

# OREGON PUBLIC EMPLOYEES RETIREMENT BOARD

**Friday**  
**June 16, 2006**  
**11:00 A.M. & 1:00 P.M.**

**PERS**  
**11410 SW 68<sup>th</sup> Parkway**  
**Tigard, OR**

	ITEM	PRESENTER
<b>A. Contested Case Hearings – 11:00 A.M.</b>		
<ol style="list-style-type: none"> <li>1. Contested Case Hearing for Susan L. Boracci</li> <li>2. Contested Case Hearing for Larry Lenon</li> <li>3. Contested Case Hearing for Lawrence Oglesby</li> <li>4. Contested Case Hearing for Dennis Bell</li> <li>5. Contested Case Hearing for Mardell Rogers</li> <li>6. Debbie McIntosh Petition for Reconsideration</li> <li>7. Richard McQueen Petition for Reconsideration</li> <li>8. Brian Metke Petition for Reconsideration</li> </ol>	KUTLER / RODEMAN	
<b>Lunch Break</b>		
<b>B. Administration – 1:00 P.M.</b>		
<ol style="list-style-type: none"> <li>1. April 27, 2006 Board Meeting Minutes</li> <li>2. Director's Report               <ol style="list-style-type: none"> <li>a. Forward-Looking Calendar</li> <li>b. OIC Investment Report</li> <li>c. Budget Report</li> <li>d. HB2020 Update</li> <li>e. Miscellaneous</li> </ol> </li> </ol>	CLEARY	
<b>C. Consent Action and Information Items</b>		
<ol style="list-style-type: none"> <li>1. Action on Contested Cases</li> <li>2. <i>Strunk / Eugene</i> Implementation Project - Benefit Recalculation Letter</li> <li>3. <i>Strunk / Eugene</i> Policy Issues Update</li> <li>4. Adoption of Contested Case Rules</li> <li>5. Adoption of Model Rules of Procedure</li> <li>6. Adoption of IAP Remediation Rules</li> </ol>	RODEMAN STROUD RODEMAN RODEMAN RODEMAN RODEMAN	
<b>D. Action and Discussion Items</b>		
<ol style="list-style-type: none"> <li>1. IAP Remediation Project Plan</li> <li>2. HB 2189 – Lump-Sum Payment Employee Contributions</li> <li>3. 2007 Retiree Health Insurance Contract Change Proposals</li> <li>4. FY 2007 – 2009 Budget Overview and Concepts</li> <li>5. FY 2007 – 2009 Legislative Concepts Update</li> <li>6. 2005 Experience Study: Methods and Economic Assumptions</li> </ol>	TYLER / RODEMAN RODEMAN ENGLISH DEFOREST DELANEY MERCER	
<b>E. Executive Session Pursuant to ORS 192.660(2)(f), (h), and/or ORS 40.225</b>		
<ol style="list-style-type: none"> <li>1. Litigation Update</li> </ol>	LEGAL COUNSEL	

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

MEETING	6/16/06
DATE	
AGENDA	B.1.
ITEM	Minutes

**PUBLIC EMPLOYEES RETIREMENT BOARD**

PERS Board Meeting  
1:00 P.M.

April 27, 2006  
Tigard, Oregon

**MINUTES**

**Board Members:**

Brenda Rocklin, Vice-chair  
James Dalton  
Eva Kripalani  
Thomas Grimsley  
Phone: Mike Pittman, Chair

**Staff:**

Paul Cleary, Director  
Steve Delaney  
Donna Allen  
Brendalee Wilson  
Gloria English

Joe Delillo  
Craig Stroud  
David Crosley  
Steve Rodeman  
Brian DeForest

Helen Bamford

**Others:**

Karla Alderman  
Dallas Weyand  
BethAnne Darby  
John Meier  
Steve Law  
Karen Artiaco  
Maria Keltner  
Eric Carlson

Chris Warner  
Pat West  
Jerry LeLack  
Hasina Squires  
Bob Andrews  
Lance Colley  
Jim Green  
Steve Manton

Annette Strand  
Bill McGee  
Keith Kutler  
Jerry Donnelly  
David Wimmer  
Bill Hallmark  
Deborah Tremblay

Betsy Hammond  
Linda Ely  
Myrnie Daut  
Alan Stonewall  
E. M. Laird  
Denise Yunker  
Ken Armstrong

Board Vice-chair Brenda Rocklin called the meeting to order at 1:05 P.M.  
Excused from the meeting, Chair Pittman attended a portion of the meeting by phone.

**ADMINISTRATION**

**B.1. BOARD MEETING MINUTES OF MARCH 31, 2006**

Tom Grimsley moved and Eva Kripalani seconded to approve the minutes of the March 31, 2006 meeting. The motion passed unanimously.

**B.2. DIRECTOR'S REPORT**

Director Paul Cleary presented the Forward-Looking Calendar and noted that there was no meeting scheduled for May. Cleary said the Individual Account Program (IAP) remediation plan and associated rulemaking would be discussed at the June meeting as well as a preliminary review of FY 2007 – 09 budget development concepts. Cleary said that the 2005 Experience Study results would also be presented at the June meeting. Cleary introduced John Meier, Strategic Investment Solutions, Inc. who will be working with the Board and the Oregon Investment Council (OIC) on the asset liability study to be done in the fall of 2006. Cleary presented the

Retirement Fund investment return report and said that the fund balance was a record \$56 billion dollars as of March 31, 2006. Cleary also reported continued progress and effort on HB2020 employer reporting.

Budget and Fiscal Operations Manager Brian DeForest presented the April 2006 Budget Report. DeForest reported that various FY 2007 – 09 baseline agency budget data is being entered into the State budget system. DeForest said that preliminary budget concepts would be presented at the June meeting for Board review, with the final concepts presented for approval at the July Board meeting.

## **CONSENT ACTION AND INFORMATION ITEMS**

### **C.1. ACTION ON CONTESTED CASE HEARINGS & PETITIONS**

Steve Rodeman, Policy, Planning and Legislative Analysis Division (PPLAD) administrator, recommended that the Board adopt draft final orders as presented in the contested case hearings of Brian Metke and Richard McQueen; postpone consideration of the contested case hearings of Larry Lenon and Lawrence Oglesby and deny the Petition for Reconsideration for Debbie L. McIntosh.

The Board acted on each contested case item separately as follows:

#### **ITEM A.1. CONTESTED CASE HEARING FOR BRIAN METKE**

It was moved by Tom Grimsley and seconded by James Dalton to adopt the draft final order in the contested case hearing of Brian Metke. The motion passed unanimously.

#### **ITEM A.2. CONTESTED CASE HEARING FOR RICHARD MCQUEEN**

It was moved by Tom Grimsley and seconded by James Dalton to adopt the draft final order in the contested case hearing of Richard McQueen. The motion passed unanimously.

#### **ITEM A.3. CONTESTED CASE HEARING FOR LARRY LENON**

It was moved by Brenda Rocklin and seconded by James Dalton to postpone consideration of the proposed order in the contested case hearing of Larry Lenon and address the case at the June Board meeting. The motion passed unanimously.

#### **ITEM A.4. CONTESTED CASE HEARING FOR LAWRENCE OGLESBY**

It was moved by Brenda Rocklin and seconded by James Dalton to postpone consideration of the proposed order in the contested case hearing of Lawrence Oglesby and address the case at the June Board meeting. The motion passed unanimously.

#### **ITEM A.5. PETITION FOR RECONSIDERATION FOR DEBBIE L. MCINTOSH**

It was moved by Tom Grimsley and seconded by Brenda Rocklin to grant Ms. McIntosh's petition for reconsideration. The motion passed unanimously.

### **C.2. FIRST READING OF CONTESTED CASE RULES**

Rodeman presented the notice of rulemaking that would help streamline the contested case process, provide additional flexibility, and continue to comply with statutory requirements.

Rodeman reported that no public comment had been received to date and this rule would be presented at the June meeting for adoption.

Chair Pittman joined the meeting via phone at 1:45 P.M.

## **ACTION AND DISCUSSION ITEMS**

### **D.1. IAP POLICY DECISIONS AND NOTICE OF RULEMAKING**

Rodeman reviewed various policy issues that would be involved in the rulemaking process for the Individual Account Program (IAP) remediation. Rodeman said the IAP structure and process currently follow statutes and rules as previously adopted by the Board, however the proposed changes would improve administrative processes, better reflect member and stakeholder expectations, and better conform to statutory direction establishing the IAP.

Following a scheduled rulemaking hearing and opportunity for public comment, staff will present adoption of the permanent rule modifications at the June Board meeting.

### **D.2. ADOPTION OF ACTUARIAL METHODS**

PERS actuaries Bill Hallmark and Annette Strand reviewed the December 31, 2004 valuation results as prepared under current actuarial methods. Hallmark then reviewed proposed method changes and valuation results under the proposed methods. Strand said that the 2004 valuation presentation was for advisory purposes only and would have no impact on employer contribution rates; those contribution rates will be set using the December 31, 2005 valuation. Strand said the results provided an estimated effect of the *Strunk / Eugene* decisions and reserve deployment, but did not include benefits or assets under the OPSRP and IAP plan.

Jim Green spoke on behalf of the Oregon School Board Association, League of Oregon Cities, Association of Oregon Counties and the Special Districts Association under the newly formed Public Employers Alliance. Green said the Alliance had some concerns about the Projected Unit Credit (PUC) method and the proposed rate collar from the standpoint of ensuring adequate system funding.

Independent Actuary Alan Stonewall provided an analysis of the proposed changes to the actuarial methodologies. Stonewall noted that the proposed methods would make employer rates more predictable but expressed concern that the methods would shift funding into the future, and recommended that the Board adopt a policy of regular funding of the Contingency Reserve.

BethAnne Darby, representing the Oregon Education Association and the PERS Coalition, said that they supported adoption of the proposed actuarial method changes. Darby said that adoption of the proposed changes would improve the system's transparency to stakeholders while providing more predictable and stable employer contribution rates that would benefit both employers and members.

Dallas Weyand, Legislative Fiscal Office (LFO) encouraged the Board to adopt the proposed methods to better control and stabilize employer rates within acceptable actuarial limits. Weyand

said the proposed actuarial methodologies would allow the Board to stabilize employer rates, which would help employers provide funding for other budget needs.

James Dalton noted that the proposed actuarial method changes are important steps in improving the transparency of the system so stakeholders can better understand the true value of assets and liabilities. Dalton also favored using a rolling three-year period to amortize the \$1.2 billion increase in accrued liability that would be recognized under the Projected Unit Credit (PUC) method related to benefits already earned for prior service. Dalton indicated that the Board was considering the method changes to improve accuracy, understandability and transparency, and not because of any near-term rate effects.

The other Board members concurred with Dalton's assessment of the proposed changes. Chair Pittman noted the Board had openly been evaluating possible method changes since May 2005, with extensive opportunity for stakeholder involvement and detailed financial modeling. Vice-chair Rocklin and Eva Kripalani voiced support for the changes and for using the rolling three-year amortization period for the additional accrued liability. Tom Grimsley agreed with the method changes but favored a four or five-year amortization period given current public school funding challenges and other government budget demands and constraints.

It was moved by James Dalton and seconded by Eva Kripalani to adopt the actuarial method changes, as presented by Mercer, to apply to the 2004 PERS system valuation and to use in developing the 2005 PERS system valuation and to amortize the increase in accrued liability due to the change to PUC over a rolling three-year period. Tom Grimsley noted that he supported all the proposed method changes, but voted no because of the three-year amortization period. The motion passed.

### **EXECUTIVE SESSION**

Pursuant to ORS 192.660 (2) (f), (h) and ORS 40.255, the Board went into executive session at 3:06 P.M.

The Board reconvened to open session.  
Vice-chair Rocklin adjourned the meeting at 3:25 P.M.

