purpose of this rule is to establish the criteria and process to allow an eligible employee to contribute additional amounts, in excess of the regular applicable maximum allowable contributions, to the eligible employee's account *[in the Deferred Compensation Plan]*.

(1) *[Definitions. Subject to]* **Except as provided in** subsections (a) and (b) **of this section** *[below]*, for purposes of this rule, "normal retirement age" *[means]* **shall be** the normal retirement age *[defined]* **established** in the plan sponsor's retirement plan.

(a) "Normal retirement age" for members of the Public Employees Retirement System shall **be as provided** *[have the same meaning as]* **in** ORS 238.005(14), 238.280(3), **238A.160, or** *[and for judge members,]* ORS 238.535.

(b) If an eligible employee continues to work beyond normal retirement age, "normal retirement age" shall be that date or age designated by the eligible employee but **may** not **be** later than 70-1/2 years of age.

(2) 50-Plus Catch-Up Program. Pursuant to the conditions of this rule, eligible employees who are 50 years of age and older may elect to contribute an additional amount under section 414(v) of the Internal Revenue Code in excess of the maximum regular contribution allowed.

(a) Conditions for enrollment: An eligible employee must be 50 years of age or older on December 31 of the calendar year in which the eligible employee begins to participate in the 50-Plus Catch-Up Program.

(A) An eligible employee may participate in the 50-Plus Catch-Up Program during years either before or after participation in the 3-Year Catch-Up Program *[in section (3) below]*, but may not participate in both **programs** during the same calendar year.

(B) An eligible employee may participate in the 50-Plus Catch-Up **Program** during the calendar year containing the employee's retirement date.

(b) Application for enrollment. *[Subject to the conditions in subsection (2)(a) above, an eligible employee may participate in the 50-Plus Catch-Up Program.]* An eligible employee choosing to participate must enroll by entering into a written agreement *[as specified herein]* with the plan sponsor. The written agreement must specify the amount of the additional annual deferral, that the additional deferral will be divided equally by the available months for the calendar year, and that the amount is in addition to the eligible employee's regular maximum deferral.

(A) *[Subject to the conditions and requirements of these rules and applicable law, a]***A**n eligible employee may enter into a written agreement to participate in the 50-Plus Catch-Up Program on or before the first day of employment or anytime while employed *[to defer an amount annually in addition to the eligible employee's regular maximum deferral amount]*.

(B) *[In order for an eligible employee to be enrolled, a]* **A** properly completed 50-Plus Catch-Up **Program** enrollment form provided by the Deferred Compensation Program must be filed with and approved by the Deferred Compensation Program.

(C) If the form is incomplete or does not comply with 50-Plus Catch-Up Program conditions of enrollment *[in subsection (2)(a) above]*, then **the Deferred Compensation Program** *[staff]* will notify the eligible employee within 30 calendar days from the date the enrollment form is received *[with]* **of** the reasons the *[Deferred Compensation Plan]* **enrollment** cannot **be** accept**ed** *[the enrollment]*.

(c) 50-Plus Catch-Up Program deferral *[begin]* **effective** date. *[Salary reduction for the]* 50-Plus Catch-Up Program contributions may be deferred for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

(d) Additional deferral amounts. The additional deferral may be *[in]* an amount elected by an eligible employee, but shall not exceed the maximum additional deferral **amount** allowed *[in]* **under** section 414(v) of the Internal Revenue Code, 26 USC 414(v). An eligible employee may change the amount of additional contributions deferred within the maximum additional deferral amount allowed. Changes may be made at any time on forms or by other approved methods prescribed by the Deferred Compensation Program**.** *[and]* **Additional contributions** may be deferred for any calendar month by salary reduction only if an agreement providing for the deferral *[ahs]* **has** been entered into before the first day of the month in which the compensation is paid or made available.

(e) Cancellation of Participation in the 50-Plus Catch-Up Program. An eligible employee may cancel participation in the 50-Plus Catch-Up Program at any time on forms or by other approved methods prescribed by the Deferred Compensation Program. The cancellation will be effective for any calendar month only if an agreement providing for the cancellation has been entered into before the first day of the month in which the compensation is paid or made available. An eligible employee **who has cancelled participation** may later re-apply to begin participation in the 50-Plus Catch-Up Program.

(3) 3-Year Catch-Up Program. **An** *[E]***e**ligible employee*[s]* may elect to contribute an additional amount under section 457 of the Internal Revenue Code,*[26 USC 457,]* in excess of the maximum regular contribution allowed**,** for one or more of the three consecutive calendar years of employment prior to attaining normal retirement age, if in previous years the *[full amount of the]* eligible employee*[s' deferral allowance was not used]* **did not contribute the maximum regular contribution amount**.

(a) Conditions for enrollment. The earliest date to **begin** participat**ion** *[e]* in the 3-Year Catch-Up Program is in the three calendar years immediately preceding the year **in which** an eligible employee reaches normal retirement age.

(A) *[The increase]* **Contributions** over the maximum allowable regular contribution limit *[is available]* **are permitted** only to the extent of **the** unused portions of the maximum allowable regular contribution for previous calendar years during which the eligible employee contributed less than the maximum allowable **regular contribution** or did not *[choose to]* make contributions to the Deferred Compensation Program.

(B) *[Previous c]***C**alendar years during which **contributions** *[deferrals]* were made *[to]* **under** the 50-Plus Catch-Up **Program** shall not be included in the calculation to determine the maximum allowable contribution under the 3-Year Catch-Up Program.

(C) An eligible employee may not participate in the 3-Year Catch-Up Program and the 50-Plus Catch-Up **Program** *[in section (2) above]* during the same calendar year.

(D) *[An eligible employee may not participate in the 3-Year Catch-Up during the calendar year containing the eligible employee's retirement date, unless the last day worked is the last working day of that calendar year.]* **An eligible employee must designate a proposed retirement date upon application. The designated proposed**

retirement date shall be used for the purpose of determining the catch-up period only. The catch-up period so determined shall not include the year of the designated proposed retirement date. An eligible employee who retires during the catch-up period may contribute the maximum allowable amount for the year of his retirement.

(E) Pursuant to section 457(b) of the Internal Revenue Code, *[26 USC 457(b),]* an eligible employee who is 70-1/2 years of age or older may not participate in the 3-Year Catch-Up Program.

(F) An eligible employee may participate only once in the 3-Year Catch-Up Program, regardless of whether **participation in** the 3-Year Catch-Up **Program** is *[used in]* **for** less than three calendar years *[and]* **or whether** the eligible employee *[or former eligible employee rejoins the plan or]* participates in an*[other]* eligible plan after retirement.

(b) Application for enrollment. *[Subject to the conditions in subsection (3)(a) above, a]***A**n eligible employee may *[enroll to]* participate in the 3-Year Catch-Up Program by entering into a written agreement *[as specified herein]* with the plan sponsor. The written agreement must specify the eligible employee's **designated** proposed retirement date, *[and]* the month in which to begin the 3-Year Catch-Up **Program contributions** *[deferrals]* **and the number of years the eligible employee plans to participate in the 3-Year Catch-Up Program**.

(A) An eligible employee may enter into a written agreement to participate in the 3-Year Catch-Up Program at any time while employed**.** *[to defer an amount annually in addition to the eligible employee's regular maximum deferral amount.]*

(B) *[In order for an eligible employee to be enrolled, a]* **A** properly completed 3-Year Catch-Up **Program** enrollment form provided by the Deferred Compensation Program must be filed with and approved by the Deferred Compensation Program. *[In addition, w]***W**age or salary information must be submitted for *[the]* previous calendar years during which an eligible employee either did not participate in the Deferred Compensation Program or did not **contribute the maximum regular contribution amount** *[use the full amount of deferral]*. An eligible employee must submit *[either]*:

(i) Legible copies of W-2 Wage and Tax Statement forms for each **relevant** calendar or tax year; or

(ii) Legible copies of final pay stubs showing gross and taxable salary for each **relevant** calendar year.

(C) If the application for enrollment is incomplete, if wage or salary information is *[not]* **incomplete or il**legible, or if **the** application does not comply with the 3-Year Catch-Up Program conditions of enrollment *[in subsection (3)(a) above]*, then *[staff]* **the Deferred Compensation Program** will notify the eligible employee within 30 calendar days from the date the enrollment documents are received *[with]* **of** the reasons the Deferred Compensation *[Plan]* **Program** cannot accept the enrollment.

(c) 3-Year Catch-Up Program deferral effective date. *[Salary reduction for the]* 3-Year Catch-Up Program contributions may be deferred for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

(d) Additional Deferral Amount. After receipt of *[the]* **a** properly completed 3-Year Catch-Up Program enrollment form and required **wage or** salary information, **the**

Deferred Compensation Program *[staff]* will notify *[an]* **the** eligible employee of the **maximum** amount of *[maximum]* **additional** contributions that may be deferred.

(A) The **a**mount of the **3-Year** Catch-Up **Program** salary reduction may not be less than the minimum **additional contribution** amount established by the plan sponsor *[that is over the maximum regular deferral]* and may not exceed the maximum allowable contribution *[to a Deferred Compensation Plan as defined in]* **under** section 457(b)(3) of the Internal Revenue Code *[, 26 USC 457(b)(3)]*.

(B) An eligible employee may change the amount of additional contributions deferred within the minimum and maximum additional deferral amounts allowed. Changes may be made at any time on forms or by other approved methods prescribed by the Deferred Compensation Program and will be effective for any calendar month *[by salary reduction]* only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

(e) Cancellation of Participation in the 3-Year Catch-Up Program. An eligible employee may cancel participation in the 3-Year Catch-Up Program at any time on forms or by other approved methods prescribed by the Deferred Compensation Program. The cancellation will be effective for any calendar month only if an agreement providing for the cancellation has been entered into before the first day of the month in which the compensation is paid or made available. An election to cancel participation is irrevocable.

[[Publications: Publications referenced are available from the agency.]]

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	C.6.d. Loan Program

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: First Reading for Oregon Savings Growth Plan Loan Program Rules
OAR 459-050-0077, *Loan Program*
OAR 459-050-0150, *Unforeseeable Emergency Withdrawal*

OVERVIEW

- Action: None. This is the first reading for the rules.
- Reason: These rules would create a loan program that would allow a participant in the Oregon Savings Growth Plan (OSGP) to borrow from their deferred compensation account. Currently, the participant has no alternative but to apply for an unforeseeable emergency withdrawal. The loan program would be a less drastic alternative that hopefully better maintains the participant's relationship with the Plan.
- Subject: Creating a loan program within the Oregon Savings Growth Plan as an alternative to an Unforeseeable Emergency Withdrawal.
- Policy Issues:
  1. Should a loan program for OSGP participants be established?
  2. If a loan program is established, should participants be required to use the loan program prior to application for an unforeseeable emergency withdrawal?

BACKGROUND

If an OSGP participant needs to access their deferred compensation account because of a financial emergency, their only option currently is the emergency withdrawal provisions of OAR 459-050-0150. Of the participants who received an emergency withdrawal in 2004 and 2005, approximately 85% failed to resume contributions to OSGP, even though they were eligible to do so six months after the withdrawal distribution. By providing this loan program as an alternative, the OSGP Advisory Committee and management hope to continue participation and allow easier access to a participant's account.

