

Employer Announcement #35

2005 Legislation: House Bills 2189 and 3262

House Bills 2189 and 3262, passed by the state legislature in 2005, affect the PERS Chapter 238 Program (Tier One and Tier Two), the OPSRP Pension Program, and OPSRP IAP in several areas. This announcement summarizes the significant sections of both bills, the anticipated effects of the bills, and the PERS activities planned in response to those bills. Although other bills were passed during the legislative session that affect PERS, these two bills have the most impact on employer reporting.

HB2189

Section 1: Wages Of Deceased Members

The definition of salary for the PERS Chapter 238 Program (Tier One and Tier Two), OPSRP Pension Program, and IAP now includes wages of deceased members paid to their surviving spouse or dependent child, **for members who die on or after June 29, 2005**. The amount of wages paid to the surviving spouse or dependent child cannot exceed \$10,000, per ORS 652.190.

Effect: Salary paid after the death of a member to a surviving spouse or dependent child needs to be reported to PERS as any other PERS-covered salary.

PERS' response: Salary paid within 31 days should be reported as any other salary paid to the member prior to his or her death. For salary paid after 31 days, a future EDX release will include a status code that will relax the 31-day edit when a date of death is entered.

Section 4: OPSRP Definition of “school employee” extended to some OHSU employees

The OPSRP Pension Program definition of “school employee” is extended to those OHSU employees involved in teaching or other school activity. These OHSU employees are required to accrue a minimum of 600 hours of qualifying service per calendar year as required of any OPSRP Pension Program member, but like other “school employees,” may receive one full year of OPSRP Pension Program retirement credit if they work the number of hours that the employer determines is 1.0 FTE. **This definition applies to service by eligible OHSU school employees on or after August 29, 2003.**

Effect: OHSU needed to identify employees that meet the OPSRP Pension Program definition of “school employee.” That identification has been accomplished.

PERS' response: Staff has changed the class code for the identified employees.

Sections 6-8: “Break in Service”

A “Break in Service” is a period of absence from employment that, under certain conditions and time limitations, halts the accrual of creditable service and benefits under the PERS Chapter 238 Program (Tier One and Tier Two) and starts the accrual of retirement credit and benefits under the OPSRP Pension program.

Members Whose Work Is Seasonal In Nature

PERS Chapter 238 Program (Tier One or Tier Two) members who leave employment **on or after August 29, 2003** due to the seasonal nature of their employment and who return to qualifying employment **with the same employer** within 12 calendar months will not incur a “Break in Service.” This applies to employees whose work is seasonal in nature and **who have previously established active membership**. School employees are not included in the definition of employees whose work is seasonal in nature. If the member was employed by a participating state employer, returning to employment with any participating state employer will satisfy the “same employer” requirement.

Effect: Requires that affected members whose work is seasonal in nature who were previously moved to the OPSRP Pension Program be returned to the PERS Chapter 238 Program (Tier One or Tier Two) in their original tier.

PERS’ response: Develop an additional status code for a future EDX release. Use of this leave code for qualified employees will avoid their being placed into the incorrect plan. The new leave code will be available approximately the second of quarter 2006.

Vested Members

PERS Chapter 238 Program Tier One or Two members who were **inactive and vested on August 28, 2003** and who return to **qualifying employment before January 1, 2006 with the same participating public employer that employed them immediately before they became inactive** will not incur a “Break in Service.” If the member was employed by a participating state employer, return to employment with any participating state employer will satisfy the “same employer” requirement.

Effect: This change applies to a defined group of PERS Chapter 238 Program members that has the potential to grow until December 31, 2005.

PERS’ response: The agency is currently evaluating the effects of this provision. Plans to resolve any backlog are under discussion.

Disability Retirees

PERS Chapter 238 Program (Tier One or Tier Two) members who retire under the disability retirement program and return to PERS-covered employment with any participating employer do not have a “Break in Service” for any period of time before, on, or after **August 28, 2003** during which they receive a PERS disability retirement allowance.

Effect: This should not pose a workload increase for employers.