Respectfully submitted,



Paul R. Cleary  
Executive Director

*Prepared by Donna R. Allen, Executive Assistant*

MEETING	6-16-06
DATE	
AGENDA	B.2.a
ITEM	Calendar

## PERS Board Meeting Forward-Looking Calendar

### July 2006

**Meeting: 1:00 P.M. July 21, 2006**

Oregon Savings Growth Plan (OSGP) Rule Notices and Advisory Board Appointments  
2005 Valuation Methods and Assumptions Approval  
2007 – 2009 Agency Request Budget  
Contested Case Hearing for Rosrin Toland

### August 2006

**No Meeting Scheduled**

### September 2006

**Meeting: 1:00 P.M. September 15, 2006**

2005 Valuation System-wide Results

Returns for periods ending 4/30/06

Oregon Public Employees Retirement Fund

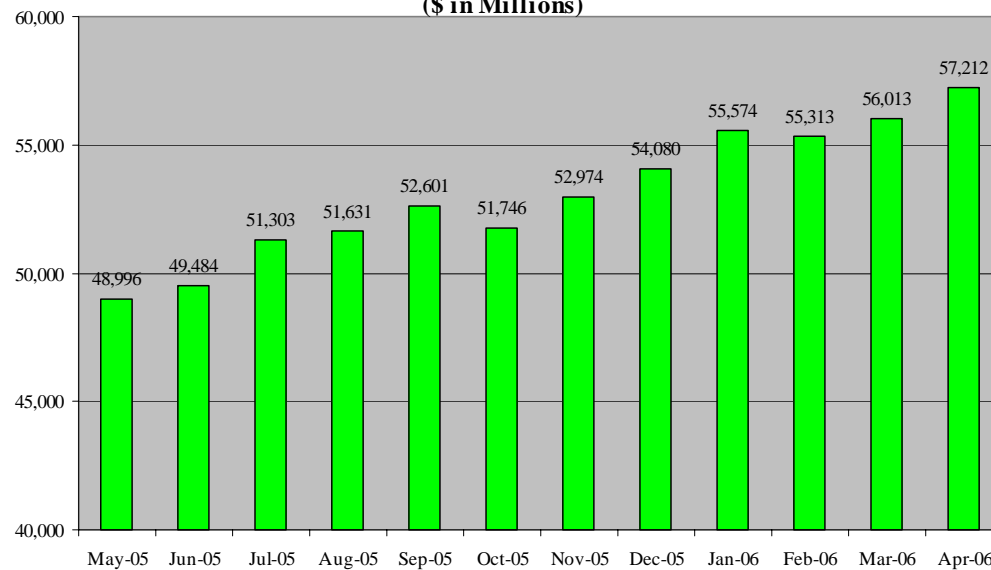
B.2.b.

OPERF	Regular Account				Historical Performance					
	Policy <sup>1</sup>	Target <sup>1</sup>	\$ Thousands <sup>2</sup>	Actual	Year-To-Date	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
Domestic Equity	30-40%	35%	\$ 19,269,147	34.7%	6.67	21.31	13.69	17.99	8.84	4.78
International Equity	15-25%	20%	12,161,651	21.9%	16.06	41.62	28.24	32.45	18.52	12.18
Alternative Equity	7-13%	10%	5,024,436	9.0%	2.29	26.91	29.98	23.84	15.27	8.00
<b>Total Equity</b>	<b>60-70%</b>	<b>65%</b>	<b>36,455,234</b>	<b>65.6%</b>						
<b>Total Fixed</b>	<b>22-32%</b>	<b>27%</b>	<b>15,425,984</b>	<b>27.8%</b>	<b>0.00</b>	<b>2.90</b>	<b>4.81</b>	<b>4.76</b>	<b>6.45</b>	<b>6.74</b>
<b>Real Estate</b>	<b>5-11%</b>	<b>8%</b>	<b>3,652,906</b>	<b>6.6%</b>	<b>11.91</b>	<b>38.10</b>	<b>32.24</b>	<b>28.02</b>	<b>21.97</b>	<b>19.01</b>
<b>Cash</b>	<b>0-3%</b>	<b>0%</b>	<b>-</b>	<b>0.0%</b>	<b>1.45</b>	<b>3.80</b>	<b>2.85</b>	<b>2.29</b>	<b>2.19</b>	<b>2.41</b>
<b>TOTAL OPERF Regular Account</b>		<b>100%</b>	<b>\$ 55,534,124</b>	<b>100.0%</b>	<b>6.66</b>	<b>21.44</b>	<b>16.54</b>	<b>18.06</b>	<b>11.76</b>	<b>8.37</b>
<b>OPERF Policy Benchmark</b>					<b>6.21</b>	<b>17.18</b>	<b>13.44</b>	<b>16.24</b>	<b>10.16</b>	<b>7.11</b>
<b>Value Added</b>					<b>0.45</b>	<b>4.26</b>	<b>3.10</b>	<b>1.82</b>	<b>1.60</b>	<b>1.26</b>

Asset Class Benchmarks:

Russell 3000 Index	6.46	18.08	12.39	16.48	7.98	3.94
MSCI ACWI Free Ex US	15.42	38.14	27.08	31.66	17.94	11.43
Russell 3000 Index + 300 bps--Quarter Lagged	6.37	15.78	13.85	22.66	11.45	6.93
LB Universal--Custom FI Benchmark	(0.57)	1.59	3.64	3.30	5.03	5.48
NCREIF Property Index--Quarter Lagged	5.43	20.06	17.24	14.42	12.45	11.40
91 Day T-Bill	1.39	3.68	2.74	2.18	2.03	2.23

**TOTAL OPERF NAV**  
(includes variable fund assets)  
One year ending April 2006  
(\$ in Millions)



SL1

<sup>1</sup>OIC Policy 4.01.18

<sup>2</sup>Includes impact of cash overlay management.



# Oregon

Theodore R. Kulongoski, Governor

June 16, 2006

Mailing Address:  
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TTY (503) 603-7766  
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TO: Members of the PERS Board

FROM: Brian DeForest, Budget and Fiscal Operations Manager

SUBJECT: June 2006 Budget Report

MEETING DATE	<b>6-16-06</b>
AGENDA ITEM	<b>B.2.c. Budget</b>

## 2005-07 ACTUAL EXPENDITURES AND PROJECTIONS

Operating expenditures for the months of April and May totaled \$2,409,285 and \$3,040,393 respectively. The combined variance from projected expenditures for both months was \$286,220 or 5.09% below projections. With 45.83% of the biennium on the books, the Agency has expended just 39.43% of the Legislatively Approved Budget for Operations. The expenditure 'burn rate' is anticipated to increase over the next year as the Agency fully implements the RIMS Conversion and Strunk/Eugene projects.

## BUDGET VARIANCES

General operations produced little change in budget variances over the last two months. However, two significant events change the shape of forecast variances for the remainder of the biennium. First, the Agency has requested to administratively establish 27 new limited duration positions for the duration of the Strunk/Eugene project. As previously reported, the establishment of these positions would be funded with accumulated vacancy savings. The estimated cost for this biennium is \$1.5 million. The second event is an anticipated increase in Other Funds limitation of approximately \$2.4 million to cover salary adjustments. This increase is included in a request to the Legislative Emergency Board carried by the Department of Administrative Services. There is no action required by the Board or the Agency for this limitation adjustment. The net change in forecast agency-wide variance from the last budget report is listed below.

Variance as reported at prior Board Meeting	\$1.3 million
Variance from April actual expenditures	0.6
Variance from May actual expenditures	(0.4)
Full S/E implementation	(1.5)
Other miscellaneous forecast increases	<u>(0.4)</u>
Sub-total (as of May 2006)	(0.4) million
Anticipated limitation increase (salary adj.)	<u>2.4</u>
Revised forecast variance	2.0 million
Earmarked RCP Contingency	<u>(1.7)</u>
Net forecast variance for remainder of 2005-07	\$0.3 million



STRUNK/EUGENE

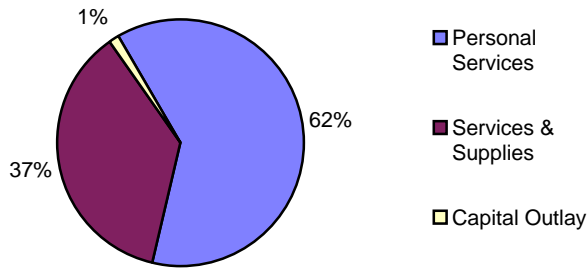
As mentioned above, the Agency submitted a request to the Department of Administrative Services to administratively establish 27 additional positions. These positions fulfill the overall Strunk/Eugene plan as presented to the Board and perform functions across each division line in the Agency to accommodate the recalculation workload. Functions range from document retrieval and imaging, to benefit recalculation, to database changes that result from the recalculation, to collections and recovery activities. The cost for adding these positions is \$1.5 million for the remainder of the biennium. A full cost of this project, including the estimated cost to complete the project next biennium, will be prepared and presented to the Board at the July Board meeting.

**2005-07 Agency-wide Operations - Budget Execution  
Summary Budget Analysis  
For the Month of: May 2006 (prelim)**

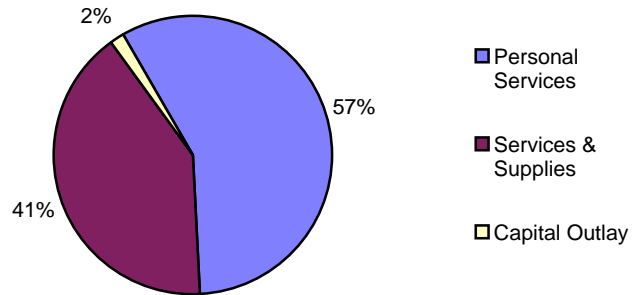
**Biennial Summary**

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2005-07 LAB	Variance
Personal Services	18,594,988	26,757,307	45,352,295	44,564,938	(787,357)
Services & Supplies	10,987,879	18,994,729	29,982,608	30,384,327	401,719
Capital Outlay	379,660	751,103	1,130,763	1,033,494	(97,269)
Special Payments					
<b>Total</b>	<b>29,962,527</b>	<b>46,503,139</b>	<b>76,465,667</b>	<b>75,982,759</b>	<b>(482,908)</b>

**Actual Expenditures**



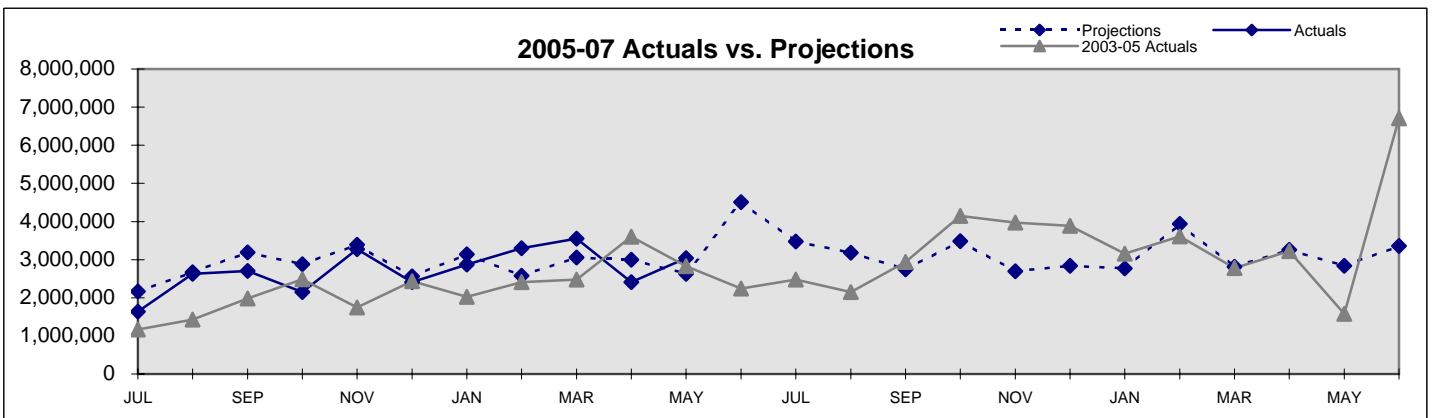
**Projected Expenditures**



**Monthly Summary**

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Projected Expenditures
Personal Services	1,742,792	1,898,926	156,133	1,690,453	2,058,254
Services & Supplies	1,297,600	726,796	(570,804)	998,898	1,461,133
Capital Outlay				34,515	57,777
Special Payments					
<b>Total</b>	<b>3,040,393</b>	<b>2,625,722</b>	<b>(414,671)</b>	<b>2,723,866</b>	<b>3,577,165</b>

**2005-07 Actuals vs. Projections**



**2005-07 Agency-wide Operations - Budget Execution**  
**Spending Plan - Actual and Estimated Expenditures**  
 2005-07 Summary