POLICY ISSUES

1. *Should a loan program for OSGP participants be established?*

The availability of a loan program would provide participants facing financial hardship with greater flexibility. Participants could access their deferred compensation funds in a manner that would hopefully reduce the attrition of participants who instead have taken emergency withdrawals. An informal survey by OSGP management of other governmental deferred compensation programs offering loan programs indicated that participants in those programs who received loans generally repaid the loans in full and continued to contribute to the program. That same survey also indicated that, on average, 2.6% of deferred compensation program assets were outstanding as loans.

Participants not facing financial hardship would also benefit from the loan program. Eligible employees may begin participation at an earlier age if they know that their contributions could be accessed via a loan. OSGP is not the primary retirement plan for most participants, limiting the risk that the loan program will have a significant detrimental effect upon a participant's retirement planning. Multiple concurrent loans are prohibited and a 12-month waiting period between paying off a loan and applying for a new one will further reduce any potentially excessive loan activity.

There is little administrative burden associated with establishing the loan program, as repayment would be by payroll deduction, the same process by which participants make contributions. The third party administrator will assess loan fees to offset the administration of the loan. There is little financial risk to the deferred compensation program as the funds disbursed are those of the participant.

Should the loan program not be established, participants facing financial hardship would still be eligible for an unforeseeable emergency withdrawal.

2. If a loan program is established, should participants be required to use the loan program prior to application for an unforeseeable emergency withdrawal?

For the reasons discussed above, the loan program is less likely to result in the participant leaving the deferred compensation program. The loan program should be the primary means for participants to access their deferred compensation funds. The proposed modification to OAR 459-050-0150 would establish this priority, but not require the participant to use the loan program if the OSGP Manager determines that to do so would further burden the participant financially.

Numerous non-substantive edits were incorporated in the proposed OAR 459-050-0150 for clarity and consistency.

<u>SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE</u>

OAR 459-050-0150:

There have been no modifications to the proposed rule since notice.

OAR 459-050-0077:

The following substantive modifications have been made from the previous version presented. They can be discerned as tracked changes in this version.

In subsection (1)(a), the definition of "Cure Period" was edited to reflect that default triggers the cure period. Default may arise from conditions other than a late or missed payment.

In subsection (7)(a), the words “when added to the outstanding balance of any existing loan from the Program” were deleted. Under the provisions of subsections (7)(c) and (d) a participant who has an outstanding loan from the Program is not eligible for a second loan and may not reapply for another loan until 12 months from the date the outstanding loan is paid in full.

In subsection (9)(a), text was added to establish that direct payment to OSGP or to the Third Party Administrator is not permitted except as specifically provided in the rule. In subsection (9)(b) text was added to provide an exception to the direct payment prohibition that permits a participant to avoid default should the employer fail to make the loan payment by payroll deduction.

In paragraphs (10)(a)(B) and (E), “employment” and “of employment” were changed to “work” and “worked,” respectively. A participant remains “employed” while on an authorized leave of absence; “worked” better describes the activity (providing services) relevant to these paragraphs. The word “last” was changed to “final” in the same paragraph for clarification.

In subsection (10)(b), “shall” was changed to “may” because under subsection (10)(c) a participant on military leave has the option of continuing payments. In paragraph (10)(b)(B), the words “by payroll deduction” were added for clarification and “employment” was changed to “work” for the reasons described above.

Subsections (11)(a) and (b) were edited to accommodate an extension of the regulated repayment period due to military leave under paragraph (10)(b)(C).

Section (12) was edited for clarity. In subsection (12)(c) the words “Except as provided in subsection (b) of this section” were added to acknowledge an alternative method of curing a default.

Several non-substantive edits were made for clarity, consistency, and brevity.

LEGAL REVIEW

The attached draft has been submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rules are presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on July 25, 2006 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ends on September 22, 2006 at 5:00 p.m. To date, no public comment has been received.

IMPACT

Mandatory: No. The Board need not adopt the rule.

Impact: Would provide an additional financial tool for OSGP participants and hopefully reduce attrition associated with emergency withdrawals.

Cost:

- *Members:* There will be loan fees and interest costs to participants.
- *Employers:* There will be no new costs to employers.
- *Administration:* OSGP would pay CitiStreet a one-time fee of $59,500 for system changes required to implement the loan program. The payment would be made from revenue sharing funds received by OSGP and held for the purpose of program enhancement.
- *Fund:* There is no cost to the Fund.

RULEMAKING TIMELINE

June 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 1, 2006	*Oregon Bulletin* published the Notice.
July 21, 2006	PERS Board notified that staff began the rulemaking process.
July 25, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.
September 15, 2006	First Reading of rule.
September 22, 2006	Public comment period ends at 5:00 p.m.
November 17, 2006	Staff will propose adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

NEXT STEPS

The rule is scheduled to be brought before the PERS Board for adoption at the November 17, 2006 Board meeting.

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 050 – DEFERRED COMPENSATION

OAR 459-050-0077

Loan Program

(1) Definitions. For purposes of this rule:

(a) “Cure period” is that time from when a default occurs until the end of the quarter following the quarter in which the default occurred.

(b) “Participant Loan” means a loan that only affects the deferred compensation account of a participant.

(c) “Promissory note” means the agreement of loan terms between the Program and a participant.

(d) “Third Party Administrator (TPA)” means the entity providing record keeping and administrative services to the Program.

(2) Eligibility for loan. Participants who are currently employed by a Plan Sponsor that has agreed to participate in a Participant Loan program are eligible for a Participant Loan. Retired participants, participants separated from employment, designated beneficiaries, and alternate payees are not eligible.

(3) Application for loan: A participant must apply for a loan and meet the requirements set forth in this rule.

(a) Once a loan is approved, a participant must execute a promissory note in the form prescribed by the Program.

(b) If a participant is deceased prior to the disbursement of the proceeds of a loan, the participant’s loan application shall be void as of the date of death.

(4) Loan Types:

(a) General purpose loan – a loan not taken for the purpose of acquiring a principal residence. General purpose loans must be repaid over a non-renewable repayment period of up to five years.

(b) Residential loan – a loan made for the purpose of acquiring a principal residence, which is, or within a reasonable time shall be, the principal residence of the participant. Residential loans must be repaid over a non-renewable repayment period of up to 15 years. A refinancing does not qualify as a residential loan. However, a loan from the Program that will be used to repay a loan from a third party will qualify as a residential loan if the loan would qualify as a residential loan without regard to the loan from the third party.

(5) Interest Rate: The rate of interest for a loan shall be fixed at one percent (1%) above the prime interest rate as published by the Wall Street Journal on the last business day of the month prior to the month in which the loan is requested.

(6) Loan Fees: A loan fee of $50.00 shall be assessed when the loan is approved. The fee shall be deducted from a participant's deferred compensation account on a pro-rata basis from existing investments.

(7) Loan Limitations:

(a) The maximum loan amount is the lesser of:

(A) $50,000; or

(B) One-half of the value of the participant's deferred compensation account on the date the loan is made.

(b) The minimum loan amount is $1000.

(c) A participant may only have one outstanding loan .

(d) A participant who has received a loan may not apply for another loan until 12 months from the date the previous loan was paid in full.

(8) Source of Loan: The loan amount will be deducted from a participant's deferred compensation account.

(a) Loan amounts will be deducted pro-rata from existing investments in a participant's deferred compensation account.

(b) A participant may not transfer a loan to or from another retirement or deferred compensation plan.

(9) Repayment Terms: The loan amount will be amortized over the repayment period of the loan with interest compounded daily to calculate a level payment for the duration of the loan.

(a) Loan payments must be made by payroll deduction. A participant receiving a loan from the Program must enter into a payroll deduction agreement. Except as provided in this rule, a participant may not submit a loan payment directly to the Program or the Third Party Administrator.

(b) A participant is responsible for loan repayment even if the employer fails to deduct or submit payments as directed under the payroll deduction agreement. To avoid defaulting on a loan by reason of the employer's failure to deduct or submit a payment a participant may submit a loan payment by sending a money order or certified check to the Third Party Administrator.

(c) A participant may repay the outstanding loan balance in a single payment at any time before the date the final loan payment is due.

(d) Partial prepayment or advance payment of future payments shall not be permitted.

(e) Loan payments will be allocated in a participant's deferred compensation account in the same manner as the participant's current contribution allocation. If, for any reason, the allocation is not known, the payment will be allocated to the Short Term Fixed Option.

(10) Leave of Absence. Terms of outstanding loans are not subject to revision except as provided in this section.

(a) Loan payments may be suspended up to one year during an authorized leave of absence if a participant's pay from the employer does not at least equal the payment amount.

(A) Interest on a loan continues to accrue during a leave of absence.

(B) A participant must immediately resume payments by payroll deduction upon return to work.

(C) The balance of a loan will be re-amortized upon the participant's return to work to be repaid within the remaining loan repayment period.

(D) Loan payments may be revised to extend the repayment schedule to the maximum period allowed in the event the loan originally had a term shorter than the maximum period allowed under section (4) of this rule.

(E) If a participant is on a leave of absence that exceeds one year, the loan shall be in default unless repayment begins one year from the participant's last date worked or the date the final payment is due under the promissory note, whichever is earlier.

(b) Military Leave. Loan payments for participants on military leave may be suspended for the period of military service.

(A) A leave of absence for military service longer than one year will not cause a loan to be in default.

(B) Loan payments by payroll deduction must resume upon the participant's return to work.

(C) The original repayment period of a loan will be extended for the period of military service or to the maximum repayment period allowed for that type of loan, whichever is greater.

(D) Interest on a loan continues to accrue during a leave of absence for military service. If the interest rate on the loan is greater than 6%, then under the provisions of the Servicemembers Civil Relief Act of 2003, the rate shall be reduced to 6% during the period of military service.

(c) A participant on an authorized leave of absence or military leave may submit loan payments by sending a money order or certified check to the Third Party Administrator.

(11) Tax Reporting.

(a) The unpaid balance of a general purpose loan will be reported as a taxable distribution on the earlier of the last day of the five year loan repayment period, as adjusted under paragraph (10)(b)(C) of this rule, if applicable, or the date the loan is in default.

(b) The unpaid balance of a residential loan will be reported as a taxable distribution on the earlier of the last day of the fifteen year loan repayment period,

as adjusted under paragraph (10)(b)(C) of this rule, if applicable, or the date the loan is in default.

(c) If a participant dies prior to the balance of a loan being repaid, and the participant's beneficiary does not pay back the outstanding loan balance in a single payment within 90 days of the participant's death, the outstanding balance will be reported as a taxable distribution. The deceased participant's estate will be issued a 1099-R in January of the year following the death of the participant.

(12) Default.

(a) A loan is in default if a payment is not paid as scheduled or under any of the provisions set forth in this rule, the promissory note, or any related loan agreement.

(b) A loan is in default if the participant separates from employment with a plan sponsor. If the participant is re-employed with a plan sponsor and loan payments resume before the last day of the quarter following the quarter in which the default occurred , the default will be deemed cured and the participant's loan payments will be re-amortized as if the participant had been on a leave of absence under the provisions of section (10) of this rule.

(c) Except as provided in subsection (b) of this section, if the participant does not cure a default by repaying the outstanding loan balance including accrued interest before the last day of the quarter following the quarter in which the default occurred, the balance will be reported as a taxable distribution. The participant will be issued a 1099-R in January of the year following the end of the cure period.

