

## **Employer Announcement #55**

### **2009 Legislative Highlights**

The following measures affecting PERS employers were passed during the 2009 legislative session and signed by the Governor.

#### **Senate Bill 112**

Effective January 1, 2010, SB 112 changes the work after retirement limitations for retired members who received a Total Lump-Sum benefit. The limitation based upon designation as casual, emergency, or seasonal worker and working 599 or less hours within the first six months of retirement is eliminated. Total Lump-Sum benefit recipients can work up to 1,039 hours per calendar year for a PERS-covered employer, the same limitation currently applicable to retired members receiving a monthly benefit.

Consequently, effective January 1, 2010, Tier One/Tier Two Total Lump Sum or monthly benefit recipients who begin working or continue working part-time as retirees for PERS-participating employers will have the same work limit of 1,039 hours per calendar year. This limit also applies to Tier One/Tier Two members who receive an Aggregate Sum (AS) refund benefit at retirement. Retirees receive a single lump-sum payment (AS refund) in place of a monthly retirement benefit if their calculated monthly benefit at retirement is less than \$200 per month.

Retirees who work more than 1,039 hours in a calendar year for a PERS-covered employer will become active members on the first of the month after the limit is exceeded, and their retirement benefit will stop. A Tier One/Tier Two Total Lump-Sum benefit recipient receiving the Total Lump-Sum benefit in installment payments will not receive installments after the date active membership is re-established.

Total Lump-Sum and Aggregate-Sum (AS) refund recipients will now be eligible to take advantage of the 1,039 work limit exceptions for any positions listed in ORS 238.082 and OAR 459-017-0060.

**The current 599 work hour and position hiring restrictions for Tier One/Tier Two Total Lump Sum and Aggregate Sum (AS) refund recipients will remain in effect through, and including, December 31, 2009.**

SB 112 also prohibits inclusion of hours worked in “excepted” positions towards the 1,039 hours per calendar year work limit for Tier One/Tier Two benefit recipients. An “excepted” position is one listed in ORS 238.082 or OAR 459-017-0060 which allows qualified Tier One/Tier Two retirees working in those positions to exceed 1,039 hours in a calendar year and continue to receive their PERS benefits.

Prior to SB 112, if a retiree was employed under an exception to the 1039-hour limitation and concurrently employed in a position not under an exception, hours worked in the calendar year under the exception were counted toward the 1039-hour limitation on the position not under an exception. Application of total “excepted” and non-“excepted” hours toward the 1,039 hours in a calendar year work limit was not well understood and caused retirees to inadvertently exceed the 1,039-hour annual work limit, again becoming active PERS members and halting retirement benefits. SB 112 reduces that risk by counting only the hours worked in non-“excepted” positions toward the 1,039-hour annual work hour limit.

**This section of SB112 is retroactive back to January 1, 2004, or the date the applicable exception was created by statute.**

No additional positions were “excepted” from the 1,039 hour per calendar year work limit by the 2009 Legislature.

**The “Working After Retirement” document on the PERS employer web site has been updated to reflect these changes. Please refer to that document for more comprehensive information.**

### **House Bill 3401**

HB 3401 allows employers with established “side accounts” to use excess funds in the side account to offset employer-paid member IAP contribution obligations. **Although the bill was effective upon the Governor’s signature, the measure requires that PERS seek an IRS ruling whether use of funds for this purpose would affect PERS’ status as a qualified governmental retirement plan. NO ACTION on this bill will be taken until the IRS has returned that ruling.**

Please e-mail: [pers-employer.info.services@state.or.us](mailto:pers-employer.info.services@state.or.us) if you have further questions on measures resulting from the 2009 legislative session.

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