	1st QTR	2nd QTR	3rd QTR	4th QTR	5th QTR	6th QTR	7th QTR	8th QTR	ACTUAL EXPEND. TO DATE	EST. EXPEND.	ENC. & PRE-ENC.	TOTAL ESTIMATED EXPEND.	05-07 LAB BUDGET	VARIANCE		
<b>Personal Services</b>																
Salaries & Wages	3,102,084	3,128,099	3,252,118	3,410,734	3,872,290	3,938,661	4,042,573	4,096,608	11,671,508	17,171,661		28,843,169	28,490,582	(352,587)		
Temporary Appointments	40,406	43,071	29,041	22,781	1,600	6,200	21,600	25,137	133,499	56,337		189,836	156,922	(32,914)		
Overtime	33,466	71,029	79,550	45,428	20,189	14,852	45,785	34,018	222,540	121,777		344,317	540,505	196,188		
Shift Differential	1,326	1,615	2,139	1,389	375	375	375	375	6,345	1,625		7,970	1,980	(5,990)		
All Other Differential	34,599	54,556	65,171	48,048	16,873	16,932	17,049	17,069	196,471	73,826		270,297	209,350	(60,947)		
ERB Assessment	1,289	1,311	1,341	1,520	1,979	1,979	1,979	1,979	4,844	8,533		13,378	12,098	(1,280)		
Workers' Comp. Insurance (SA PERS)	449,000	451,927	439,938	460,872	571,993	580,931	600,676	606,863	1,621,009	2,541,191		4,162,200	4,278,122	115,922		
Pension Bond Contribution	207,759	205,184	207,139	208,747	240,082	244,197	250,640	253,990	753,042	1,064,695		1,817,737	1,375,392	(442,345)		
Social Security Taxes	243,827	249,974	261,324	269,364	299,217	304,242	315,745	319,250	929,849	1,333,094		2,262,943	2,249,081	(13,862)		
Unemployment Comp.		16,576		4,077					20,654			20,654	37,388	16,734		
Workers' Comp. Assess.	2,484	2,335	2,370	2,675	3,593	3,593	3,593	3,593	8,746	15,490		24,236	26,833	2,597		
Mass Transit Tax	19,249	19,844	20,556	21,141	23,234	23,632	24,255	24,580	73,455	103,035		176,490	177,400	910		
Flexible Benefits	756,424	772,987	849,681	865,386	936,642	969,217	1,034,367	1,034,367	2,953,026	4,266,043		7,219,069	6,976,371	(242,698)		
Vacancy Savings													(155,537)	(155,537)		
Reconciliation Adj. Unscheduled P.S.													188,451	188,451		
<b>Total Personal Services</b>	<b>4,891,915</b>	<b>5,018,508</b>	<b>5,210,367</b>	<b>5,362,162</b>	<b>5,988,067</b>	<b>6,104,811</b>	<b>6,358,636</b>	<b>6,417,829</b>	<b>18,594,988</b>	<b>26,757,307</b>		<b>45,352,295</b>	<b>44,564,938</b>	<b>(787,357)</b>		
	<i>actual</i>			<i>estimated</i>												
<b>Services &amp; Supplies</b>																
Instate Travel	12,995	24,326	14,906	17,755	23,185	29,085	21,485	26,130	60,737	109,130	142	170,009	116,894	(53,115)		
Out-of-state Travel			40	2,035	1,300	300	300	300	2,075	2,200		4,275	31,127	26,852		
Employee Training	30,385	44,332	39,369	35,580	40,760	37,815	37,815	38,915	134,149	170,823		304,972	488,069	183,097		
Office Expenses	91,727	121,888	283,010	207,839	242,572	242,481	232,140	275,349	623,715	1,073,289		1,697,004	2,063,722	366,718		
Telecommunications	25,713	69,518	65,443	64,100	68,249	68,249	68,249	68,249	202,024	295,747		497,771	537,685	39,914		
St. Gov. Svc. Chg.	595,854	135,567	109,154	81,728	589,000	89,000	24,000	24,000	868,986	779,317		1,648,303	1,504,171	(144,132)		
Data Processing	266,701	506,983	426,702	502,110	555,000	555,000	555,000	555,000	1,517,496	2,405,000	1,974	3,924,471	5,256,990	1,332,519		
Publicity/Publications	7,318	6,251	18,487	28,811	28,600	16,100	14,200	22,100	59,668	82,200		141,868	292,704	150,836		
Professional Services	545,896	1,213,796	1,638,044	653,867	463,000	426,400	561,050	490,100	3,933,431	2,058,722	207,528	6,199,681	2,862,534	(3,337,147)		
IT Professional Services		360,233	1,343,483	2,614,954	979,563	1,026,185	1,227,303	1,035,966	2,346,236	6,241,451	3,500,000	12,087,687	13,897,953	1,810,266		
Attorney General	48,913	72,187	88,628	75,407	141,000	141,000	141,000	146,500	238,135	616,500		854,635	947,681	93,046		
Dispute Res. Svc.	957	3,910	16,510	10,782	8,300	5,500	6,200	10,000	30,359	31,800		62,159	73,736	11,577		
Empl. Recruit./Devel.	8,863	24,770	39,593	13,789	15,000	15,000	15,000	15,000	82,016	65,000		147,016	58,036	(88,980)		
Dues & Subscriptions	4,943	10,106	5,799	4,037	1,675	1,775	2,175	2,275	22,310	10,475		32,785	50,702	17,917		
Facility Rental	104,691	95,696	96,140	95,322	94,068	97,368	99,018	132,024	360,493	453,834		814,327	703,597	(110,730)		
Fuels/Utilities	23,497	25,490	30,773	22,632	15,000	15,000	15,000	20,000	97,391	70,000		167,391	121,063	(46,328)		
Facility Maint.	47,868	43,335	47,231	78,394	76,251	76,251	76,251	101,668	191,412	355,838		547,250	724,698	177,448		
Agency/Program S & S																
Other COP Costs		371	1,090	765					2,226			2,226	6,500	4,274		
Other S & S	1,095	8,915	(3,237)	624					7,397			7,397	2,700	(4,697)		
Expendable Property	72,658	19,094	16,087	16,582	7,350	7,350	7,350	7,600	121,570	32,500	1,760	155,830	193,465	37,635		
IT Expendable Property		23,267	35,037	65,248	60,000	60,000	60,000	60,000	86,052	277,500	152,000	515,552	450,300	(65,252)		
Unscheduled S & S																
<b>Total Services &amp; Supplies</b>	<b>1,890,074</b>	<b>2,810,037</b>	<b>4,312,289</b>	<b>4,592,361</b>	<b>3,409,873</b>	<b>2,909,859</b>	<b>3,163,535</b>	<b>3,031,175</b>	<b>10,987,879</b>	<b>15,131,325</b>	<b>3,863,404</b>	<b>29,982,608</b>	<b>30,384,327</b>	<b>401,719</b>		
<b>Capital Outlay</b>																
Office Furn./Fixture													30,868	30,868		
Telecomm. Equip.													5,589	5,589		
Technical Equipment													57,161	57,161		
Data Proc.-Software			197,783						197,783		362,246	560,029	447,019	(113,010)		
Data Proc.-Hardware	181,877								181,877		388,857	570,734	492,857	(77,877)		
Building & Structure																
<b>Total Capital Outlay</b>	<b>181,877</b>		<b>197,783</b>						<b>379,660</b>		<b>751,103</b>	<b>1,130,763</b>	<b>1,033,494</b>	<b>(97,269)</b>		
<b>Special Payments</b>																
<b>Total Special Payments</b>																
<b>Total Expenditures</b>	<b>6,963,866</b>	<b>7,828,545</b>	<b>9,720,439</b>	<b>9,954,523</b>	<b>9,397,940</b>	<b>9,014,670</b>	<b>9,522,172</b>	<b>9,449,004</b>	<b>29,962,527</b>	<b>41,888,632</b>	<b>4,614,507</b>	<b>76,465,667</b>	<b>75,982,759</b>	<b>(482,908)</b>		

Percent of 2005-07 LAB Expended: 39.43%  
 Percent of Biennium Expired: 45.83%



# Oregon

Theodore R. Kulongoski, Governor

June 16, 2006

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www.pers.state.or.us

TO: Members of the PERS Board

FROM: Paul Cleary, Executive Director

SUBJECT: Update of HB2020 Employer Reporting

<b>MEETING DATE AGENDA ITEM</b>	<b>06-16-06</b> <b>B.2.d.</b> <b>HB2020</b>
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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 on each are provided below.

## EMPLOYER REPORTING

The table below shows the status as of May 25, 2006 of employer reports and member records since 2004.

	<b>Calendar Year 2004</b>	<b>Calendar Year 2005</b>	<b>Calendar Year 2006</b>
Reports due (estimated):			
▪ Number		12,796	4,565
▪ Percent		99.2 %	96.9 %
Outstanding reports		102	140
Reports fully posted at 100%:			
▪ Number		12,307	3,878
▪ Percent		96.4 %	84.9 %
Records due (estimated)		3,104,948	1,118,771
Records not posted	1,074	3,486	17,656
Contributions posted	\$ 388,369,966	\$ 406,175,098	\$ 152,404,095
Contributions not posted	\$ 20,789	\$ 166,235	\$ 638,710

At the end of April 2006, PERS implemented a change to the employer reporting file format to assist employers in complying with HB 2189. This change created an additional salary field for employers to report lump sum payments that are now considered subject salary for IAP purposes. Since the end of April, employers have been correcting their 2004 and 2005 data and this is reflected in the statistics shown above. In particular since our April report, there has been a slight increase in the number of un-posted records for 2004. In April, we showed approximately 800 un-posted records and now there are approximately 1100 un-posted records. We anticipate by July 2006 these records will be corrected and posted.

For 2005 and 2006, employers' year-over-year statistics have improved. Last year at this time, only 92 % of reports due were submitted and only 67% of the reports were 100% posted. Currently, for 2005 we have 99.2 % of all required reports submitted and 97% of those are 100% posted, and for 2006 we have 97% of all required reports submitted and 85% of those are 100% posted.

#### ELECTRONIC PAYMENT

As of May 2006, mandatory electronic payments (automated clearing house –ACH) were implemented for employers. All but 2 employers have complied. The remaining 2 employers have been contacted numerous times and a penalty has been imposed for non-compliance. The amount of uncollected payments for these 2 employers is less than \$10,000. As of May 2006, 72% of employers have chosen to remit contributions via a debit payment and 28% have chosen to remit contributions via a credit payment.

#### 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 May 2006, we have 311 outstanding invoices with an aggregate balance of approximately \$830,000. We are following up with these employers by phone and letters each month.



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

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June 16, 2006

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Administrator, PPLAD  
SUBJECT: Action on Contested Cases

MEETING	6/16/06
DATE	
AGENDA	C.1.
ITEM	Contested Cases

### OVERVIEW

- Actions: Staff recommends the following actions be taken in relation to these cases:
  1. Adopt the draft final orders as presented in the contested cases of Susan L. Boracci, Larry Lenon, Lawrence Oglesby, Dennis Bell, Mardell Rogers, and Debbie McIntosh.
  2. Deny the petitions for reconsideration of Richard McQueen and Brian Metke.

### 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. The petitions for reconsideration do require some form of Board action.

### 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.



# Oregon

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June 16, 2006

TO: Members of the PERS Board  
FROM: Craig Stroud, Administrator, Benefit Payments Division  
SUBJECT: Strunk and Eugene Project – Benefit Recalculation Letter

MEETING	
DATE	6/16/06
AGENDA	C.2.
ITEM	Benefit Letter

At the February 2006 Board meeting, staff provided a draft benefit recalculation letter for public review and comment. Staff received one comment via phone and several written comments.

The current version of the letter is attached for your review. The letter is specific to the population of overpaid benefit recipients who are receiving a monthly annuity and are eligible for the Actuarial Reduction Method. PERS will develop additional letters specific to the other various Strunk and Eugene recalculation populations.

The Board's January 27, 2006 Order Adopting Repayment Methods provides this specific population of overpaid recipients two repayment options – the Actuarial Reduction Method or a single lump sum repayment. The letter explains how PERS calculated the overpayment amount, the two repayment options, the recipient's appeal rights, and contains a summary page detailing the recalculations.

PERS staff expects the majority of overpaid benefit recipients receiving a monthly annuity to repay PERS using the Actuarial Reduction Method. To streamline the administrative effort to process the recalculations, PERS will default this population to the Actuarial Reduction Method at the adjustment date. If the recipient chooses to repay PERS in a lump sum, the full payment must be received within 90 days of the adjustment date. Upon receipt of such payment, PERS will reverse the actuarial reduction to the monthly benefit and pay the recipient the sum of all monthly actuarial reductions withheld.



# Oregon

Theodore R. Kulongoski, Governor

C.2. Attachment

## Public Employees Retirement System

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September 12, 2006

John Doe  
1234 A Street  
Portland, OR 97205

PERS #: 123456

Dear John Doe:

This letter explains your recalculated PERS retirement benefit as a result of two 2005 Oregon Supreme Court cases -- Strunk and City of Eugene, and the PERS Board's Settlement Agreement in the Eugene case. This letter details the recalculations to your member account, your recalculated monthly benefit, your total overpayment, and the repayment options available to you.

*(If applicable, insert other adjustment information here)*

PERS will correct your benefit on October 1, 2006. After making the Strunk and Eugene recalculations, we determined that you have been overpaid benefits. We calculated the amount of overpayment as follows:

1. We totaled the benefits that have been and will be paid to you from your retirement date of April 1, 2001 to the adjustment date of October 1, 2006.
2. We then totaled the monthly benefits you should have received after the Strunk and Eugene recalculations, including Cost of Living Adjustments (COLAs), from your retirement date of April 1, 2001 to the adjustment date of October 1, 2006.
3. The difference between what you were paid (number 1, above) and what you should have been paid (number 2, above) is the overpayment amount. Your overpayment amount totals \$7,197.00. This is the amount that must be repaid to PERS.