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 – 243.507

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 050 – DEFERRED COMPENSATION

459-050-0150

Unforeseeable Emergency Withdrawal

The purpose of this rule is to establish the criteria and process for a participant to obtain a distribution of deferred compensation funds prior to separation from employment due to an unforeseeable emergency.

(1) Definitions.

(a) "Unforeseeable emergency" or "Unforeseen emergency" means a severe financial hardship to *[the]* **a** participant *[, in a deferred compensation plan under ORS chapter 243, 26 USC 457(d)(1)(A)(iii) and 26 CFR 1.457-6(c)(2)(i)]* resulting from a sudden and unexpected illness or accident of the participant or of a dependent of the participant as defined in 26 CFR 1.152-1, **a** loss of the participant's property due to casualty*[,]* or other similar extraordinary and unforeseeable circumstance *[arising as a result of events]* beyond the control of the participant.

(b) "Immediate need" means *[the]* **a** financial obligation *[of]* **attributable to** an unforeseeable emergency that accrues within the 180-day period preceding and the 90-day period following receipt of an application for emergency withdrawal.

(c) "Emergency withdrawal" means *[the amount]* **a payment to the participant from the participant's deferred compensation account in an amount** directly related to and reasonably necessary to satisfy an immediate need of an unforeseeable emergency, but in no case shall the amount exceed the balance of *[the]* **a** participant's **deferred compensation** account *[in the deferred compensation plan]*.

(2) Eligibility for emergency withdrawals. Only *[plan]* **a** participant*[s]* who established **a** deferred compensation account*[s]* as **an** eligible employee*[s]* and ha**s***[ve]* not **terminated** *[severed]* **from** employment with their plan sponsor may apply to receive an unforeseeable emergency withdrawal *[from their account]*. **An** *[A]***a**lternate payee*[s]* of *[plan]* **a** participant*[s]* shall not be eligible to receive an emergency withdrawal.

(3) A participant must, if eligible, apply for a loan under the provisions of OAR 459-050-0077 prior to application for an unforeseen emergency withdrawal unless, as determined by the Deferred Compensation Manager, the participant would suffer additional financial hardship by complying with the loan application requirement.

[(3)] **(4)** Circumstances that *[shall]* **do** not constitute an unforeseeable emergency. *[E]***An e**mergency withdrawal*[s]* shall not be approved for **any** reason*[s]* other than an unforeseeable emergency. Circumstances that *[shall]* **do** not constitute an unforeseeable emergency include, but are not limited to:

(a) Participant *[and/]*or dependent school expenses;

(b) The purchase of a home or costs associated with a voluntary relocation of housing;

(c) The reduction of personal credit liabilities not associated with an unforeseeable emergency;

(d) Expenses associated with a legal separation or the dissolution of a marriage;

(e) Expenses associated with medical procedures that are elective or not medically required;

(f) Expenses associated with *[the]* establishing *[of a personal business]* or managing a personal business;

(g) Recreational expense**s**;

(h) Travel expenses not associated with an unforeseeable emergency; and

(i) Usual and customary tax obligations.

[(4)] **(5)** Limitations on amount of emergency withdrawal. The maximum amount that may be approved *[for payment]* as an emergency withdrawal shall be limited to what is reasonably needed to satisfy the immediate financial obligation related to the unforeseeable emergency, including taxes anticipated on the distribution. *[Payment may not be made]* **The amount of the emergency withdrawal shall be limited** to the extent that **the** *[such]* financial obligation*[s]* can or may be satisfied **by**:

(a) *[Through r]***R**eimbursement or compensation by insurance or otherwise;

(b) *[By l]***L**iquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause severe unforeseeable emergency; or

(c) *[By c]***C**essation of **participant contributions to the deferred compensation program** *[deferrals under the plan]*.

[(5)] **(6)** Application for an emergency withdrawal. *[The requestor]* **A participant** must submit a completed **emergency withdrawal** application *[to apply for an emergency withdrawal. F]***and f**inancial information and related documentation *[are required to]* **sufficient to satisfy the provisions of this rule** *[substantiate the withdrawal request]*. The emergency withdrawal **application** *[request]* may be returned if *[the application is]* incomplete*[,]* **or if insufficient** *[requested]* financial information *[is not disclosed,]* or *[insufficient]* **related** documentation is submitted.

(a) The application form *[required to apply for an emergency withdrawal]* may be obtained from the *[PERS]* Deferred Compensation Program or the third party administrator (TPA) retained to administer a portion of the *[PERS]* Deferred Compensation Program.

(b) The completed application**, financial information,** and related documentation shall be *[trans]***sub**mitted by use of the United State Postal Service or by private carrier as defined in ORS 293.660(2) for initial review.

[(6)] **(7)** Cancellation of future contributions. *[Employee c]***C**ontributions **by a participant** to the *[d]***D**eferred *[c]***C**ompensation *[p]***P**rogram shall immediately be cancelled upon receipt *[from a plan participant]* of an application for an emergency withdrawal **from the participant**.

(a) A *[plan]* participant who receives approval for an emergency withdrawal shall be prohibited from making elective deferrals and *[employee]* contributions to the *[d]***D**eferred *[c]***C**ompensation *[p]***P**rogram for *[the]* **a** period of six consecutive months from the date of distribution.

(b) A *[plan]* participant who receives a denial for an emergency withdrawal may enroll to make elective deferrals and *[employee]* contributions to the *[d]***D**eferred *[c]***C**ompensation *[p]***P**rogram at any time.

[(7)] **(8)** Approval or denial notification. The Deferred Compensation Manager or a**n authorized** designee *[authorized to take action on the manager's behalf]* shall approve or deny *[the]* **a** request for an emergency withdrawal within three working days after receipt of **an** *[the properly completed]* **accepted** application *[and related documentation]*. The

[requestor] **participant** will be notified by mail within ten days after a decision is made *[to approve or deny the emergency withdrawal application]*.

[(8)] **(9)** Release of payment upon approval of an emergency withdrawal *[application]*. The Deferred Compensation Manager or a**n authorized** designee *[authorized to take action on the manager's behalf]* shall determine the method of payment, based on the immediate need**.***[s related to the nature of the unforeseeable emergency.]* The Deferred Compensation **Program** *[Manager or other authorized staff]* shall immediately notify the TPA to release the requested funds.

[(9)] **(10)** *[Requester]* **A participant** may appeal *[the]* **a** denial of an emergency withdrawal *[application. If the request for an emergency withdrawal is denied, the requester may appeal the denial]* to the Unforeseeable Emergency Withdrawal Appeals Committee as provided in OAR 459-050-0040. The *[request]* **appeal** shall be in writing and **must** include:

(a) A request for review by the Unforeseeable Emergency Withdrawal Appeals Committee;

(b) A short statement of the facts that are the basis of the appeal; and

(c) Any additional information or documentation to support the request for an emergency withdrawal.

[(10)] **(11)** *[No restrictions on the n]***N**umber of emergency withdrawal requests. *[Regardless of whether a request for an unforeseeable emergency withdrawal is approved or denied, a plan participant may again submit a request for a withdrawal because of an unforeseeable emergency. The request may be for the same or different*

unforeseeable circumstances.] **The number of times a participant may apply for an emergency withdrawal is unlimited and is unaffected by previous applications.**

[[ED. NOTE: Forms referenced are available from the agency.]]

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Oregon

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	C.7. IAP Installments

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Adoption of OAR 459-080-0250, *IAP Account Installments*

OVERVIEW

- Action: Adopt modifications to OAR 459-080-0250, *IAP Account Installments*.
- Reason: Improve processing of IAP installment retirement payments in conformance with statutory authority.
- Subject: IAP installment retirement payments.
- Policy Issues: No policy issues were identified.

BACKGROUND

ORS 238A.400 was amended by the 2005 Oregon Legislature to provide the PERS Board with more latitude in adjusting installment payment schedules requested by members who retired from the Individual Account Program (IAP). Previously, members were entitled to extend their retirement payments over five, ten, 15, or 20 years. Given the small balances of some accounts, the legislature granted the PERS Board authority to set a minimum payment amount and adjust these schedules to conform to those minimum distributions, including paying the account in a lump sum if a minimum installment threshold amount is not reached.

These rule modifications carry forward the $200 minimum payment threshold previously established for moving from monthly or quarterly to annual installments. Accounts of less than $1000 would be paid in a lump sum ($200 X five annual installments as a minimum to qualify for installment payments). The rule modifications also clarify the method used to adjust installment payments for earnings and losses while the account is being paid out.

LEGAL REVIEW

The proposed rule was submitted to the Department of Justice for legal review and any comments or changes have been incorporated in the rule as presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on July 25, 2006 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended on August 25, 2006 at 5:00 p.m.

IMPACT

Mandatory: No, but the rule is within the authority granted by statute.

Impact: The modifications conform to state law and do not have a material fiscal or economic impact.

Cost: There is not expected to be any cost incurred by members, employers, PERS administration or the PERS Fund.

RULEMAKING TIMELINE

June 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 1, 2006	*Oregon Bulletin* published the Notice.
July 21, 2006	PERS Board notified that staff began the rulemaking process.
July 25, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.
August 25, 2006	Public comment period ended at 5:00 p.m.
September 15, 2006	Board may adopt the permanent rule modifications.

BOARD OPTIONS

The Board may:

1. Pass a motion to "adopt rule modifications to OAR 459-080-0250, *IAP Account Installments*, as presented."
2. Take no action and direct staff to make changes to the rule or take other action.

STAFF RECOMMENDATIONS

Staff recommends the Board choose Option #1.

- Reason: Adopting these modifications will improve processing of IAP installment retirement payments in conformance with statutory authority.

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 080 – OPSRP INDIVIDUAL ACCOUNT PROGRAM

459-080-0250

IAP Account Installments

(1) Definitions. “Payout Period” means the span of years over which the member elects to receive installment payments under section (2) of this rule.

(2) Upon retirement, a member of the individual account program who elects to receive the amounts in the member’s employee and employer accounts in installments under ORS 238A.400(2) shall designate the number of years over which the installments are to be paid, selecting a period of 5, 10, 15, or 20 years. The member may also request that installments be made on a monthly, quarterly, or annual basis.

(3) Installments will be adjusted *[annually]* **at each payment** to reflect investment gains and losses on the unpaid balance. The member’s **adjusted** balance *[, so adjusted,]* will be divided by the number of *[years]* **installment payments** left *[in the member’s Payout Period]* to determine the amount to be paid to that member *[for the next year, which will then be paid over the monthly, quarterly, or annual basis selected by the member or as modified pursuant to sections (4) or (5) of this rule]*.

(4) If a member requests *[monthly or quarterly]* installments under section (2) of this rule, but the amount of the **requested** installment would be less than $200 as determined at the time of the initial request, the frequency **and Payout Period** of the installment payment will be *[extended from monthly to quarterly, or quarterly to annually, until]* **modified so that** the amount of the installment is at least $200. If *[monthly or quarterly installments would not exceed $200, the member will be paid annually]* **the member’s**

account balance is $1000 or less at the time of the initial request, the member will not be eligible for installments and the balance will be paid in a lump sum.

(5) Notwithstanding the Payout Period selected by the member under section (2) of this rule, any distribution will be adjusted to comply with the required minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations implementing that section, as in effect August 29, 2003.

(6) Members who elect a five year Payout Period or a lump sum payment may elect to directly roll over any portion of their IAP installment or lump sum payment to an eligible retirement plan, subject to the following limitations:

(a) Members will not be permitted to directly roll over any IAP installment payments if the total annual distribution from their IAP account is reasonably expected to total less than $200.