PERS’ response: A future release of EDX may eliminate a break in service for these PERS members

Sections 9-12: “Break in Service” and Creditable Service/Retirement Credit

Reciprocal use of PERS creditable service and OPSRP retirement credit for retirement benefit qualification

PERS Chapter 238 Program members (Tier One and Tier Two) and OPSRP Pension Program members who are eligible to receive retirement benefits under both programs because of a “Break in Service” may combine service/retirement credit accrued in either program to qualify for benefits in either program. The cumulative service credit can be used **only to qualify for benefits** in either program. The cumulative service credit **will not be used in the calculation of benefit amounts**. Only the service/retirement credit accrued in the specific program will be used to calculate the benefit from that program. **This applies to members retiring on or after June 29, 2005.**

Effect: No effect to employer reporting.

PERS’ response: No response required. The numbers of retirees may increase.

Section 13: “Break in Service” and Earliest Retirement Age

PERS Chapter 238 members (Tier One and Tier Two) and OPSRP Pension Program members who are vested in both the PERS Chapter 238 Program and OPSRP Pension Program because of a “Break in Service” may use the earliest retirement age available to the member under the Chapter 238 program for **both PERS Chapter 238 Program and OPSRP Pension Program retirement eligibility**. **This applies to those members retiring on or after June 29, 2005.**

Effect: No effect on employer reporting.

PERS’ response: No response required. The number of retirees may increase.

Section 14: Additional benefit payment options for OPSRP Pension Program retirees

OPSRP Pension Program retirees will be able to elect a retirement option that will allow them to convert a half- or full-survivorship benefit to a single life benefit (the highest paying OPSRP Pension Program benefit) in the event of the retiree’s divorce from the beneficiary after the member retires, or the death of the beneficiary after the member retires. **This applies to OPSRP Pension Program members retiring on or after June 29, 2005.**

Effect: No effect to employer reporting.

PERS’ response: No response required.

Section 16: Change In Average Overtime Code

Allows the Department of Administrative Services (DAS) to establish different average overtime codes for the same class of employees in state employment, based on geographic placement of the employees. **Effective June 29, 2005.**

Effect: State agencies will continue to be required to identify classes of employees and the appropriate overtime average codes.

PERS' response: A future release of EDX will allow different average overtime codes for the same job classification.

Section 17: Salary Definition for IAP Contributions

Beginning January 1, 2004, payroll contributions formerly made to PERS Chapter 238 Program (Tier One and Tier Two) member accounts were made to IAP accounts. Salary subject to IAP contributions was defined under the more restrictive OPSRP definition. This section establishes the PERS Chapter 238 Program subject salary definition as the basis for IAP contributions for PERS Chapter 238 Program members, **retroactive to January 1, 2004**. The OPSRP definition of salary continues to be the basis for IAP contributions for all OPSRP Pension Program members.

Effect: Lump-sum payoffs that were not considered subject salary for IAP contributions under the OPSRP salary definition are now included as subject salary for PERS Chapter 238 Program members retroactive to January 1, 2004.

PERS' response: This change may produce a reporting backlog for employers and a resolution for this problem to minimize the impact on employers and PERS is being researched. PERS will inform employers regarding any decisions made and subsequent actions required from participating employers.

Sections 19-22: Academic Employees of Community Colleges

Community college academic employees under the OPSRP Pension Program who work .375 Full-Time Equivalent (FTE) on a 12-month basis or .5 FTE on a nine-month basis will be considered to have performed 600 hours of service in the calendar year for all purposes. Community college academic employees who work 1.0 FTE on a nine-month or 12-month basis will be considered to have performed 1,200 hours of service in the calendar year for all purposes. The community college shall determine what duties of an academic employee in a specific discipline or academic activity constitute 1.0 FTE. Academic employees will be credited with one full year of retirement credit for each year they work 1.0 FTE. The employees will be credited with a prorated amount of retirement credit for years in which they perform less than 1.0 FTE, based on a specific formula with 1,200 hours as 1.0 FTE. **These sections apply to all service by an academic employee on or after August 29, 2003.**

Effect: This section of HB2189 applies to all OPSRP community college academic employees who were active OPSRP members during the 2003-2004 and 2004-2005 school years. OPSRP community college academic employees previously considered ineligible for OPSRP membership may now qualify for OPSRP membership. Retroactive first-time reporting for these members now needs to be done. A retroactive job class code change will be required for all active members previously reported as other than educational employees, along with a possible change in existing FTE code. A backlog will result.

PERS response: A future release of EDX may allow retroactive job class and FTE code changes. For now, employers should begin to accurately report all new hires with the appropriate hours.

HB3262

Section 33: Definition of final average salary for PERS Chapter 238 Program Tier 2 and OPSRP Pension Program members, for all employers EXCEPT local governmental employers as defined in ORS 174.116.