The Board decided that PERS will accept repayment in either: 1) an actuarial reduction to your monthly benefit, or 2) a lump sum.

DRAFT

DRAFT

DRAFT



1. Actuarial Reduction Method (ARM) – your recalculated monthly benefit is reduced by an amount our actuary has determined will, on average, repay the amount owed. This ARM reduction continues so long as the benefit is paid to you and any beneficiaries who may be entitled to your benefit. The ARM is the default option. On October 1, 2006, PERS will reduce your recalculated monthly benefit using the ARM by \$29.00. **Your monthly benefit beginning October 1, 2006, reduced by the ARM will be \$2,267.00.**
2. Lump Sum Method – if you do not want to use the ARM to repay the amount owed, you can repay the entire amount in a lump sum payment of \$7,197.00. This full amount must be paid to PERS by January 1, 2007. PERS will not accept partial payments or payments received after January 1, 2007. If you choose this option, PERS will reverse the \$29.00 actuarial reduction to your monthly benefit and pay you the sum of all monthly actuarial reductions withheld. Your monthly benefit, if you make the full lump sum payment, will be \$2,296.00.

Please use the enclosed remittance form and postage paid envelope if you decide to pay PERS the lump sum amount.

Beginning next August 1, annual COLA adjustments will be applied to your benefit payment as provided by law.

### QUESTIONS

For questions about your *Strunk* and *Eugene* recalculations, please contact our Strunk and Eugene Adjustment Section at (800) 555-5555.

For comprehensive information about the *Strunk* and *Eugene* cases, including Frequently Asked Questions, please visit the PERS website at <http://oregon.gov/PERS/>.

For other PERS related questions, please contact our Customer Service Section at (503) 603-7377 or (888) 320-7377.

### YOUR APPEAL RIGHTS

Pursuant to Oregon Administrative Rule 459-001-0030, if you disagree with PERS' calculations you may request a review of the calculation by completing the attached form and sending it, within 60 days after the date of this letter, to: PERS Calculation Appeals, P O Box ###, Portland, OR 97204.

Your request for a review may be denied if the attached form is not completely filled out. You will be mailed a response letter within 45 days after PERS receives your request for review.

**SUMMARY OF YOUR RECALCULATIONS**

Your retirement date: April 1, 2001  
 Adjustment Effective date: October 1, 2006

This table shows your account balance and monthly benefit before and after recalculation for *Strunk* and *Eugene*.

	Before Recalculation	After Recalculation
Retirement account balance	\$132,211.00	\$122,866.00
Monthly benefit at retirement	\$2,200.00	\$2,044.00
Overpayment amount		\$7,197.00
Current monthly benefit	\$2,289.00	--
Your recalculated benefit starting October 1, 2006	--	\$2,267.00
Your initial monthly actuarial reduction amount	--	\$29.00
Your monthly benefit if you repay PERS \$7,197.00	--	\$2,296.00

This table shows annual COLA applied to your *Strunk* and *Eugene* recalculated benefit.

Recalculated monthly benefit at retirement	\$2,044.00
August 2001 COLA applied of 2.00 percent	\$2,084.00
August 2002 COLA applied of 2.00 percent	\$2,126.00
August 2003 COLA applied of 2.00 percent	\$2,169.00
August 2004 COLA applied of 1.73 percent	\$2,206.00
August 2005 COLA applied of 2.00 percent	\$2,250.00
August 2006 COLA applied of 2.00 percent *	\$2,296.00

\* Estimate of 2006 COLA for draft letter purposes.



# Oregon

Theodore R. Kulongoski, Governor

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June 16, 2006

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

MEETING DATE	6/16/06
AGENDA ITEM	C.3. Policy Issues

SUBJECT: *Strunk/Eugene* Policy Issues

### BACKGROUND

At the PERS Board's January 2006 meeting, two *Strunk/Eugene* implementation policy issues were identified that were going to be further researched by staff and reviewed in light of public comment. Those issues were:

1. Whether members whose accounts, after the *Strunk/Eugene* adjustment, would no longer fail the One-Time Variable Transfer (OVT) test, should now have their accounts moved from the Variable to regular as if the transfer had occurred when originally requested.
2. Whether PERS can or should accept lump sum payments as rollovers from tax qualified accounts (e.g., IRAs) to allow members who pay their overpayment with a lump sum a tax-advantaged method for payment.

### ISSUE #1: ONE-TIME VARIABLE TRANSFER (OVT)

ORS 238.260(14) at one time imposed a test on members wanting to make a One-Time Variable Transfer ("OVT") of their contributions and accumulated earnings from the Variable Annuity Account to the regular account. Those contributions had to have earned as much in the Variable as they would have earned in the regular to qualify for an OVT. This test, called the "VAR@VAR/VAR@REG" test, was dropped from the statute for transfers occurring on and after January 1, 2004.

A total of 4923 members failed the OVT test for 2001, 2002, and 2003; of those, only 313 members who failed would now pass after their regular account was adjusted for the 1999 earnings reallocation. Of those 313 members, 86 are currently active or inactive members of the system; one has withdrawn and the rest have retired. Of those 86 active or inactive members, only 9 have transferred out of the Variable (4 on 1/1/2004; 5 on 1/1/2005). The other 77 have elected to stay in the Variable Annuity Account. Of these members who retired, 20 stayed in the Variable at retirement; 2 received an OVT on 1/1/2004; 1 received an OVT on 1/1/2005, and the rest transferred out of Variable at retirement when the OVT test does not apply.

Staff received two public comments on this issue (attached to this memo). One supported re-doing the OVT and the other opposed it unless those affected were allowed to choose if they wanted their requests reprocessed or not given the new circumstances.

Most importantly, no one commented on the legal analysis that the statute specifically provides for an effective date of the test: January 1 of the year following the request. This clear legal standard drives the conclusion that principally supports the staff recommendation.

#### STAFF RECOMMENDATION

Given the statutory direction that the test is to occur on the effective date of the OVT election, and a lack of authority to reconsider that test should subsequent events give rise to changed circumstances, staff recommends that the *Strunk/Eugene* adjustment not be used as a trigger to revisit prior OVT requests that had failed. This recommendation is further supported by the findings that there is no clear direction from those members who failed that they would necessarily want the transfer to have effect now; and by the fiscal implications of making adjustments to accounts that currently reflect where those dollars were in fact invested during this period.

#### ISSUE #2: ROLLOVERS TO RECOVER OVERPAYMENTS

Members affected by the *Strunk/Eugene* adjustment who received lump sum payments, either as a retirement benefit or upon withdrawal, probably rolled those payments into another tax-advantaged retirement vehicle, especially if the payment was a substantial amount. A portion of that payment needs to be recovered; the question is whether that recovered amount can be transferred back to PERS without triggering a tax consequence for the member of an early withdrawal.

Existing statutory authority on rollover accounts does not provide a vehicle for these transfers. However, ORS 238.715(8) specifically provides that the remedies provided in that statute (ARM adjustments, monthly payments) are supplemental to any other remedies that may be available. Therefore, the principle issue becomes whether federal tax law would impede PERS from accepting a partial account transfer for the sole purpose of recovering an overpayment.

Staff has been working with Ice Miller, the Board's federal tax counsel, and the Department of Justice on related state law issues. To provide a substantially certain answer on this question, staff will proceed to inquire through the Private Letter Ruling process whether the IRS sees any impediment to this process based on federal tax law.

#### STAFF RECOMMENDATION

Allowing recipients to roll money back into PERS without tax consequence is the best result for all concerned, from a fiscal and particularly fiduciary point of view. PERS staff recommends that the agency make that opportunity available and explore options to clarify the nature of this transaction.

**OVT Public Comments Received:**

Submitted by e-mail by William J. Baechler

February 19, 2006

Members of the PERS Board:

I would like to take this opportunity, as so graciously provide at the January 27<sup>th</sup> 2006 Board meeting and by PERS staff, to comment on the One Time Variable Transfer (OVT) issue. The issue was originally presented in November 2005 and was discussed in a memorandum to the Board from Steven Rodeman, Administrator and employee of PERS on January 27<sup>th</sup>. I am assuming that I am one of the 313 members affected by this issue in that staff has not had the opportunity to answer my request for conformation.

This issue has direct bearing on 313 total active, inactive, and retired members of PERS. Of this group a significant majority is retired and took advantage of the OVT when given the opportunity at retirement. All attempted to take advantage of this opportunity at an earlier date only to be denied by PERS rules. The staff recommendation presented to the Board is to continue to deny members request for the OVT, even through the original decision was made on rules and facts in effect at the time, these have since been modified by numerous legislative and court decisions (Strunk/Eugene). Of primary concern is that the original decision was based on an earning test of a 1999 fixed account credit of 20%. Now that the 1999 fixed account earnings has been reduced to 11.33% many OVT account transfer request (313 by staff count) are valid when applying rules in effect at the time of request.

Patrick Rodeman's memorandum list three criteria, Legal, Fiscal, and Fiduciary, on which the staff recommendation is based. Each argument is very subjective and somewhat misleading. In response to Mr. Rodeman's I offer the following:

**Legal:** The legal argument is open to interpretation as stated in the memorandum. Enough so, that should the issue be decided to continue to deny retirees the option of a recalculation, the courts could very easily decide in the members favor in a class action suit. It is the Boards decision to make, even though it seems that PERS strategy is to force members to fight in court for every dollar promised or due. It would be very helpful for staff to present a detailed written legal brief on this subject. I am not implying that the issue was not given due consideration, only that a brief reference to an opinion of some nature is not sufficient to base a recommendation of this consequence. PERS has the legal resources to produce such an opinion.

**Fiscal:** It cannot be denied that there would not be a fiscal impact should the request for OVT be granted retroactively. However, the impact would not be any different had the 11.33% earnings factor been applied at the time each member presented a request. Funds are available. The only question is will it be from the members account or from their employers. PERS is responsible for this situation and should take full responsibility. The impact on reserve funds is insignificant, even with the recent transfer of monies out of the reserve. Rules cannot be selectively applied for the convenience of PERS (employers) and at the expense of members. This is what has happened. One set of rules was used to

make a determination to the advantage of the PERS system (employers). That set of rules was then modified with fiscal consequences. However, we are now told by staff that 313 OVT decisions were made erroneously but must stand without recourse. The real fiscal impact is to 313 members who have enriched PERS funds from their personal accounts.

Fiduciary: PERS has a fiduciary responsibility to all members and to act in each individual's best interest, not just the vast majority or the collective employers. It seems that 313 members are insignificant to PERS. The behavior of members and retirement decisions made after OVT request denial has no bearing on this issue. All of us make decisions on the best information available to us at any given time. Just as the Board must decide on the OVT issue. To second guess individual member decisions with the benefit of hindsight has no bearing on the review and approval of OVT request submitted in prior years. Given that the vast majority of members did opt-out of the variable accounts at retirement does show the seriousness of the intent. Recalculating member accounts based on a request made in good faith is very consistent with past decisions of both the Board and PERS staff. That is, the rules apply that were in effect at the time of request unless specifically not allowed by recent legislature or court actions. Either let the 20% account credit for 1999 stand or reduce the credit to 11.33% and proceed with the recalculation of the 313 effected member accounts.

Please give the OVT issue due consideration and honor the wishes of 313 members who have acted in trust and good faith of PERS. Direct staff to honor all OVT request as originally submitted. Thank you for consideration in this matter.

-----

>>> <[lindsay.b@comcast.net](mailto:lindsay.b@comcast.net)> 3/8/2006 1:18:19 PM >>>

I am a "window" retiree who strongly opposes retroactively reprocessing one time variable transfer (OVT) requests that originally failed the "variable/regular test" as a part of re-calculating my pension benefit due to the interest rate "correction" in 1999. My retirement benefit will be negatively affected well beyond that directed by the Strunk and Eugene court cases if this were to take place.

In addition, reprocessing my original OVT request assumes that I would have still made that request in the past given a completely different set of circumstances (i.e. a much lower regular account balance). That assumption is not valid.

At the very least, it is unfair for you to be able to retroactively change the very basis upon which the original OVT request was made (i.e. the relative balances at the time in my variable and regular accounts) without allowing me to retroactively decide if I want that request reprocessed given the revisions to my account.

My suggestion is that window retirees who will be impacted by reprocessing old OVT requests be allowed to choose if they want those requests reprocessed or not given the new circumstances.