(b) If members elect to have a portion of their IAP installment or lump sum payment paid directly to them and a portion directly rolled over, the portion to be rolled over cannot be less than $500 or that portion will be paid directly to the member.

(7) Members who elect a 10, 15, or 20 year Payout Period cannot elect to have any portion of their installment payments rolled over.

(8) Members who are subject to the required minimum distribution requirements referenced in section (5) of this rule may only roll over that portion of their installment or lump sum payments that exceeds required minimum distribution requirements.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.400

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	C.8. Transitional Rules

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Repeal of OAR 459-070-0900, *PERS/OPSRP Transitional Rules*

OVERVIEW

- Action: Repeal OAR 459-070-0900, *PERS/OPSRP Transitional Rules*.
- Reason: The transitional rules are no longer needed as administrative processes and forms have now been developed and are in use.
- Subject: Transitional rules for the implementation of House Bill 2020, which created the OPSRP Pension Program and the Individual Account Program.
- Policy Issue:
    1. *Should the transitional rules for the implementation of HB 2020 be repealed?*

SUMMARY OF RULE AND POLICY ISSUE

This rule was adopted after HB 2020 became effective on August 29, 2003 to provide guidelines for administering and processing transactions in certain areas of the OPSRP Pension Program and the IAP, using similar processes in place for the PERS Chapter 238 Program. Customized administrative processes and forms to these new programs have now been adopted, making the transitional rule unnecessary.

Specifically, section (4) of the rule addressed the beneficiary designation for the IAP death benefit. If a member of the IAP died before retirement, their account(s) would be paid to their designated beneficiary or beneficiaries. The transitional rule provided that the member's existing PERS beneficiary designation would be considered the beneficiary designation for the IAP Death Benefit since no form then existed for the designation of a beneficiary for the IAP. Now, IAP members may designate an IAP beneficiary on a form specifically for that purpose.

Section (5) of the rule addressed withdrawals. ORS 238.265 allows an inactive member to withdraw from the system. Likewise, under the OPSRP Pension Program and the IAP, inactive members may withdraw their account(s) to the extent they are vested in them. Again, because no administrative process or forms existed, the transitional rule provided that a request to withdraw a PERS member's regular account would also be considered a request to withdraw their OPSRP account(s) and that those requests will be processed simultaneously. Currently, OPSRP IAP withdrawal forms are available, making the need for this transitional provision unnecessary.

Section (6) addressed the defined contribution benefit of the IAP. The transitional rule provided that an application for retirement by a PERS Chapter 238 member would also be treated as a request to receive their IAP account at the time of retirement, if they were age eligible, because no application had been developed. An IAP Retirement Application is now available making this transitional provision unnecessary.

Section (7) addressed disabilities. The transitional rule directed that, for the purposes of applying and qualifying for duty disability, the processes in place under the PERS Chapter 238 plan would apply since the administrative rules for the OPSRP disability program had not yet been developed. Those rules have now been adopted; the transitional provisions for the administration of the OPSRP disability benefit are no longer necessary.

LEGAL REVIEW

Richard Gilbert of the Orrick firm and the Department of Justice were notified of the proposed repeal of this rule. Any concerns have been shared with the Board.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on July 25, 2006 at 2:00 p.m. at PERS headquarters in Tigard. No one attended. The public comment period ended on August 25, 2006 at 5:00 p.m. We received no comments.

IMPACT

Mandatory: No, but since these transitional provisions are no longer necessary, repealing the rule should eliminate any confusion over the administration of these processes.

Impact: Minimal. Stakeholders will have a clearer understanding of their respective expectations and responsibilities.

Cost: There are no perceived costs to stakeholders or the Fund as a result of the repeal of this rule. To the contrary, failure to adopt it could result in increased inquiries and disputes because of potential confusion over application processes and responsibilities.

RULEMAKING TIMELINE

June 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 1, 2006	*Oregon Bulletin* published the Notice.
July 21, 2006	PERS Board notified that staff began the rulemaking process.
July 25, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.
August 25, 2006	Public comment period ended at 5:00 p.m.
September 15, 2006	PERS Board may repeal the rule.

BOARD OPTIONS

The Board may:

1. Pass a motion to "repeal OAR 459-070-0900, *PERS/OPSRP Transitional Rules*."
2. Take no action and direct staff to make changes to the rule or take other action.

STAFF RECOMMENDATIONS

Staff recommends the Board choose Option #1.

- Reason: These transitional rules are no longer needed as administrative processes and forms have now been developed and are in use.
- If the Board does not repeal the rule: Staff would either stop the rulemaking process or return with rule modifications that more closely fit the Board's policy direction if the Board determines that changes, rather than repeal of the rule, are warranted.

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

[459-070-0900

PERS/OPSRP Transitional Rules

(1) ***Purpose****. The purpose of this rule is to implement ORS 238A.120 (Withdrawal), ORS 238A.235 (Disability Benefit), ORS 238A.375 (Withdrawal), ORS 238A.400 (Defined Contribution Benefit), and ORS 238A.410 (Death Benefit).*

(2) ***Limitation of scope of rule****. Benefits provided under this rule shall not exceed the benefits provided in ORS 238A.*

(3) ***Definitions****. For the purposes of this rule:*

(a) “Current spouse” means a married member’s spouse as of the later of January 1, 2004, or (as appropriate) the date of the member’s death or the date a retirement benefit or withdrawal is to be paid under the IAP.

(b) “Earliest retirement age” means the retirement age as defined in ORS 238A.165.

(c) “IAP” means the Individual Account program as set forth in ORS 238A.300 to 238A.415.

(d) “Married member” means a member who is married as of the later of January 1, 2004, or (as appropriate) the date of the member’s death or the date a retirement benefit or withdrawal is to be paid under the IAP.

(e) “OPSRP” means the Oregon Public Service Retirement Plan.

(f) “Pension program” means the pension program as set forth in ORS 238A.100 to 238A.245.

(g) “Retirement credit” means the credit for service a member receives pursuant to ORS 238A.140.

(4) ***Beneficiary designation****. (a) For the purposes of distributing the death benefit provided in ORS 238A.410, the beneficiary or beneficiaries will be considered the same beneficiary or beneficiaries named on a member's Designation of Beneficiary previously filed with PERS pursuant to OAR 459-014-0030, except:*

(A) Where a court order or court-approved property settlement agreement incident to any court decree of annulment or dissolution of marriage or of separation provides otherwise;

(B) Where the member has filed a new Designation of Beneficiary form specifically approved by the Public Employees Retirement Board for the purposes of ORS 238A.410; or

(C) Where a married member has named a beneficiary other than his or her current spouse.

(i) In order for a member to name someone other than his or her current spouse, a spousal consent is required as set forth under ORS 238A.410(2), to distribute the death benefit to anyone other than the current spouse.

(ii) A spouse may revoke the above consent by filing a revocation with PERS, with notarized signatures of both the member and the spouse. Upon the filing of such revocation, the member's current spouse shall be the beneficiary.

(b) In the case where no Designation of Beneficiary form has been filed with PERS pursuant to OAR 459-014-0030, or someone other than the current spouse is named the beneficiary and no spousal consent form has been filed with PERS, or the named beneficiary predeceases the member, the death benefit will be distributed in the following order:

(A) To the member's surviving spouse;

(B) To the member's surviving children, in equal shares; or

(C) To the member's estate.

*(5) **Withdrawals**. (a) If a member requests a withdrawal pursuant to ORS 238.265, this request will also be considered a request to withdraw from the OPSRP pension program under ORS 238A.120, and the IAP under ORS 238A.375, to the extent the member's interest under those programs is vested, unless the member affirmatively elects, on a form acceptable to and filed with PERS, not to withdraw his or her OPSRP IAP account(s).*

(b) A request by a member to withdraw only his or her vested IAP accounts under ORS 238A.375, will not be considered a simultaneous request to withdraw from the ORS chapter 238 plan.

*(6) **Defined contribution benefit**. (a) If a member applies and is eligible for service retirement under ORS chapter 238, and has reached the earliest retirement age as defined in ORS 238A.165, the application for service retirement will also be considered an application for payment of the defined contribution benefit provided under ORS 238A.400.*

(b) The member may make any payment election provided for in ORS 238A.400.

(c) If a member retires under ORS chapter 238, and has not reached the OPSRP earliest retirement age, the member's IAP account(s) will remain in the IAP until the member is eligible for retirement under OPSRP and applies for payment of his or her IAP account(s) or withdraws his or her IAP account(s) under ORS 238A.375.

(d) If a member retires under ORS chapter 238, and the member is reemployed by a participating public employer as defined in ORS 238A.005(11), the IAP account(s) will be retained until the member qualifies for and requests withdrawal of the account under ORS 238A.375 or retirement under ORS 238A.400.

(7) ***Disability Benefit****. The disability benefits under ORS 238A.235, will be provided in the following manner:*

(a) Duty disability. For the purposes of applying and qualifying for a duty-disability benefit under the OPSRP pension plan, the provisions of ORS chapter 238 and OAR 459-007-0070 and OAR chapter 459, division 15, will apply.

(b) Non-duty disability. For the purposes of applying and qualifying for a non-duty disability benefit under the OPSRP pension plan, in addition to the provisions of ORS chapter 238 and OAR 459-007-0070 and OAR chapter 459, division 15, the member must have accrued 10 years or more of retirement credit before becoming disabled.

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

Stat. Auth.: ORS chapter 238.650 & 238A.450

Stats. Implemented: ORS chapter 238 & 238A]

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September 15, 2006

MEETING DATE	9/15/06
AGENDA ITEM	D.1. 2005 Valuation

TO: Members of the PERS Board

FROM: Dale S. Orr, Coordinator Actuarial Analysis Section

SUBJECT: 2005 Valuation System-Wide Results

On September 15, 2006, PERS actuaries Bill Hallmark and Annette Strand will present the 2005 system-wide valuation results for the Chapter 238 Tier One/Tier Two and the Oregon Public Service Retirement Plan (OPSRP) pension programs. Individual employer results will be provided to the Board in November with the final valuation report being provided soon thereafter.

The 2005 Valuation will be the first valuation of the OPSRP program. It will also be the basis for establishing new employer rates for both pension programs beginning July 1, 2007.

We will forward the actuaries' presentation to the Board prior to the meeting.