The definition of final average salary for PERS Chapter 238 Program Tier 2 and OPSRP Pension Program members who are not employed by a local government employer has been changed to salary “earned when **paid**” rather than “earned when earned.” **This is effective retroactive to November 4, 2005.**

Effect: The EDX system is programmed to accept salary entries assuming earned when paid. No changes to salary reporting required by any employers at this time.

PERS’ response: Most employers will have no change in the way they report salary to PERS. A future release of EDX will allow local government employers to report salary on an “earned when earned” basis. **However, local government employers currently using the “copy forward” reporting method WILL NOT be able to use the “copy forward” reporting method after these changes to EDX are made.**

Section 35: Change in retirement qualification for OPSRP Pension Program school employees

For OPSRP Pension Program members, normal retirement age is 65, or 58 with 30 years retirement credit. HB 3262 changes age 58 with **30 years retirement credit** to age 58 with **active membership in 30 calendar years, but only for OPSRP Pension Program school employee members as defined by ORS 238A.140.** This is effective January 1, 2006.

Effect: No changes in employer reporting.

PERS’ response: Since retirement credit is prorated for OPSRP Pension Program members, OPSRP Pension Program school employee members could now retire at age 58 with less than 30 years retirement credit. However, their benefits will still be calculated based on the years of retirement credit they have earned.

Section 36: Changes in disability qualification for OPSRP Pension Program school employees

Currently, OPSRP Pension Program members must have a minimum of 10 years retirement credit before becoming disabled to qualify for an OPSRP Pension Program non-duty disability benefit. HB3262 changes this requirement for OPSRP Pension Program **school employee members only** (as defined by ORS 238A.140) from a **minimum of 10 years retirement credit to active membership in 10 calendar years before becoming disabled.** This change is effective January 1, 2006.

Effect: No changes in employer reporting.

PERS’ response: An OPSRP Pension Program school employee member could qualify for a non-duty OPSRP disability benefit with less than 10 years retirement credit if they were an active member in 10 or more calendar years before becoming disabled.

Section 40: Reemployment of PERS retirees by Oregon public employers

The 2003 and 2005 legislatures enacted statutes providing numerous exceptions to the 1,039 hours per calendar year work limit for PERS Chapter 238 Program (Tier One and Tier Two) retirees working for Oregon public employers. See ORS 238.082 and section 40 of HB 3262 for these exceptions. Most exceptions are currently in effect. The exception added by HB 3262 for certain Black Butte and Sunriver employees is effective on January 1, 2006.

The exceptions can be used only by PERS retirees who return to employment as a retiree under ORS 238.082 (they must be receiving a service retirement allowance) and who retired with a benefit having no actuarial reduction for early retirement. A benefit has no actuarial reduction for early retirement if the member retired based on:

- Age 58 (Tier 1, general service)
- Age 60 (Tier 2, general service)
- Age 55 (Police and Fire)

OR

- 30 years total PERS creditable service, regardless of age (Tier 1, Tier 2, P&F)
- Age 50 and 25 years PERS creditable service (P&F only)

Effect: This will affect the number of PERS Chapter 238 Program retirees eligible to utilize the exceptions to the 1,039 hours per calendar year rule. Retirees who chose the Total Lump Sum Option at retirement cannot be employed under ORS 238.082. They must be designated casual, seasonal, or emergency workers by their employer and are limited to less than 600 hours of employment during the six-month period following their retirement. Working 600 hours or more during this six-month period will require that the retiree repay their Total Lump Sum. After the six-month period has passed, these retirees may work unlimited hours and may become members of the OPSRP Pension Program.

PERS' response: No PERS or employer response is required. Employers may note an increase in the number of retirees that are employable beyond the 1,039 hours per calendar year limit beginning January 1, 2006.

We will continue to update employers on changes and necessary adaptations needed to implement 2005 legislation. PERS staff is available to answer any questions and provide reporting assistance upon request.

If you have further questions about changes to PERS resulting from the 2005 legislative session, please e-mail us at: PERS-Employer.info.services@state.or.us. E-mail is the preferred method of contact concerning these changes, because responses to these questions will undoubtedly require research and review.

Thank you for your patience as we plan new reporting features and approaches to comply with legislative changes.

In compliance with the Americans with Disabilities Act, PERS will provide this document in an alternate format upon request. To request this, contact PERS at 888-320-7377 or TTY 503-603-7766.