Thank You. Robert B. Lindsay

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# Oregon

Theodore R. Kulongoski, Governor

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June 16, 2006

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Administrator, PPLAD

MEETING DATE	6/16/06
AGENDA ITEM	C.4. Contested Cases

SUBJECT: Adoption of OAR 459-001-0035, *Contested Case Hearing* and 459-001-0040, *Petitions for Reconsideration*

### OVERVIEW

- Action: Adopt modifications to OAR 459-001-0035, *Contested Case Hearing* and 459-001-0040, *Petitions for Reconsideration*.
- Reason: To streamline the contested case process and comply with statutory requirements.
- Subject: PERS Contested Case Rules.
- Policy Issues:
  1. *Should the Board be able to deny a request for a hearing under certain circumstances, e.g., where PERS has no authority to grant the relief requested?*
  2. *Should the Board be able, on a case-by-case basis, to deliberate electronically or via a telephone conference?*

### BACKGROUND

ORS Chapter 183 (the Administrative Procedures Act) and its administrative rules generally govern the contested case process. Although there are specific requirements under the APA and rules, state agencies have some flexibility to administer their appeals and contested cases.

The proposed amendments update and improve the processes and incorporate the results of the policy direction given by the Board at the December date, 2005 planning session.

### SUMMARY OF RULE MODIFICATIONS AND POLICY ISSUES

1. *Should the Board be able to deny a request for a hearing under certain circumstances, e.g., where PERS has no authority to grant the relief requested?*

Contested case hearings are the next level of review after the Executive Director has upheld the staff's determination on appeal. These rules establish the process that aggrieved parties must follow to request such a hearing. Periodically, parties request hearings where the relief requested is not within the agency's authority. Rather than take that request to hearing, the rule modifications would allow the Board to deny that request. Doing so would save the agency the hearing costs and streamline the process by reaching

a final determination sooner. The denial would be an Order in Other than a Contested Case, which would immediately trigger the right to judicial review by the Marion County Circuit Court or the circuit court where the party resides.

Staff Recommendation: Amend the rules to allow for a denial of a request for a hearing. In cases where PERS has no authority to grant the relief requested, a contested case is not beneficial to either the complaining party or the system. The rule modifications require consultation with legal counsel, who can provide oversight to ensure the refusal is warranted. As drafted, the rule leaves the determination to deny a hearing with the Board. If the Board instead wants to delegate that determination to the Director or staff, the rule can be modified accordingly.

*2. Should the Board be able to choose, on a case-by-case basis, to deliberate electronically or via a telephone conference?*

Although the Board already has the ability to deliberate in this manner, it has been this Board's practice to receive argument and deliberate over contested cases during regular Board meetings. If the Board reduces its regular meetings to 8 or 9 each year, some action may be required on a proposed order before the next scheduled meeting to prevent it from becoming final automatically. The rule modifications provide the Board with the flexibility to deliberate and decide, on a case-by-case basis, in some forum other than a regular meeting.

Staff Recommendation: Amend the rules to allow the Board to deliberate and decide cases in other than a regular meeting.

OAR 459-001-0040 will also be modified to conform to the model administrative rules by extending deadlines related to filing a petition for reconsideration. Individuals will have 60 days to file a petition for reconsideration and the Board will have up to 60 days to either grant or deny the petition. The deadlines may be extended by 45 days upon a written request.

## LEGAL REVIEW

The proposed rules were submitted to the Department of Justice for legal review. Their recommended changes have been incorporated into the rules presented for adoption.

## PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on March 28, 2006 at 2:00 p.m. at PERS headquarters in Tigard. No one attended the hearing.

## IMPACT

**Mandatory:** The 60-day deadlines comply with statutory requirements. Other changes are discretionary.

**Impact:** Because of the varied nature of contested cases, it is not possible to predict how many contested cases these rule modifications may affect in the future.



**Cost:** Depending on the nature of the cases filed in the future, these rule modifications are expected to result in cost savings to members and PERS by resolving certain issues more swiftly and efficiently.

#### RULEMAKING TIMELINE

February 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
March 1, 2006	<i>Oregon Bulletin</i> published the Notice.
March 28, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.
March 31, 2006	PERS Board notified that staff began the rulemaking process.
April 27, 2006	First Reading of the rule.
May 26, 2006	Public comment period ended at 5:00 p.m.
June 16, 2006	Staff proposes adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

#### BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt permanent rule modifications to OAR 459-001-0035, *Contested Case Hearing* and 459-001-0040, *Petitions for Reconsideration*, 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 streamline the contested case process and align our procedures with statutory requirements.
- **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 001 – ADMINISTRATION

C.4. Attachment 1

1 459-001-0035

2 **Contested Case Hearing**

3 (1) Request for a contested case hearing. To obtain review of any determination by  
4 the Director, for which a contested case hearing has not been held, the party shall file  
5 with the Board a petition for a contested case hearing. The petition shall be filed within  
6 45 days following the date of the Director's determination. Late petitions may be  
7 considered only if facts constituting a good cause are alleged in the petition.

8 (2) Informal conferences. Informal conferences are available as an alternative means  
9 that may achieve resolution of any matter under review. A request for an informal  
10 conference does not relieve a person of the requirements for timely filing of a request for  
11 a contested case hearing.

12 (3) Criteria for request. The petition for a contested case hearing shall be in writing  
13 and set forth:

14 (a) A description of the determination for which review is requested;

15 (b) A short statement of the manner in which the determination is alleged to be in  
16 error;

17 (c) A statement of facts that are the basis of the petition;

18 (d) Reference to applicable statutes, rules or court decisions upon which the  
19 petitioner relies;

20 (e) A statement of the action the petition seeks; and

21 (f) A request for a hearing.

1            (4) Contested case hearing. The Board shall *[respond to]* **acknowledge receipt of a**  
2 petition for a contested case hearing within 15 days of filing *[and shall order the staff to*  
3 *schedule a formal contested case hearing]*.

4            **(5) The Director, or an administrator appointed by the Director, may direct the**  
5 **staff to schedule a formal contested case hearing or develop a recommendation to**  
6 **deny the member's request to be presented to the Board. The Board may then deny**  
7 **a request for a hearing when it has decided, in consultation with legal counsel, that**  
8 **the Board has no authority to grant the relief requested.**

9            *[(5)]* **(6)** The hearing shall be conducted in accordance with the Attorney General's  
10 Model Rules of Procedure.

11            *[(6)]* **(7)** Proposed order. The administrative law judge's proposed order becomes  
12 final 90 days following service upon the petitioner, the Director and the Board through  
13 the Director. Exceptions to the proposed order by the Director or the petitioner must be  
14 filed with the Hearing Officer administrative law judge within 45 days of service. If the  
15 Board determines additional time is necessary to review a proposed order and issue an  
16 amended order, the Board may extend the time after which the proposed order will  
17 become final in accordance with ORS 183.464(3).

18            *[(7)]* **(8)** In accordance with the Attorney General's Model Rules of Procedure, the  
19 Board may reject the order and direct the Hearings Officer to conduct further proceedings  
20 and prepare an amended order within the time specified by the Board.

21            *[(8)]* **(9)** Extension of deadline. Any 45-day deadline within this rule may be  
22 extended upon request in writing for an additional 45 days. Additional time may be  
23 requested, but shall only be granted upon approval by both parties.

1        **(10) The Board will generally deliberate and decide on final orders during**  
2        **regularly scheduled board meetings. The Board may instead deliberate and decide**  
3        **at any other time and place allowed by law, as determined on a case-by-case basis,**  
4        **such as electronically or via a telephone conference.**

5        Stat. Auth.: ORS [237.263] **238.650, 183.464** & 183.600 - 183.690  
6        Stats. Implemented: **ORS 183.413 - .470**

OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 001 – PROCEDURAL RULES

C.4. Attachment 2

1 459-001-0040

2 **Petitions for Reconsideration**

3 (1) Request for a petition for reconsideration. Prior to initiating any judicial review  
4 of a final order in a contested case, a party may file with the Board a petition for  
5 reconsideration. If the party chooses to file a petition, it shall be filed within [45] **60** days  
6 following the date the order becomes final. Late petitions may be considered only if facts  
7 constituting good cause are alleged in the petition.

8 (2) Criteria for request. The petition for reconsideration shall be in writing and set  
9 forth:

10 (a) A short statement of the manner in which the final order is alleged to be in error;

11 (b) Reference to applicable statutes, rules or court decisions on which the party  
12 relies;

13 (c) A suggested alternative form of order; and

14 (d) A request for reconsideration.

15 (3) Board action. The Board shall either grant or deny a petition for reconsideration  
16 within [45] **60** days of filing. A petition may be denied if it does not contain the  
17 information required under section (2) of this rule. If the petition for reconsideration is  
18 granted, the Board may:

19 (a) Affirm the original order; or

20 (b) Reconsider and issue an amended order.

21 (4) Staff action. If the petition is granted and the Board reconsiders, the Director  
22 shall submit written argument on the merits of the petition for Board consideration.

1            (5) Petitioner action. Written argument from petitioner shall be submitted together  
2 with the petition. The Board may schedule oral argument in its discretion.

3            (6) Extension of deadline. Any *[45-day]* **60-day** deadline within this rule may be  
4 extended upon request in writing for an additional 45 days. Additional time may be  
5 requested, but shall only be granted upon approval by both parties.

6            Stat. Auth.: ORS *[237.263]* **238.650**  
7            Stats. Implemented: **ORS 183.413 - .470**



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

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June 16, 2006

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: Adoption of OAR 459-001-0005, *Model Rules of Procedure*

MEETING	6/16/06
DATE	
AGENDA	C.5.
ITEM	Model Rules of Procedure

### OVERVIEW

- Action: Adopt modifications to OAR 459-001-0005, *Model Rules of Procedure*.
- Reason: Update the Model Rules of Procedure to reflect current state law.
- Subject: PERS Board's rules of procedure.
- Policy Issues: No policy issues were identified.

### BACKGROUND

The Oregon Administrative Procedures Act (APA) requires state agencies to adopt rules of procedure for rulemaking and for conducting contested case proceedings. The APA also requires the Attorney General to adopt model rules that state agencies must use, although agencies may adopt additional rules governing administrative procedures.

OAR 459-001-0005 adopted the Attorney General's Model Rules of Procedure that became effective on December 1, 2004. In response to statutory changes and appellate court decisions, the Attorney General updated the Model Rules, effective January 1, 2006.

Changes to the Model Rules include language that further encourages agencies to use rulemaking advisory committees early in the rulemaking process and expands their duties, adds requirements to the fiscal impact statement, requires agencies to review a new rule within five years of adoption, allows the opportunity for parties to a rulemaking to ask an agency to clarify its objectives, and provides for a new "rule caption" and a requirement for clearer rule summary language. Changes were also made to the contested case process.

### LEGAL REVIEW

The proposed rule modification 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 March 28, 2006 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended on April 28, 2006 at 5:00 p.m.

### IMPACT

**Mandatory:** Yes, to comply with 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 fund.

### RULEMAKING TIMELINE

February 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
March 1, 2006	<i>Oregon Bulletin</i> published the Notice.
March 28, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.
March 31, 2006	PERS Board notified that staff began the rulemaking process.
April 28, 2006	Public comment period ended at 5:00 p.m.
June 16, 2006	Board may adopt the permanent rule modifications.

### BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt rule modifications to OAR 459-001-0005, *Model Rules of Procedure*, 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 update the *Model Rules of Procedure* to reflect current state law.

**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 001 – PROCEDURAL RULES

C.5. Attachment

1 **459-001-0005**

2 **Model Rules of Procedure**

3 The Attorney General's Model Rules of Procedure under the Administrative  
4 Procedures Act, as adopted and effective January 1, [2004] **2006**, are adopted as rules of  
5 procedure of the Public Employees Retirement Board, except as modified by other rules  
6 of the Board, to be effective on [December 1, 2004.] **July 1, 2006.**

7 [ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is  
8 available from the office of the Attorney General or the agency.]

9 Stat. Auth.: ORS 183.341 & 238.650

10 Stats. Implemented: ORS 238.005 - 238.715 & 237.410 - 237.620



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

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June 16, 2006

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

MEETING DATE	06/16/06
AGENDA ITEM	C.6. IAP Remediation

SUBJECT: Adoption of IAP Remediation Rules, OAR 459-009-0200, *Employer Remitting of Employee Contributions* and OAR 459-080-0200, *IAP Account Adjustments for Earnings or Losses*

### OVERVIEW

- Action: Adopt modifications to rules that are necessary to support policy decisions reached in the IAP Remediation Project.
- Reason: Conform the administrative rules to the policy choices related to IAP remediation.
- Subject: IAP remediation.
- Policy Issues:
  1. Should prior IAP distributions to members (withdrawals and retirements, whether paid directly, in installments, or rolled over) be adjusted as if they had occurred under the new plan structure?
  2. If contributions are not posted to an account in time for that year's annual earnings crediting, should they receive earnings and, if so, what should be the source of those earnings?
  3. In 2005, the Oregon Legislature made retroactive changes to the definition of "salary" that will require employers to make additional member contributions (i.e., those that received lump sum vacation, comp time, and overtime payouts). Should members be credited with earnings on those adjusted contributions and, if so, from what source?
  4. Should USERRA contributions be credited with calendar year end earnings and losses rather than prorated earnings or losses from the date of deposit?