MERCER
Human Resource Consulting

September 15, 2006

Oregon PERS

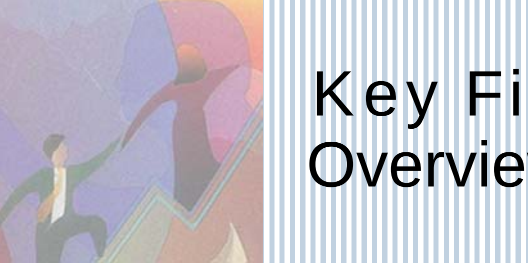
December 31, 2005 Actuarial Valuation Results

Bill Hallmark and Annette Strand

MMC Marsh & McLennan Companies

Contents

Key Findings

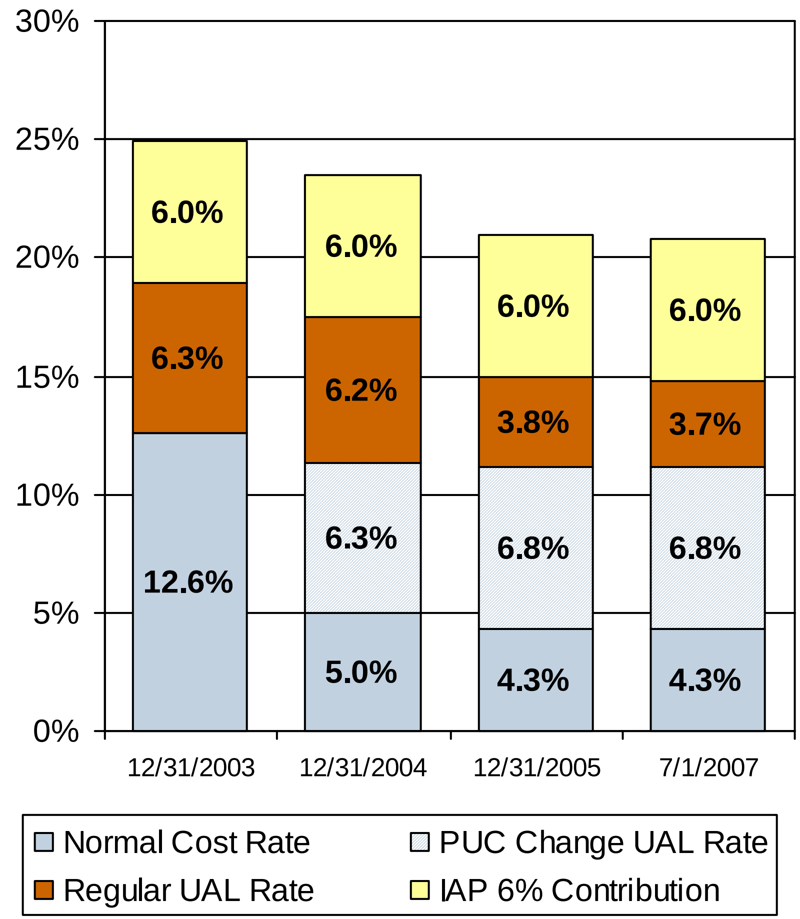


Key Findings
Overview

- First valuation of OPSRP
  - Contribution rates are lower than current rates, reflecting
    - Actual data
    - Immature plan population
    - Changes in methods and assumptions
- Tier 1/Tier 2 actuarial valuation results
  - Contribution rates are slightly lower than prior projections, reflecting
    - Assumption changes
    - Actual impact of the deployment of reserves
    - Actual effect of Strunk/Eugene decisions on member account balances, and estimated effect on retiree benefits
  - Funded status continues to improve
    - UAL without side accounts has been reduced to $4.6 billion
    - With side accounts, Tier 1/Tier 2 is in a surplus position

Key Findings
Average Tier 1/Tier 2 Contribution Rates

- The average normal cost rate declined since the prior valuation as a result of the assumption changes.
- The UAL rate for the change to the PUC method increased due to the change to the payroll growth assumption and the lower than expected growth in payroll.
- The average regular UAL rate decreased since the last valuation reflecting:
  – Deployment of reserves
  – Actual 2005 earnings



Key Findings
Change in Tier 1/Tier 2 Employer Contribution Rate

Prior Projected 7/1/2007 Tier 1/Tier 2 Employer Contribution Rate	**16.1%**
Assumption Changes	
Retirement rates	(0.6%)
Total/partial lump sum rates	(0.4%)
Mortality rates	0.3%
Withdrawal/disability rates	(0.1%)
Salary scale	(0.4%)
Total assumption changes	**(1.2%)**
Other Gains/Losses	(0.1%)
7/1/2007 Tier 1/Tier 2 Employer Contribution Rate	**14.8%**
IAP 6% Contribution	**6.0%**

- With the 12/31/2004 valuation, we projected the average employer contribution rate to be 16.1%
- At the July Board meeting, a number of assumption changes were adopted that reduced the average employer contribution rate by 1.2%
- Other gains and losses including demographic experience and variations from our estimates of the impact of deploying reserves and the Strunk/Eugene implementation had a very minor impact on rates

Key Findings
Tier 1/Tier 2 Employer Contribution Rates by Group

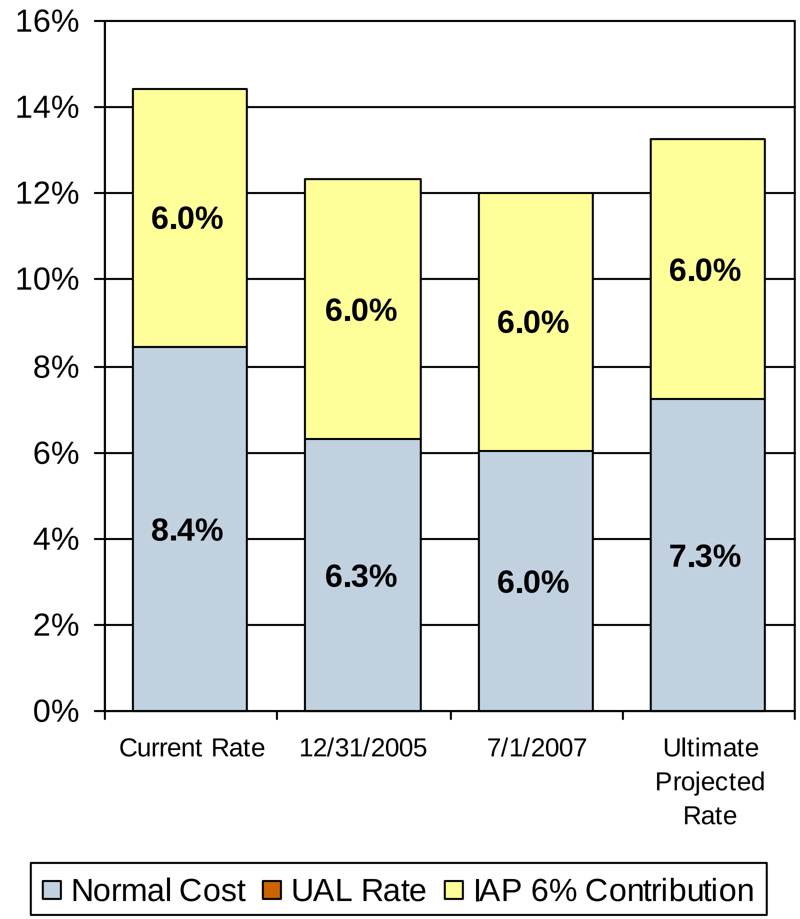
Tier 1/Tier 2 Employer Rates	SLGRP	Independ-ents*	School Districts	Judiciary (Includes Member Contribution)	System-Wide
7/1/2005	15.3%	11.5%	17.0%	30.4%	15.4%
7/1/2007 Normal Cost	4.6%	4.7%	3.5%	31.2%	4.3%
7/1/2007 UAL	9.6%	4.5%	14.1%	(5.5%)	10.5%
7/1/2007 Employer Rate	14.2%	9.2%	17.6%	25.7%	14.8%
Average 7/1/2007 Side Account Rate Relief	(6.3%)	(0.7%)	(9.7%)	N/A	(6.7%)
Average 7/1/2007 Net Employer Rate	**7.9%**	**8.5%**	**7.9%**	**25.7%**	**8.1%**

- While system-wide rates are projected to average 14.8%, rates vary significantly by pool and employer.

* *Assumes election of phase-in rate for 7/1/2005, and does not reflect the collar for 2007*

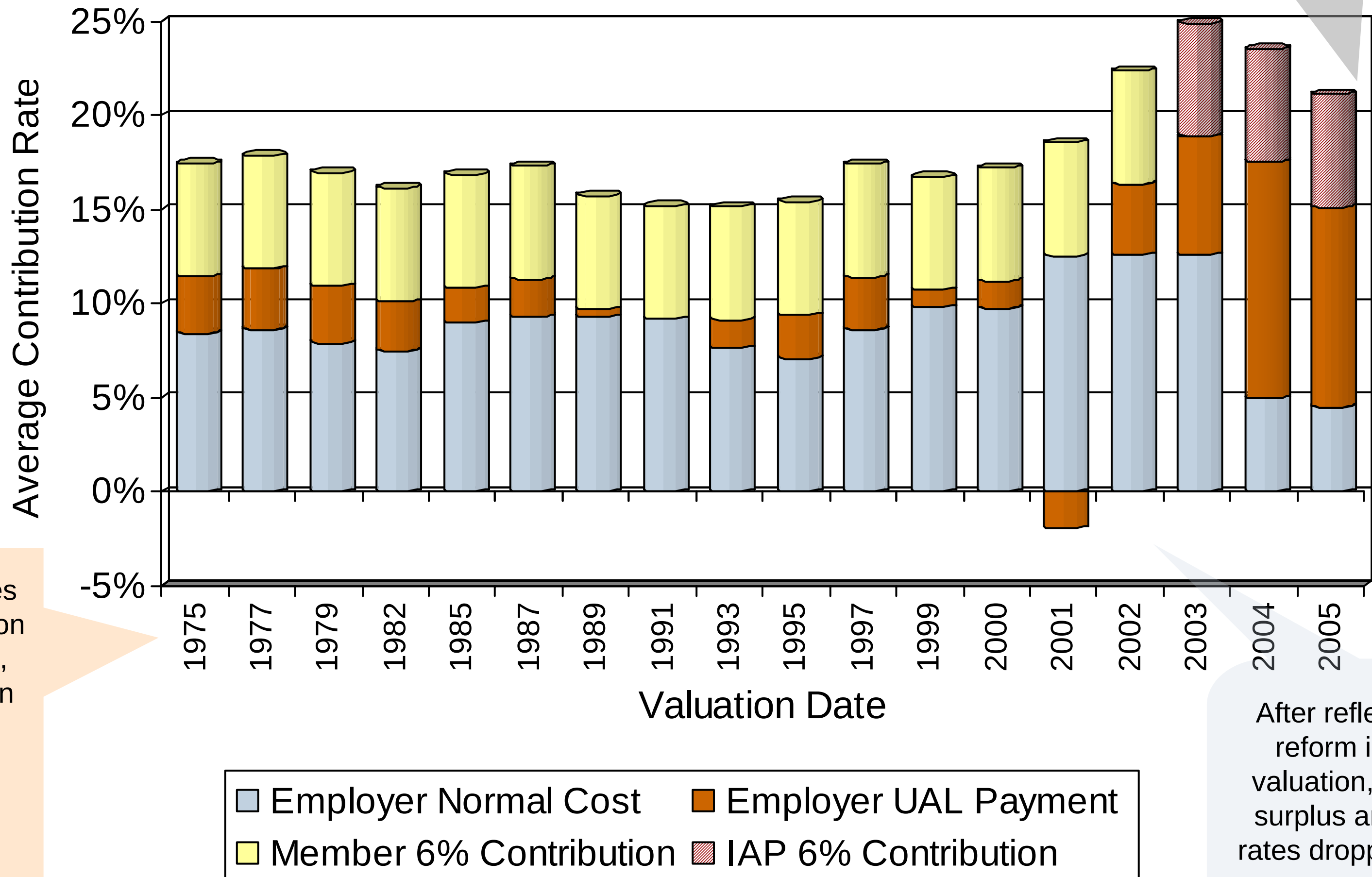
Key Findings
Average OPSRP Contribution Rates

- The average normal cost rate declined from the estimates made by Milliman during the Legislative session.
- These rates reflect different methods, assumptions and data than those used by Milliman. There may be some volatility in this rate from year to year until the population matures and stabilizes.
- As OPSRP matures, we expect the normal cost to gradually increase to an ultimate rate of approximately 7.3%.
- There is a slight surplus in the plan now, but when spread over combined payroll, the UAL rate is still 0.00%.



Key Findings
Historical Perspective on Contribution Rates

Effective, 12/31/2005, contribution rates are a weighted average of Tier 1/Tier 2 and OPSRP rates.



Note that these rates are as of the valuation date. For example, the 2003 rate shown is the 18.9% calculated at 12/31/2003 that becomes 19.7% effective 7/1/2005.

After reflecting PERS reform in the 2001 valuation, there was a surplus and employer rates dropped below the normal cost.

Key Findings
Average 7/1/2007 Employer Contribution Rates

	Payroll		
	Tier 1 /Tier 2	OPSRP GS	OPSRP P&F
Normal Cost	4.3%*	5.8%	9.1%
Tier 1/Tier 2 UAL	10.5%	10.5%	10.5%
OPSRP UAL	0.0%	0.0%	0.0%
Employer Rate	**14.8%**	**16.3%**	**19.6%**
Side Account	(6.7%)	(6.7%)	(6.7%)
Net Employer Rate	8.1%	9.6%	12.9%

- Employers pay the normal cost rate applicable to each portion of their payroll. For Tier 1/Tier 2, we calculate a blended normal cost rate for each employer, but for OPSRP we do not.
- Employers pay the same UAL rate on all of their payroll. That is, the Tier 1/Tier 2 UAL rate is charged against both Tier 1/Tier 2 and OPSRP payroll, and the OPSRP UAL rate is charged against both OPSRP and Tier 1/Tier 2 payroll.
- Side account rate relief is also applied to all payroll.
- As a result, employers are likely to pay a higher contribution rate on their OPSRP payroll than on their Tier 1/Tier 2 payroll, but the higher rate is due to the Tier 1/Tier 2 UAL.

* *14% of Tier 1/Tier 2 members have no normal cost reflecting the impact of the frozen Money Match formula.*

Key Findings
Funded Status

		Tier 1/Tier 2	
Valuation	OPSRP	**Excluding Side Funds**	**Including Side Funds**
12/31/2003*	N/A	85%	95%
12/31/2004	N/A	84%	95%
12/31/2005	102%	91%	104%

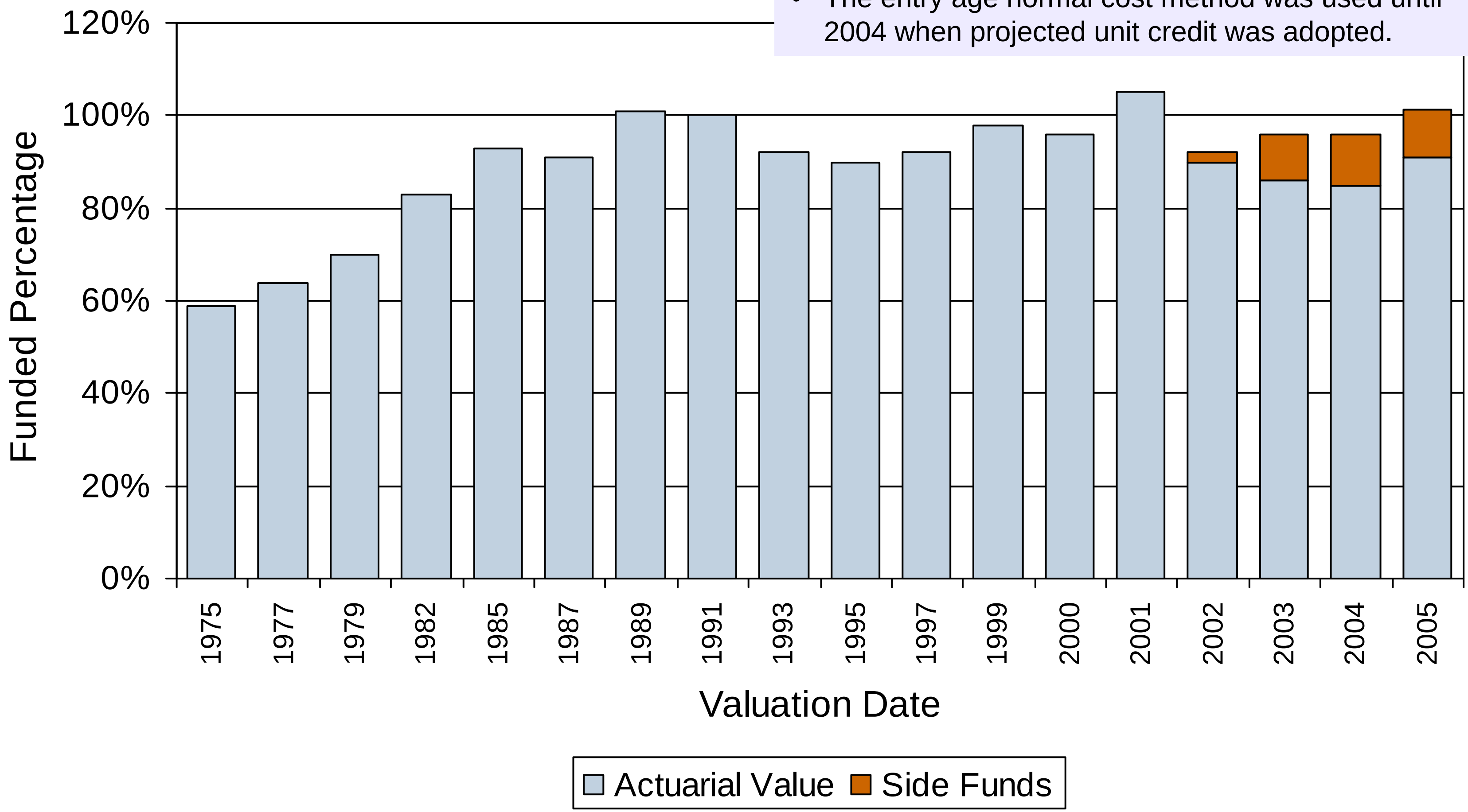
- Funded status has continued to improve with the good investment returns over the last three years.
- Side accounts now account for a significant portion of assets. Including side accounts, the fund is in a surplus position.

* *12/31/2003 data is reported using the entry age normal cost method and market value of assets.*

Key Findings
Historical Funded Status

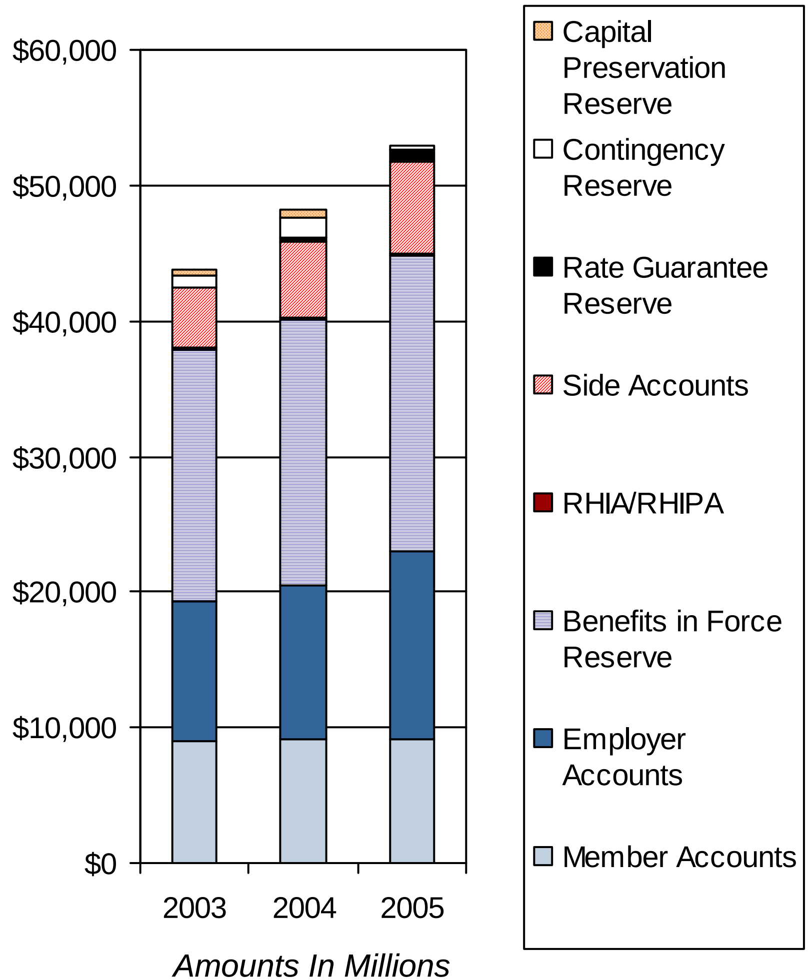
When comparing historical funded status, please note that there have been a number of changes including:

- Money Match benefits were not valued until the mid 1990s.
- A smoothed value of assets was used from 2000 through 2003.
- PERS reform was valued beginning in 2001.
- The entry age normal cost method was used until 2004 when projected unit credit was adopted.



12/31/2005 Tier 1/Tier 2 Valuation

12/31/2005 Tier 1/Tier 2 Valuation
Total Assets



- Valuation assets used to set pooled employer contribution rates exclude:
  - The Capital Preservation Reserve,
  - The Contingency Reserve,
  - The Rate Guarantee Reserve, and
  - Side accounts
- Valuation assets (and the rate guarantee reserve) are growing faster than expected due to:
  - Deployment of reserves
  - Higher rate of earnings than expected
- Total valuation assets increased 12% from $40.2 billion on 12/31/2004 to $44.8 billion on 12/31/2005.
- With side accounts, assets increased nearly 13% from $45.8 billion on 12/31/2004 to $51.5 billion on 12/31/2005

12/31/2005 Tier 1/Tier 2 Valuation
Growth of Side Accounts

	SLGRP	Independ-ents	School Districts	System-Wide
12/31/2004 Side Account Balance	$2,867.4	$35.0	$2,653.8	$5,556.2
New Deposits	154.0	61.1	460.8	675.9
Amortization to Employer Reserves	(182.3)	(3.5)	(170.3)	(356.1)
Earnings	388.2	6.8	396.3	791.2
12/31/2005 Side Account Balance	$3,227.2	$99.4	$3,340.5	$6,667.1
Outstanding Principal on Pension Obligation Bonds	$3,538.5	$236.4	$2,614.0	$6,388.9

Amounts In Millions

- Prior to 2002, supplemental payments were applied directly to the employer's reserve. As a result, there were no supplemental payments for school districts.
- After 2001, supplemental payments established a side account for the individual employer that is used to offset regularly scheduled contributions. However, supplemental payments made by SLGRP employers are used first to payoff the transition liability before establishing a side account.

12/31/2005 Tier 1/Tier 2 Valuation
Normal Cost

- The average normal cost rate declined from 5.0% in the last valuation to 4.3% in this valuation primarily due to assumption changes.
- The normal cost for retiree healthcare benefits decreased primarily due to the lower expected participation rates.