### BACKGROUND

Previously, the PERS Board directed staff to remedy the consequences of the Individual Account Program's previous administration by adopting an operational model that more closely approximates the PERS Chapter 238 Program's regular account. The justification was that such an account structure would more closely match member and stakeholder expectations, be more efficient to administer, and conform to the statutory direction established when the program was created.

At the Board's April 27, 2006, meeting, staff brought forward a notice of rulemaking and policy issue discussion. Staff needed direction on policy issues so proposed rules could be put through the rulemaking process. The conclusion of that process would ensure that the resolution of those policy issues was incorporated into the modified administrative rules.

#### BOARD POLICY ISSUES & RECOMMENDATIONS

***1. Should prior IAP distributions to members (withdrawals and retirements, whether paid directly, in installments, or rolled over) be adjusted as if they had occurred under the new plan structure?***

Once the IAP transitions to its new plan operations and methods, that transition begs the question as to whether distributions that occurred under the old plan structure should be remedied as well. Those distributions include withdrawals and retirements, whether paid directly to the member or rolled over in a lump sum, or payable in future installments.

Staff Recommendation: Do not adjust prior distributions. All distributions processed prior to the transition date established for remediation (e.g., August 1, 2006) would be deemed final insofar as remediation effects. Distributions after that date will be processed under the new plan structure. No rule modifications were needed to address these distributions under this policy option.

***2. If contributions are not posted to an account in time for that year's annual earnings crediting, should they receive earnings and, if so, what should be the source of those earnings?***

IAP accounts will be credited with annual earnings after we "close the books" for a given calendar year. Inevitably, some contributions will be posted to member accounts after that calendar year has closed, due to an employer's late reporting, subsequent revisions to the member's service record, or discovering oversights in previous reports.

Staff Recommendation: Calculate imputed earnings and charge the employer, unless PERS is responsible for the delay. The model for IAP Remediation has been the operation of the PERS Chapter 238 Program regular account. In that account, historically, employers have had to make contributions in subsequent years for a variety of reasons. These "prior year adjustments" to the regular account have always triggered an invoice from PERS to the employer for the earnings that those contributions would have earned had they been in the regular account from the time that they should have been posted. Similarly, this recommendation is based upon the premise that this practice should be equally applied to IAP contributions that an employer fails to report on time.

Public Comment Received: During the public comment period, Nancy Brewer, Finance Director for the city of Corvallis, submitted a comment letter pertaining to this provision (attached to this memo). Ms. Brewer provides examples of situations where the employer would not necessarily be culpable for the delay and where the employer may not be fairly charged with the consequences of the delayed reporting. She concludes that there needs to be room within the rules for activity that does not penalize an employer when the employer has tried to be timely and pay the correct amounts to PERS.

Maria Keltner also provided comments on behalf of the AOC in an e-mail that is also attached to this memo. Her comments raised the additional issue of certain retroactive

changes to “break-in-service” that were also enacted by HB 2189, and encouraged that those contributions also not generate a charge of imputed earnings to the employer. A retroactive change to the “break-in-service” rules should not necessarily trigger additional IAP contributions since both PERS Chapter 238 Program and OPSRP Pension Program members contribute the same 6% to the IAP, but staff appreciates the principle that retroactive changes to legislation should not trigger a charge to earnings, in general.

As the rules currently stand, OAR 459-070-0110(7) states that if PERS is required to invoice an employer for contributions on wages paid in a prior period, PERS may also charge earnings that would have been credited to affected members. These proposed rule modifications do not include any changes to that rule because the current language supports the recommended policy option. Also, the current rule language leaves PERS discretion as to whether to invoice the employer. Staff believes this permissive language in the existing rule addresses Ms. Brewer’s comment and recommends to modifications to this provision. As stated, it supports the policy option and, in staff’s view, adequately makes allowances for circumstances where PERS determines that charging earnings to the employer would be inappropriate.

***3. In 2005, the Oregon Legislature made retroactive changes to the definition of “salary” that will adjust certain member’s contributions (those that received lump sum payouts). Should members be credited with earnings on those adjusted contributions and, if so, for what period and from what source?***

HB 2189 changed the definition of “salary,” for purposes of IAP contributions by PERS Chapter 238 Program members. Under the 2003 PERS Reform legislation, some lump sum salary payments (such as for vacation, overtime, or compensatory time cash-outs) were not subject salary for the purposes of contributions into the IAP although they remained subject salary for employer contributions and, for the most part, for calculating Tier One and Tier Two final average salary. The 2005 legislative changes are retroactive to January 1, 2004. Employers will now have to re-enter these payments into a “subject salary” category so IAP contributions can be calculated. A new file format that allows employers to make this change became available at the end of April 2006. When these contributions are posted to a member’s IAP account after their employer makes the adjusting entries, the question of earnings that should be credited is once again raised.

*Staff Recommendation:* Post contributions with a retroactive effective date but a current transaction date; contributions are credited with earnings in the calendar year received, but not retroactively. This policy would apply to adjustments made in 2006, as that is the first period that PERS could provide functionality for these adjustments. If an employer delays making these adjustments until after 2006 has closed, PERS would propose to charge that employer for 2006 earnings attributable to those contributions.

*Public Comment Received:* Greg Hartman representing the PERS Coalition submitted an April 24, 2006 letter prior to the previous Board meeting regarding the IAP remediation policy issues. In the letter (a copy is attached), Mr. Hartman raises the contention that the redefinition of “salary” should have a different consequence than staff has characterized. As he notes in his letter, this matter was in preliminary stages at that time and the Coalition did have opportunity for further comment in the rulemaking process. No further

comment was received on this issue. Staff confirmed with Mr. Hartman that he intended to make no further comment on this issue at this time. In response to Mr. Hartman's contentions in his letter, staff believes the 2005 legislature's action was a substantive change and that members did not have rights to this definitional change absent legislative action.

***4. Should USERRA contributions be credited with calendar year end earnings and losses rather than prorated earnings or losses from the date of deposit?***

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is a federal law that establishes certain rights and duties for persons in military service who return to employment after active duty. One of those rights, related to their retirement plan, can result in retroactive contributions to those person's IAP accounts after they return to employment. Federal law contemplates that those contributions will be subject to earnings and losses from the point that they are (or should have been) made to those persons' IAP accounts. The IAP, as remediated, will credit annual earnings and losses to contributions made during the course of a calendar year at the close of that year.

Staff Recommendation: Treat USERRA contributions in the same manner as regular contributions, providing them with annual earnings or losses rather than a pro-rate for the period of deposit.

Public Comment Received: The second part of Mr. Hartman's letter raises concerns about this policy issue. Similarly, however, Mr. Hartman did not comment further. He raises a concern about the timing of the USERRA contribution, and that is addressed in the agency's rules on USERRA, 459-080-0110. The policy choice advocated by staff will treat IAP contributions received under USERRA consistently with federal and state law.

LEGAL REVIEW

The proposed rule modifications were submitted to the Department of Justice. Their recommended changes have been incorporated in the rule as presented for adoption.

PUBLIC COMMENT AND HEARING TESTIMONY

The public comment period ended on June 2, 2006 at 5:00 p.m. A rulemaking hearing will be held on May 23, 2006 at 2:00 p.m. at PERS headquarters in Tigard. In addition to the public comments noted above, several questions were posed to staff at that hearing. Those questions and staff's responses are in Attachment 1 to this memo.

IMPACT

**Mandatory:** Yes; the rule modifications incorporate the policy decisions that underlie the remediation of the IAP and the plan documents should reflect those choices.

**Impact:** These rule modifications and the associated remediation of the IAP should improve members' and stakeholders' comprehension and satisfaction with the program, improve the agency's administration, and conform closer to the program as established.

**Cost:** There are minimal administrative costs associated with these rule modifications per se; the impact of IAP Remediation overall has been discussed in previous board materials and more details will be available after the project plan is completed.

#### RULEMAKING TIMELINE

April 15, 2006	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
April 27, 2006	PERS Board notified that staff began the rulemaking process.
May 1, 2006	<i>Oregon Bulletin</i> published the Notice.
May 23, 2006	Rulemaking hearing held at 2:00 p.m. in Tigard.
June 2, 2006	Public comment period ended at 5:00 p.m.
June 16, 2006	Staff proposes adopting the permanent rule modifications.

#### BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt permanent rule modifications to OAR 459-009-0200 and 459-080-0200, 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 conform the agency’s rules to the policy decisions made in connection with IAP remediation.

**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.

Attachment 1.a. Staff Response to Public Questions

Attachment 1.b. Aril 24, 2006 Letter from Greg Hartman

Attachment 1.c. May 22, 2006 Letter from Nancy Brewer

Attachment 1.d. June 2, 2006 E-Mail from Maria Keltner

Attachment 2 OAR 459-009-0200, *Employer Remitting of Employee Contributions*

Attachment 3 OAR 459-080-0200, *IAP Account Adjustments for Earnings or Losses*

June 16, 2006

To: Members of the PERS Board

From: Steven Patrick Rodeman, Administrator  
Policy, Planning, and Legislative Analysis Division

Re: Staff Response to Public Questions on IAP Remediation

At the May 23, 2006 hearing on the IAP Remediation rules, several questions were posed to staff that were not necessarily comments on the proposed rules as they were questions about the IAP and the remediation project. Staff's response to these questions is provided in this supplementary memo.

Bob Stark from Jackson County had questions about the specifics of proposed changes to 459-080-0200. As he understands it, the proposed changes would switch monthly contributions to IAP accounts to annual contributions. He has one period of 42 weeks in which contributions were not made into the account from his employer.

Q. Is the director assessing penalties for employers who don't report contributions on time?

*A. Yes; penalties began being assessed in May 2006. Note also that, with IAP remediation, contributions will receive full annual earnings so long as they are submitted during the reporting period for that calendar year. For 2004 and 2005, that cut-off is June 30, 2006. Subsequent calendar year cut-off dates will be established.*

Q. Will the proposed OAR be retroactive back to January 1, 2004, so any earnings that an individual has earned up to this point will be negated and drawn back into the pot?

*A. Remediation will credit earnings under the new model back to the program's start on January 1, 2004. Account earnings and administrative fees will be adjusted to reflect the new administration.*

Q. How can you make contributions on a monthly basis but only credit earnings once a year? Wasn't the IAP account set up differently than the Tier 1 member account?

*A. The IAP was set up differently but remediation is meant to make the IAP administration more parallel with the regular member account.*

Q. Does either of these proposed changes affect the HB 2189 change that defines salary for Tier 1 and Tier 2 members? Isn't the member being harmed by not crediting earnings to retroactive definition of salary?

*A. The policy memo on this issue, presented at the Board's April 27, 2006 meeting, outlines the legal, financial, and fiduciary issues on crediting earnings to these retroactive adjustments. That memo is available on the PERS web site. Basically, since the legislature did not make any specific provision for earnings on these retroactive contributions, PERS is not imposing that obligation on employers.*

**BENNETT, HARTMAN, MORRIS & KAPLAN, LLP**

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April 24, 2006

*BY FAX AND MAIL*

Steve Rodeman  
Public Employee Retirement System  
PO Box 23700  
Tigard, OR 97281-3700



Re: IAP Account Adjustments for Earnings or Losses  
Our File No.: 5415-237

Dear Steve:

I have had the opportunity to review your April 27, 2006 memo to the PERS board regarding potential changes in how the IAP accounts will be adjusted for earnings and losses. As you know the PERS Coalition has generally supported the proposed changes to the IAP account which will modify the administration of that account so that it will more closely parallel the administration of the traditional employee account. While the PERS Coalition continues to support those changes, I have two concerns about your memo.

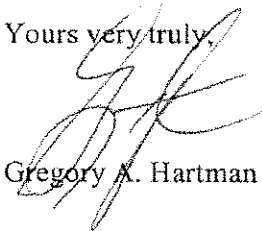
The first relates to the handling of what you characterize as the redefinition of salary made by the 2005 Oregon legislature. Based primarily on this characterization as a redefinition of salary, your memo concludes with a staff proposal that no interest or earnings be paid on these retroactive contributions. It has been the position of the PERS Coalition that the failure of employers to make these contributions to PERS was a misreading of the statute as passed by the 2003 legislature. There were various legal challenges pending to that reading of the statute at the time that the 2005 legislature acted. It has been the Coalition's position that the action by the 2005 legislature was a clarification of the legal obligation of employers rather than an adoption of a new definition of salary. Based on our understanding of the pre-existing statute and the nature of the 2005 legislative enactment, it is the PERS Coalition's position that members who are entitled to receive these retroactive contributions are also entitled to receive earnings on those contributions. We think the obligation to fund those earnings is an obligation that falls upon the employers. I would be happy to provide a more detailed analysis of why we do not think the 2003 legislation changed the law in regard to these lump sum payments, but unfortunately I will not have the opportunity to do so before the upcoming PERS meeting. I assume since this matter is at the preliminary stages we will have an opportunity for additional input through the rulemaking process.