	Valuation	
	12/31/2005	12/31/2004
T-1, General	2.18%	2.80%
T-1, P&F	9.99%	8.52%
T-1, Average	**3.08%**	**3.45%**
T-2, General	5.13%	6.29%
T-2, P&F	10.88%	11.24%
T-2, Average	**5.87%**	**6.91%**
Retiree Healthcare	0.13%	0.20%
System Average	**4.30%**	**5.00%**

12/31/2005 Tier 1/Tier 2 Valuation
Actuarial Accrued Liabilities

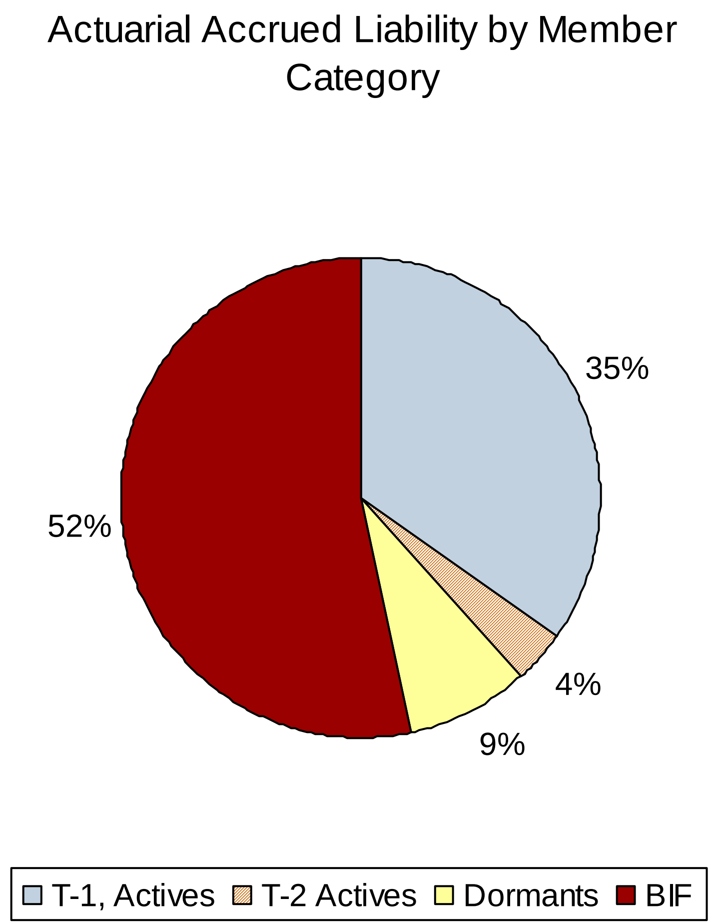
	Valuation	
	12/31/2005	12/31/2004
T-1, General	$15,269	$15,244
T-1, P&F	$1,801	$1,753
T-1, Total	**$17,070**	**$16,996**
T-2, General	$1,472	$1,385
T-2, P&F	$309	$261
T-2, Total	**$1,781**	**$1,646**
Dormant	$4,187	$3,792
Benefits in Force	$26,202	$24,965
Retiree Healthcare	$523	$585
System Total	**$49,240**	**$47,399**

Amounts In Millions

- Overall, liabilities increased about 3.9% since the last valuation
- Tier 1 active liabilities remained approximately level, reflecting the low normal cost rate and retirements
- Tier 2 active liabilities are the fastest growing segment, increasing 8% since the last valuation
- Liabilities for benefits in force continue to represent the majority of the Tier 1/Tier 2 liability

12/31/2005 Tier 1/Tier 2 Valuation
Actuarial Accrued Liabilities

- Approximately 61% of the System's accrued liability is for members who are no longer actively working in Tier 1 /Tier 2 covered employment.
- Most of the rest of the accrued liability is for Tier 1 members, many of whom are likely to retire within the next 10 years.



12/31/2005 Tier 1/Tier 2 Valuation
Funded Status Measures

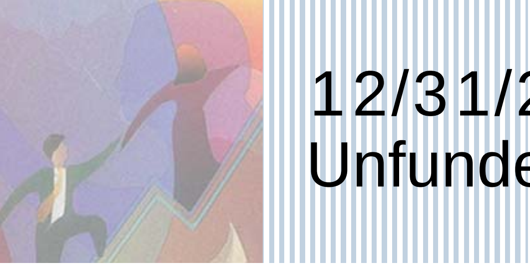
- **Unfunded Accrued Liability Before Side Funds**
  - The UAL before side funds is used to calculate the employer contribution rates for the SLGRP and School District pools.
  - The side funds are treated as prepaid contributions for the individual employers who have made supplemental contributions.
- **Unfunded Accrued Liability After Side Funds**
  - The UAL after side funds is used to report the funded status of the system as a whole.
  - Side funds are held within the PERS Trust and are available to pay PERS benefits.
- **Net Obligation**
  - The net obligation is the UAL after side funds adjusted for the outstanding principal on pension obligation bonds
  - This measure is not used by PERS, but can be used in a broader financial context to understand the outstanding obligations related to PERS

12/31/2005 Tier 1/Tier 2 Valuation
Unfunded Accrued Liability – Pension Only

	12/31/2005 Valuation					12/31/2004
	SLGRP	Independ-ents	School Districts	Judiciary	System-Wide*	System-Wide*
Accrued Liability	$24,450	$4,431	$20,152	$144	$49,240	$47,399
Assets	$22,329	$4,489	$17,755	$154	$44,660	$40,024
Unfunded Accrued Liability	**$2,121**	**$(58)**	**$2,397**	**$(10)**	**$4,580**	**$7,374**
Side Funds	$3,227	$99	$3,341	$0	$6,667	$5,556
UAL – Side Funds	**$(1,106)**	**$(158)**	**$(943)**	**$(10)**	**$(2,087)**	**$1,818**
POBs	$3,539	$236	$2,614	$0	$6,389	$5,516
Net Obligations	**$2,433**	**$79**	**$1,671**	**$(10)**	**$4,302**	**$7,334**

** System-wide results include Multnomah Fire District #10*

Amounts In Millions



12/31/2005 Tier 1/Tier 2 Valuation Unfunded Accrued Liability – Pension Only

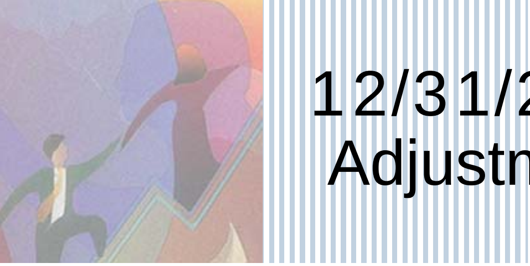
Amounts In Millions

	12/31/2005 Valuation					12/31/2004
	SLGRP	Independ-ents	School Districts	Judiciary	System-Wide*	System-Wide*
Payroll (T1/T2 + OPSRP)	$3,463	$963	$2,349	$16	$6,792	$6,772
UAL	$2,121	$(58)	$2,397	$(10)	$4,580	$7,374
UAL as % of Payroll	**61%**	**(6%)**	**102%**	**(64%)**	**67%**	**109%**
UAL – Side Funds	$(1,106)	$(158)	$(943)	$(10)	$(2,087)	$1,818
Net UAL as % of Payroll	**(32%)**	**(16%)**	**(40%)**	**(64%)**	**(31%)**	**27%**
UAL – Side Funds + POBs	$2,433	$79	$1,671	$(10)	$4,302	$7,334
Net Obligation as % of Payroll	**70%**	**8%**	**71%**	**(64%)**	**63%**	**108%**

** System-wide results include Multnomah Fire District #10*

12/31/2005 Tier 1/Tier 2 Valuation
7/1/2007 Contribution Rates Before Collar

	SLGRP	Independ-ents	School Districts	Judiciary (Including Member Contributions)	System-Wide
Pension					
Normal Cost	4.41%	4.62%	3.44%	31.00%	4.17%
Regular UAL	2.94%	(1.56%)	5.37%	(0.99%)	3.27%
PUC Change UAL	6.41%	5.92%	8.29%	(17.61%)	6.91%
Multnomah FD #10	0.16%	0.10%	0.10%	0.10%	0.13%
Total Pension	**13.92%**	**9.08%**	**17.20%**	**12.50%**	**14.48%**
Retiree Healthcare					
Normal Cost	0.15%	0.11%	0.11%	0.18%	0.13%
Regular UAL	0.41%	0.33%	0.33%	0.42%	0.35%
PUC Change UAL	(0.13%)	(0.07%)	(0.07%)	(0.13%)	(0.09%)
Total Healthcare	**0.43%**	**0.37%**	**0.37%**	**0.47%**	**0.39%**
18-Month Delay	(0.10%)	(0.23%)	0.07%	(1.93%)	(0.07%)
Employer Contribution Rate	**14.25%**	**9.22%**	**17.64%**	**11.04%**	**14.80%**



12/31/2005 Tier 1/Tier 2 Valuation
Adjustments for Collar and Side Accounts

	SLGRP*	Independents**	School Districts	Judiciary (Excluding member contributions)	System-Wide
Collar Calculation					
Current contribution rate	15.31%	11.50%	16.97%	23.38%	15.40%
Size of collar	3.06%	3.00%	3.39%	4.68%	3.08%
Minimum rate	12.25%	8.50%	13.58%	18.70%	12.32%
Maximum rate	18.37%	14.50%	20.36%	28.06%	18.48%
Application of Collar					
Rate before collar	14.25%	9.22%	17.64%	4.04%	14.80%
Rate after collar	**14.25%**	**9.22%**	**17.64%**	**18.70%**	**14.80%**
Effect of collar	0.00%	0.00%	0.00%	14.66%	0.00%
Adjustment for Side Accounts					
Side Account Relief	(6.37%)	(0.71%)	(9.72%)	N/A	(6.71%)
Net Employer Contribution Rate	**7.88%**	**8.51%**	**7.92%**	**18.70%**	**8.10%**

*SLGRP employers may also have an additional adjustment for a transition liability/surplus or pre-SLGRP pooled liability

** For independent employers, the collar calculation is performed on an individual basis

12/31/2005 Tier 1/Tier 2 Valuation
Employers Joining the State & Local Government Rate Pool (SLGRP)

Amounts In Millions

- Effective 1/1/2006, a number of independent employers joined the SLGRP
- SLGRP normal cost rates in this valuation reflect the addition of these employers
- The SLGRP UAL rate is not affected by new employers joining the pool as a transition liability or surplus is established such that the pooled UAL rate remains unchanged.
- 6 of the employers joining the pool had a transition liability and 36 of the employers had a transition surplus

	Joining SLGRP	Current SLGRP
Primary Employers	42	275
Active Employees	513	62,795
Payroll	$24.0	$3,064.8
Assets	$123.5	$22,377.2
Accrued Liability	$118.5	$24,331.8
Normal Cost	$1.6	$134.7

12/31/2005 Tier 1/Tier 2 Valuation
Independent Employers

Number of Active Employees	Number of Independent Employers
500 or more	7
100 to 500	12
50 to 100	12
10 to 50	38
1 to 10	87

- On the whole, the System is returning to historical norms, but individual employers still experience a wide range of results, particularly small independent employers
- This year 42 independent employers joined the SLGRP. There are 218 employers who remain independent, 156 of whom have active employees
- Most of these employers have less than 10 active Tier 1/Tier 2 employees. They are essentially self-insuring disability, death and retirement benefits, so their contribution rates will vary significantly with their experience

12/31/2005 OPSRP Valuation

12/31/2005 OPSRP Valuation
Active Demographic Comparisons

	General Service			Police & Fire		
	Tier 1	Tier 2	OPSRP	Tier 1	Tier 2	OPSRP
Count	65,573	54,949	22,771	6,369	5,627	1,212
Average Age	50.9	43.6	39.5	46.1	38.5	34.8
Average Service	17.1	5.6	1.3	16.7	5.9	1.4
Average Salary	$48,248	$36,168	$25,975	$62,466	$49,753	$36,946

- Not surprisingly, OPSRP members tend to be younger and lower paid than Tier 1 or Tier 2 members.
- OPSRP represents about 15% of the total active membership, and about 10% of total active payroll.

12/31/2005 OPSRP Valuation
Part-Time Employees

- Under OPSRP, part-time employees earn a partial year of service, and employers report the number of hours required to be considered full-time (for most employers 2000 hours are required).
- For part-time employees, pay is converted to a full-time equivalent pay.
- For example, a member who worked 1000 hours and earned $20,000 would be credited with 0.5 years of service and with full time equivalent pay of $40,000.
- Under Tier 1/Tier 2, this member would have earned a full year of service, and no full time equivalency adjustment would have been made to pay ($20,000).

Employee Group	Percentage Part-Time*
School Districts	42%
Other General Service	25%
Police & Fire	10%
Total	**31%**

** For purposes of this valuation, any member reported with at least 80% of the hours required to be full-time was considered full-time. Approximately 22% were reported with less than 100%, but more than 80% of the hours needed to be considered full-time.*

12/31/2005 OPSRP Valuation
Assets

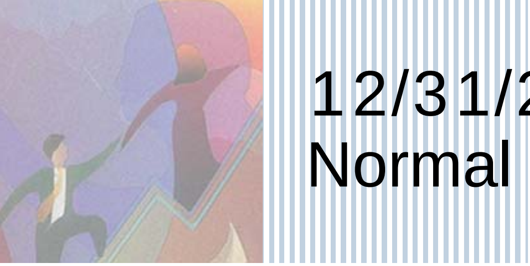
	2005	2004
Assets, January 1	**$ 5.4**	**$ 0**
Contributions	49.3	10.8
Earnings	3.6	0.5
Expenses	(3.3)	(5.9)
Benefit Payments	0	0
Assets, December 31	**$ 55.0**	**$ 5.4**

Amounts In Millions

- Assets for OPSRP are very small compared to the rest of PERS.
- First year contributions were very low reflecting, among other things, that no contributions are collected until an employee completes the 6-month waiting period.
- Administrative expenses are the biggest draw on assets as the initial set up costs are incurred.

12/31/2005 OPSRP Valuation
Administrative Expenses

- Initial start-up expenses for OPSRP have been significant relative to total OPSRP assets
- For Tier 1/Tier 2, we assume administrative expenses are about 5 basis points when we develop the expected rate of return
- For OPSRP, we recommend an administrative expense assumption of $6.7 million per year be added to the normal cost
  - $4.8 million in regular allocated expenses
  - $1.9 million in start-up IT expenses (this charge expires in 2009)
- Initially this assumption adds about 98 basis points to the normal cost rate, but as OPSRP payroll grows and the IT start-up charge expires, the impact of the expense assumption will diminish
  - We expect the administrative expenses to decline to around 10 basis points after about 10 years and ultimately be similar to those for Tier 1/Tier 2.
  - We will revisit this assumption with each experience study to set an appropriate addition to the normal cost

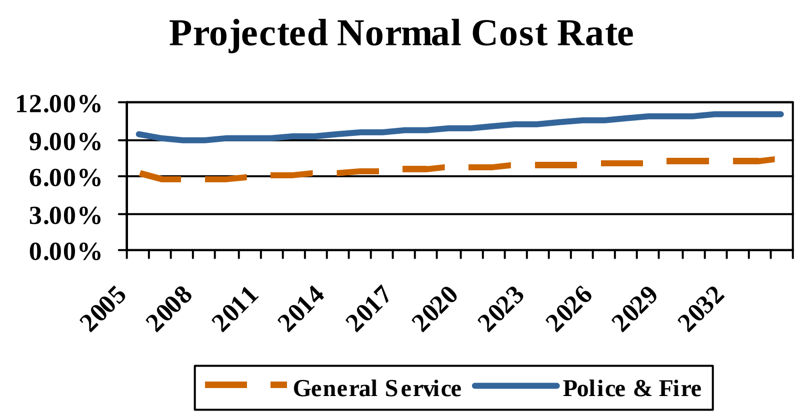


12/31/2005 OPSRP Valuation
Normal Cost

- Because of the immaturity of the OPSRP plan, we expect the normal cost to be low in the first few years when virtually no one is vested and termination rates are relatively high.
- In the long run, we expect the normal cost to gradually increase to approximately:
  - 7.25% for general service
  - 11.00% for police and fire

Amounts In Millions

	General Service	Police & Fire	Total
Normal cost (including expenses)	$ 38.5	$ 4.6	$ 43.1
OPSRP Payroll	$ 632.3	$ 48.4	$ 680.7
Normal cost rate	6.1%	9.4%	6.3%



12/31/2005 OPSRP Valuation
Unfunded Accrued Liability

OPSRP UAL Rate	
Accrued liability	
General Service	$ 47.3
Police & Fire	5.9
Dormant	0.5
Total	**$ 53.8**
Assets	**$ 55.0**
Unfunded Accrued Liability	**$ (1.2)**
Combined Payroll	$ 6,791.7
16-year amortization factor	11.825
UAL Rate	**0.00%**

- With current contribution rates higher than the normal cost calculated in the valuation and good investment returns, we would expect OPSRP to be in a surplus position.
- The 6-month waiting period and start-up expenses, however, have nearly cancelled these gains.
- The surplus of $1.2 million does not affect contribution rates because it is amortized over the entire $6.8 billion payroll.

Amounts In Millions

12/31/2005 OPSRP Valuation
7/1/2007 Contribution Rates

	General Service	Police & Fire	Weighted Average Rate
Regular Normal Cost	5.61%	8.51%	5.82%
Pre-Retirement Disability Normal Cost	0.48%	0.90%	0.51%
UAL Rate	0.00%	0.00%	0.00%
18-Month Delay	-0.27%	-0.32%	-0.30%
Preliminary employer contribution rate	**5.82%**	**9.09%**	**6.03%**
Current contribution rate	8.04%	11.65%	8.44%
Minimum rate			5.44%
Maximum rate			11.44%
Adjustment due to collar	0.00%	0.00%	0.00%
Final employer contribution rate	**5.82%**	**9.09%**	**6.03%**

The collar is applied to the weighted average OPSRP contribution rate so that there is a single UAL rate for the pool.

Next Steps

Next Steps

- Today
  - Board approves (or does not approve) expense assumption for OPSRP
- November meeting
  - Individual employer rates and reports
  - Tier 1/Tier 2 system-wide report
  - OPSRP report
  - Adoption of employer contribution rates for 2007-09 biennium

Appendix

Appendix
Assumption Changes

- Economic Assumptions
  - Reduce inflation assumption from 3.00% to 2.75%
  - Update healthcare trend assumption
- Demographic Assumptions
  - Increase setback for male retiree mortality
  - Update disabled retiree mortality and ratios for non-retired mortality
  - Restructure and update retirement rate assumptions
  - Restructure and update termination rate assumptions
  - Consolidate disability rate assumptions
  - Reduce School District salary merit increase assumption
  - Update other minor assumptions
- Allocation Procedures
  - Change service segment allocation procedure

Appendix
Summary of 2005 Legislation Impacting PERS

- A member eligible to receive benefits under both Tier 1/Tier 2 and OPSRP may use their combined creditable service (Tier 1/Tier 2) and retirement credits (OPSRP) to determine eligibility for benefits, such as non-duty disability, “30 and out”, vesting, etc.
- A member entitled to retire under both Tier 1/Tier 2 may retire from the OPSRP Pension Program at the earliest retirement age they would be entitled to retire under the Tier 1/ Tier 2 Program.
- “Pop-up” survivor options are added to the OPSRP Pension Program.
- “Final Average Salary” definition is changed to “earned when paid” for all Tier 2 and OPSRP members, except for those members employed by local governments.
- Normal retirement age under the OPSRP Pension Program for a member retiring from service as a school member is the earlier of age 65 or 58, if the member has been an active member in 30 or more calendar years.

Appendix
Summary of 2005 Legislation Impacting PERS (continued)

- Under Tier 1/Tier 2, an inactive member may retire at the age of 50 if the last covered position held by the member was a P&F position. The member may receive an unreduced benefit, if the member had 25 years of creditable service, and the last covered position was a qualifying P&F position.
- Academic members of community colleges are assumed to work 1,200 hours on a full-time equivalent basis. A member will be credited with a minimum of 1,200 hours if they are employed on a 1.0 full-time equivalent basis or 600 hours if they are employed 0.375 full-time equivalent on a 12-month basis, or 0.50 full-time equivalent on a 9-month basis, regardless of actual hours worked.

Appendix
Tier 1/Tier 2 Normal Cost

	12/31/2005 Valuation					12/31/2004
	SLGRP	Independents	School Districts	Judiciary (includes Member Contributions)	System-Wide	System-Wide
T-1, General	1.83%	1.75%	2.35%	31.00%	2.18%	2.80%
T-1, P&F	9.76%	10.47%	14.00%	0.00%	9.99%	8.52%
T-1, Average	**3.17%**	**3.82%**	**2.37%**	**31.00%**	**3.08%**	**3.45%**
T-2, General	5.10%	4.59%	5.37%	0.00%	5.13%	6.29%
T-2, P&F	11.10%	10.13%	14.25%	0.00%	10.88%	11.24%
T-2, Average	**6.21%**	**5.67%**	**5.39%**	**0.00%**	**5.87%**	**6.91%**
Retiree Healthcare	0.15%	0.11%	0.11%	0.18%	0.13%	0.20%
System Average	**4.56%**	**4.73%**	**3.55%**	**31.18%**	**4.30%**	**5.00%**

- The average normal cost rate declined from 5.0% in the last valuation to 4.3% in this valuation primarily due to assumption changes.

Appendix
Tier 1/Tier 2 Actuarial Accrued Liabilities

	12/31/2005 Valuation					12/31/2004
	SLGRP	Independ-ents	School Districts	Judiciary	System-Wide*	System-Wide*
T-1, General	$7,375	$1,279	$6,544	$71	$15,269	$15,244
T-1, P&F	$1,275	$521	$5	$0	$1,801	$1,752
T-1, Total	**$8,650**	**$1,800**	**$6,549**	**$71**	**$17,070**	**$16,996**
T-2, General	$734	$205	$533	$0	$1,472	$1,385
T-2, P&F	$240	$67	$2	$0	$309	$261
T-2, Total	**$974**	**$272**	**$535**	**$0**	**$1,781**	**$1,646**
Dormant	$2,458	$380	$1,345	$4	$4,187	$3,792
Benefits in Force	$12,369	$1,979	$11,724	$69	$26,202	$24,965
Pension Total	**$24,450**	**$4,431**	**$20,152**	**$144**	**$49,240**	**$47,399**
Retiree Healthcare					$523	$585
System Total					**$49,763**	**$47,984**

** System-wide results include Multnomah Fire District #10*

Amounts In Millions