Steve Rodeman  
April 24, 2006  
Page 2

The second issue relates to compliance with USERRA. While I claim no particular expertise in USERRA, it is my understanding that those individuals whose service puts them within the scope of USERRA protection are entitled to have an account reconstructed as if contributions had been made on a timely basis by the individual member's employer. I found your memo unclear on this issue, and so simply wanted to call this to your attention. Again I'm sure we will have the opportunity to review these issues as PERS goes through the rulemaking process.

Yours very truly,

A handwritten signature in black ink, appearing to read 'G. Hartman', written over the typed name.

Gregory A. Hartman

GAH:kaj

G:\Hartman\AFSCME 5415\237 PERS 2\Rodeman 06-04-24a.wpd



C.6.1.c.

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May 22, 2006

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PO Box 23700  
Tigard, OR 97281-3700

Dear Brendalee,

I am writing about a staff report filed with the PERS Board at the last Board meeting. The staff report is from Steven Patrick Rodeman, date April 27, 2006, and the subject is Policy Issues and Notice of Rulemaking for IAP Rules. The memo cites several policy issues that are associated with Employer Remitting of Employee Contributions and IAP Accounts. Attached to the staff report are two administrative rules with proposed changes.

I have a concern about one of the issues raised in the memo that does not appear to have any part of the current rulemaking process, but I wish to state my concerns for the record.

On page three of the memo, item #2 addresses contributions not posted to an account for the year's annual earnings crediting and how to go about allocating earnings. Staff's recommendation is that employers would be charged for earnings as the result of not reporting timely or accurately. I have absolutely no problem with the employer assuming responsibility when the employer did not report timely or accurately.

What I do not see addressed is what happens when the employer has made every effort to report timely and accurately, but PERS has acted in a way that does not allow the employer to remit monies. Examples that I am aware of include:

- ◊ The City reports on hours worked for a part-time employee who is not expected to reach 600 hours in the year, and in fact does not work 600 hours for Corvallis. However, due to concurrent employment (which the employee did not report to the City), the member achieves more than 600 hours total for PERS employers and the City should have remitted. During the course of the year, if PERS system catches it, the employee's record may be suspended and in researching the suspension we find that the 600 hours mark has been reached. However, PERS information is not always accurate for concurrency. We get to

year end, believe we have cleared all suspended accounts, and call the year closed. At some point in the future, PERS realizes the member achieved 600 hours and invoices the City for the employee's 6%, employer's contribution, and lost earnings.

- ◇ The City reports on a part-time employee who the City believes has concurrent employment and will achieve 600 hours. The City remits monies to PERS. At year end, PERS reviews the case and determines the member did not achieve 600 hours, and returns the monies to the City. Some time after year end close, PERS determines that the member did in fact achieve 600 hours between multiple employers and invoices the City.
- ◇ PERS invoices the City for an atypical situation, but the City disagrees with the amount invoiced, and provides information to PERS that changes the amount owed. After reviewing the City's information, PERS staff agree that the City's number is correct and provide telephone confirmation of that. PERS staff advise to not pay on the invoice already received, stating that a new invoice will be generated. The City waits and waits, calls and reminds PERS staff to send a new invoice, FAX data again, etc. Still no invoice (we have one hanging out like this from 2000 or 2001). In this case, I do not believe the City should pay for lost earnings that are the result of the delay in getting an invoice.

Since this portion of the April 27, 2006 staff report is not included in the rule making process for which there is a public hearing on May 23, I am unsure how to proceed, other than to suggest that there needs to be room within the rules for activity that does not penalize an employer when the employer has sincerely tried to be timely and to pay the correct amounts to PERS.

I would be happy to answer any questions you may have about my comments.

Sincerely



Nancy Brewer  
Finance Director

June 2, 2006

To: PERS Administrative Rules Coordinator, Brendalee Wilson

From: Maria Keltner, Representing Association of Oregon Counties

Comments on Proposed Rules OAR 459-080-0200 and 459-009-0200 and IAP Policy Issue Option #2 outlined in the April 27, 2006 memo to the PERS Board from Steven Patrick Rodeman, Administrator, PPLAD.

If contributions are not posted to an IAP account in time for that year's annual earnings crediting, should they receive earnings and, if so, what should be the source of those earnings? PERS Staff Recommended that in this case, imputed earnings should be charged to the employer.

OAR 459-070-0100(7) allows but does not require PERS to invoice an employer for an amount equal to the earnings that would have been credited to affected members if the employer is late in filing a report or remitting contributions on wages paid in previous reporting periods.

We note that Policy Issue Option #3 exempts HB 2189 retroactive changes to the definition of "salary" that will adjust certain member IAP contributions retroactively. Policy Issue Option #3 does not address HB 2189 retroactive changes to the definition of break-in-service that will also adjust certain member IAP contributions retroactively. Neither the break-in-service- retroactive IAP contributions nor the "salary" definition change retroactive IAP contributions should receive imputed earnings billed to the employer.

We also note and concur with the concerns expressed in comments submitted by Nancy Brewer, City of Corvallis. PERS should not invoice an employer for imputed earnings on contributions that are not posted to an account in time for that year's annual earnings crediting when the posting delay is not solely due to employer action or inaction. Nancy gives examples where the employer tries to report accurately in a timely manner and tries to pay the appropriate contributions but is unable to do so because of PERS computer limitations; limitations on how PERS is able to track concurrent employment; limitations in the PERS invoicing system; etc. Perhaps, the Board has adopted a Policy that employers will not be billed for imputed earnings in these and similar circumstances. If so, where does one review Policies the Board has adopted when the Policies are not included in the Oregon Administrative Rules? If not, we request the Board consider adopting such Policies.

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

C.6. Attachment 2

1 459-009-0200

2 Employer Remitting of Employee Contributions

3 (1) Except as provided in ORS 238.200(1)(b), a participating employer shall remit to  
4 PERS in accordance with OAR 459-009-0100 six percent (6%) of gross salary and wages  
5 for each active member employed as required in ORS 238.200(1)(a). Unless otherwise  
6 agreed to as provided for in sections (2) or (3) of this rule, the employer shall withhold  
7 and remit the required contributions on an after-tax basis as defined in OAR 459-005-  
8 0001(36), and shall be known as "member paid after-tax contributions (MPAT)".

9 (2) In accordance with Internal Revenue Code (IRC) Section 414(h), and under  
10 provision of ORS 238.205(2), participating employers may voluntarily agree to assume  
11 [or] **and** pay the six percent employee contribution on behalf of its employees, and shall  
12 be known as "employer paid pre-tax contributions (EPPT)". The employer assumption  
13 [or] **and** payment of the uniform six percent employee contributions shall be subject to  
14 the following terms and conditions:

15 (a) The employer's employment agreement(s) to assume [or] **and** pay the  
16 contributions must be evidenced by a certified copy of the employer's policy established  
17 by statute, charter, ordinance, administrative rule, executive order, collective bargaining  
18 agreement, or other written employment policy or agreement. The employer's  
19 employment policy(s) or agreement(s) shall specify:

20 (A) That the required PERS employee contribution of six percent of salary is  
21 deemed to be "picked up" for purposes of IRC Section 414(h)(2) and is assumed [or] **and**  
22 paid for purposes of ORS 238.205(5)(b);

1            (B) That the employees do not have the option of receiving the assumed amount  
2 directly;

3            (C) That employee compensation shall not be reduced and that the employer shall  
4 provide the additional amounts necessary to make the employee contributions; and

5            (D) That the employer's employment policy(s) or agreement(s) is not retroactive in  
6 its application.

7            (b) The employer's employment policy(s) or agreement(s) to assume *[or]* **and** pay  
8 employee contributions shall not be construed to require an employer to open or  
9 renegotiate a pre-existing collective bargaining agreement or change an employment  
10 policy before its normal expiration date.

11            (c) The employer's employment policy(s) or agreement(s) must be to assume *[or]*  
12 **and** pay the full amount, and not a portion thereof, of the affected employees' six percent  
13 contributions required by ORS 238.200.

14            (d) The employer's policy(s) or agreement(s) may apply to all its employees or some  
15 of its employees. If it applies only to some employees, it shall apply uniformly to all  
16 employees of the public employer who are employed in similarly situated positions, such  
17 as, but not limited to:

18            (A) The chief executive officer or administrative head of a public employer.

19            (B) Management personnel, as defined by the public employer, not otherwise  
20 covered by a collective bargaining agreement.

21            (C) Confidential personnel, as defined by the public employer, not otherwise  
22 covered by a collective bargaining agreement.

1 (D) Administrative personnel, as defined by the public employer, not otherwise  
2 covered by a collective bargaining agreement.

3 (E) Personnel covered by a collective bargaining agreement.

4 (F) Other personnel, whether full time, part time, temporary, or as a substitute, who  
5 are not covered by a collective bargaining agreement.

6 (3) In accordance with IRC Section 414(h) and under provision of ORS 238.205(3),  
7 participating employers may voluntarily agree to "pick-up" the employee contributions  
8 withheld, and such picked-up contributions shall be known as "member paid pre-tax  
9 contributions (MPPT)". The employer "pick-up" of the uniform six percent employee  
10 contribution shall be subject to the following terms and conditions:

11 (a) The employer's agreement(s) to "pick-up" the contributions must be evidenced by  
12 a certified copy of the employer's policy established by statute, charter, ordinance,  
13 administrative rule, executive order, collective bargaining agreement, or other written  
14 employment policy or agreement, The employer's policy(s) or agreement(s) shall specify:

15 (A) That the required PERS employee contribution of six percent of salary is  
16 deemed to be "picked up" for purposes of IRC, Section 414(h)(2) and ORS  
17 238.205(5)(a);

18 (B) That the employees do not have the option of receiving the picked-up amount  
19 directly;

20 (C) That employee compensation shall be reduced by the amount necessary to make  
21 the employee contributions; and

22 (D) That the employer's policy(s) or agreement(s) is not retroactive in its application.

1 (b) The employer's employment policy(s) or agreement(s) to "pick-up" employee  
2 contributions withheld shall not be construed to require an employer to open or re-  
3 negotiate a pre-existing collective bargaining agreement or change an employment policy  
4 before its normal expiration date.

5 (c) The employer's policy(s) or agreement(s) must be to "pick-up" the full amount,  
6 and not a portion thereof, of the affected employees' six percent contributions required by  
7 ORS 238.200.

8 (d) The employer's employment policy(s) or agreement(s) may apply to all its  
9 employees, or some of its employees. If it applies to only some of its employees, it shall  
10 apply uniformly to all employees of the public employer who are employed in similarly  
11 situated positions, such as, but not limited to:

12 (A) The chief executive officer or administrative head of a public employer.

13 (B) Management personnel, as defined by the public employer, not otherwise  
14 covered by a collective bargaining agreement.

15 (C) Confidential personnel, as defined by the public employer, not otherwise  
16 covered by a collective bargaining agreement.

17 (D) Administrative personnel, as defined by the public employer, not otherwise  
18 covered by a collective bargaining agreement.

19 (E) Personnel covered by a collective bargaining agreement.

20 (F) Other personnel, whether full time, part time, temporary, or as a substitute, who  
21 are not covered by a collective bargaining agreement.



1           (4) The notification of the employer's written employment policy(s) or agreement(s)  
2 to enter into or to revoke (1) the "pick-up", or (2) to assume [*or*] **and** pay contributions  
3 on behalf of employees, shall be submitted to PERS for review and approval, and shall  
4 become effective on the date the notification is received by PERS. Additional information  
5 related to the employer's policy or agreement shall be provided at the request of staff and  
6 in the manner required by staff. If approved by PERS, such policy [*or*] **and** agreement  
7 shall not be revoked by the employer except with prior written notice to PERS. All costs  
8 to correct any errors caused by failure to give required notice shall be borne by the  
9 employer.

10           Stat. Auth.: ORS 238.650

11           Stats. Implemented: ORS 238.205

OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459

C.6. Attachment 3

DIVISION 080 – OPSRP INDIVIDUAL ACCOUNT PROGRAM

1 **459-080-0200**

2 **IAP Account Adjustments for Earnings or Losses**

3 (1) Earnings and losses on employee, employer, and rollover contributions under the  
4 OPSRP Individual Account Program ("IAP") will be posted at least annually, in  
5 accordance with ORS 238A.350(1). In no event will earnings or losses be posted to  
6 individual accounts until funds are actually received by PERS and have been successfully  
7 *[matched to]* **reconciled with** the corresponding wage and contribution record. *[Once*  
8 *contributions have been received and matched, the effective date for posting these*  
9 *contributions shall be the first of the following calendar month.]* Accounts will be  
10 adjusted at least annually thereafter to reflect any net earnings or losses and to pay  
11 reasonable administrative expenses. *[This effective date applies to all contributions,*  
12 *whether for a current period or those sent as adjustments for prior periods.]*

13 (2) When a member requests a withdrawal of the member's employee, rollover and  
14 employer accounts under ORS 238A.375, those accounts will be adjusted to reflect any  
15 net earnings or losses and to pay reasonable administrative expenses only through the end  
16 of the month in which the request for withdrawal is received, regardless of when the  
17 payment is issued.

18 (3) The provisions of this rule are effective January 1, 2004.

19 Stat. Auth.: ORS 238A.450

20 Stats. Implemented: ORS 238A.350



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

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June 16, 2006

TO: Members of the PERS Board

FROM: Dave Tyler, Administrator, Fiscal Services Division  
Steven Patrick Rodeman, Administrator, PPLAD

SUBJECT: IAP Remediation Project Plan

MEETING	6/16/06
DATE	
AGENDA	D.1.
ITEM	IAP

Previously, the PERS Board directed staff to remedy the consequences of the Individual Account Program's previous administration methods by changing to an operational model that more closely approximates the PERS Chapter 238 Program's regular account. The Board's goal was to create an account structure that would more closely match member and stakeholder expectations, be more efficient to administer, and conform to the statutory direction established when the program was created.

In the intervening months, staff has been developing that new model in conjunction with our third party administrator, CitiStreet. At this Board meeting, staff will be presenting for adoption administrative rule modifications that will conform to the new operational model (see Agenda Item C.6.). We will also be presenting the outlines of the new model and provide as much detail as is available on the plan to transition to the new administrative structure.

These materials will be provided to the Board electronically prior to the meeting and be available in hard copy as part of the Board's walk-in packet.

### BOARD ACTION

No action is expected pertaining to this agenda item. The Board will be asked to adopt the rule modifications referenced above in a separate agenda item (see Agenda Item C.6.).



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June 16, 2006

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Administrator, PPLAD

MEETING DATE	<b>6/16/06</b>
AGENDA ITEM	<b>D.2. HB 2189</b>

SUBJECT: HB 2189 and Employee Contributions on Lump-Sum Payments

## BACKGROUND

The 2005 Oregon Legislature adopted HB 2189, which, under section 17, made a retroactive change to the definition of “salary” for the purposes of contributions to the Individual Account Program (“IAP”) by PERS Chapter 238 Program members. Under the 2003 PERS reform legislation, certain lump sum payments to those members that were treated as “salary” for calculating final average salary under the PERS Chapter 238 Program did not qualify as “salary” from which the 6% employee contribution was to be paid under the IAP. The 2005 legislative change made those lump sum payments subject to the 6% contribution and made that change retroactive to the start of the IAP program, January 1, 2004.

As these payments were not considered “salary” for IAP purposes at the time they were originally made, employers were not required to remit the 6% contributions on these payments whether they assumed and paid them or collected the 6% contributions from the employees on a pre-tax or after-tax basis. As of May 1, 2006, all lump sum payments were reversed out of the jClarety system and the associated employer contributions were returned to the employers. Employers now have the functionality to re-enter lump sum payments, distinguishing between those that should trigger a 6% IAP contribution under the revised definition and those that should not. The retroactive nature of the legislature’s change has created special policy considerations to process such transactions.

These policy considerations are germane only to the 6% employee contribution that is now triggered by the qualifying lump sum payout.<sup>1</sup> Remember that the employee contribution can fall into one of three categories:

1. Employer Paid Pre-Tax or “EPPT”: these contributions are assumed and paid by the employer.
2. Member Paid Pre-Tax or “MPPT”: these contributions are “picked up” by the employer by deducting the 6% from the employee’s salary on a pre-tax basis.
3. Member Paid After Tax or “MPAT”: these contributions are collected by the employer from employees on an after-tax basis and forwarded to PERS.

---

<sup>1</sup> Employers agree that the employer will pay the employer contribution triggered by the re-entry of these payments as “salary.”

PERS held a series of meetings with employers to resolve how best to fund and administer this retroactive requirement. Issues vary depending on the type of contribution involved, but generally the concern is the ability of employers to collect MPPT or MPAT contributions from employees who:

- Claim they cannot afford the additional contribution from their current salary;
- Have retired and are no longer receiving a salary from this employer, leaving the employer with no ready source of repayment;
- Have left this employer's service and are no longer in contact with them.
- Have died.

### POLICY ISSUES AND OPTIONS

Several issues have crystallized during the agency's discussions with employers:

- Who should bear the risk of loss should employers not be able to recover MPPT or MPAT employee contributions from those who owe them after these lump sum payments are re-posted?
- Who is in the best position (PERS or the employer) to collect these contributions from the employees who have left employment?
- What is an employer's duty to pursue these contributions from those who are no longer their employees?
- Can employees who would not benefit from making the contribution waive their right to have it deposited on their behalf? If so, who would develop and execute that waiver? Can a member even give informed consent to such a transaction, given all the ramifications it has on IAP, final average salary, etc.

During these discussions, employers suggested that one source of funds for some or all (see policy choices below) of the financial impact could be the Contingency Reserve. Given the broad scope of the uses to which those funds can be applied, employers suggested that it could be tapped for some or all of the financial costs associated with these retroactive transactions.

The group identified four policy options of sources to fund the employee contributions that will be triggered when these lump sum payments are re-posted. To be clear, these options only apply to lump sum payments that occurred between January 1, 2004 and April 30, 2006 to PERS Chapter 238 Program members. The options are listed below with the estimated costs:

1. Employers pay all the contributions, whether EPPT, MPPT, or MPAT, in addition to their employer contribution, associated with these re-posted transactions. These lump-sum payments amounted to \$63.7 million in salary that was backed out of the employers' reports. When they re-post these transactions in the correct categories, IAP contributions of about \$3.82 million would become payable, all paid by employers. This option puts the onus of solving the financial implications of this 1 retroactive legislative change wholly on the employer's shoulders.

2. Charge the Contingency Reserve for all the employee contributions due from the re-posting of these transactions. Employers would re-post the lump sum payments and would then receive a credit payment from the Contingency Reserve for the 6% employee contribution associated with that lump sum payment. The Contingency Reserve would be charged for the estimated \$3.82 million to pay all contributions due on these payments, regardless of whether those contributions were originally due from the employer (EPPT) or the employee (MPPT or MPAT). This option makes the system as a whole absorb the costs of this retroactive legislative change.
3. Have employers pay the EPPT portion of the resulting contributions (estimated to be \$2.84 million) and the Contingency Reserve pay for the MPPT and MPAT contributions (about \$980,000). This option would use the Contingency Reserve funds to pay for those employee's obligations without requiring employers to evaluate whether and how those contributions could be collected from the affected employee.
4. Have employers pay the EPPT portion of the contributions (again, about \$2.84 million), collect the balance of MPPT and MPAT contributions from employees that are available and able to pay, and only charge the Contingency Reserve for those employee-paid contributions (MPPT and MPAT) that employers certify that they are unable to recover from the employee. Under this option, employers and employees pay their share of the associated costs, and the Contingency Reserve is used as a back-up resource only when employers are unable to collect the contributions due.

#### STAFF ANALYSIS

*Legal:* The broad language of the Contingency Reserve statute makes those moneys generally available for whatever the Board considers to be a contingency. Here, the complications in collecting contributions for retroactive salary adjustments certainly qualify as an unforeseen cost to this legislation. Although staff has not directly posed the question to legal counsel, using the Contingency Reserve in any of the three options outlined seems consistent with previous guidance on that reserve's permissible uses.

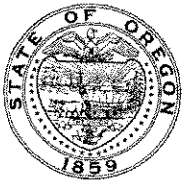
*Fiscal:* From the agency's standpoint, administering any of the above options should be practical. Other suggestions such as off-line tracking and posting of contributions were rejected as too costly, complicated, or risky as regards data integrity. Additional agency costs would be incurred in working with employers to identify the transactions that would trigger a Contingency Reserve reimbursement, and then processing that credit, but that burden should be manageable within the parameters of current resources. Administrative expenses and contribution expenses for employers would vary by option, with Option 2 being the least burdensome from the employer's perspective.

*Fiduciary:* Each option allocates the financial burden differently. Option 1 leaves it solely on the employers' shoulders; Option 2 the same for PERS. Option 3 gives special advantage to affected MPPT or MPAT employees because the Contingency Reserve is providing contributions on their behalf that would normally be withheld from their pay. Option 4 comes closest to aligning the financial burden with the beneficiaries who would receive credit for the contributions by attempting to collect the contributions that are due,

but making the IAP portion of the system whole when the contributions can't be collected.

NEXT STEPS

PERS will circulate this memo to employers and other stakeholders prior to the Board's June 16, 2006 meeting. These parties will be invited to provide comment to the Board prior to the meeting, and, at the Chair's discretion, at the meeting as to whether and how the Contingency Reserve should be used to pay the costs associated with the options outlined above.



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June 16, 2006

TO: Members of the PERS Board  
FROM: Gloria English, Retiree Insurance Program Manager  
SUBJECT: PERS Retiree Health Insurance Program – January 1, 2007 Contract Renewals

MEETING	6/16/06
DATE	
AGENDA	D.3.
ITEM	Health Insurance

### BACKGROUND

January 1, 2006 marked the culmination of over two years of work facilitating the implementation of Medicare Prescription Drug coverage, Part D, for PERS Retiree Health Insurance Program participants. Overall, the addition of the Medicare paid prescription drug premium (beginning January 1, 2006) towards the cost of prescription coverage for PERS retirees resulted in a premium reduction of approximately \$20 across the board for PERS Medicare eligibles. Although the transition was, for the most part, seamless for members, there were challenges and obstacles that were and are being met by staff without requiring participant involvement.

PERS continues to contract with four health plans for a variety of coverages for participants allowing the greatest possible choice while maintaining stability for the program. Calendar year 2006 contracts that are in place are as follows:

#### **1) The ODS Companies**

- a. Traditional Medicare Supplement
- b. Medicare Advantage PPO Plan
- c. Non-Medicare PPO Plan
- d. Stand alone Prescription Drug Plan (PDP) that covers
  - ODS Medicare and Non-Medicare participants
  - Providence Medicare and Non-Medicare participants
  - Clear Choice Health Plan Medicare and Non-Medicare participants
- e. Dental Plan

#### **2) Providence Health Plans**

- a. Medicare Advantage HMO Plan
- b. Non-Medicare PPO Plan

#### **3) Kaiser**

- a. Medicare Advantage HMO Plan and prescription drug coverage
- b. Non-Medicare HMO Plan and prescription drugs
- c. Dental Plan

#### **4) Clear Choice Health Plans**

- a. Medicare Advantage HMO Plan
- b. Non-Medicare PPO Plan



In 2006, the PERS Retiree Health Insurance Program held an open enrollment for participants that had missed their last opportunity to enroll in the program upon attaining Medicare eligibility. This opportunity did not result in as great an increase in enrollment as anticipated or hoped but some new members (many of them subsidy eligible) were enrolled. Undoubtedly some of the prescription drug benefit demand was met by the availability of prescription drug benefits offered through new Medicare approved commercial plans.

The Oregon PERS retiree health insurance program is a voluntary insurance group where eligible members pay the majority of their own premium for the insurance plans of their choice. The member cost to participate in the PERS retiree health insurance program includes both the health plan premium, and additional fees for PERS' administrative costs. In 1987 the legislature added a premium subsidy, Retiree Health Insurance Account (RHIA) for Medicare enrolled PERS retirees with eight or more years of service who are enrolled in the PERS health insurance program. The subsidy amount is limited by statute to \$60 per member per month.

Effective January 1, 1993, another subsidy, Retiree Health Insurance Premium Account (RHIPA), was added for non-Medicare eligible retirees of the State of Oregon who had eight or more years of PERS service. This subsidy for 2006 varies from \$120 to \$240 depending upon qualifying years of PERS service. About 75% of the members enrolled in the PERS health insurance program receive one of these subsidies. The subsidies total approximately 26% of the total health plan premiums collected for program enrollees. These subsidies are funded actuarially, and added to the employer rate established by PERS actuaries, and approved by the PERS Board. The current RHIA employer rate is 0.59% and the RHIPA rate (State of Oregon payroll only) is 0.13%

Ninety-five percent of the enrolled members of the PERS plans are Medicare eligible members who have many commercially marketed Medicare plans competing for their premium. The key to PERS' success has been the Board's approach in maintaining a stable program with dependable health plan contractors, and an acceptable balance between the benefits and premiums over the years that meets member's needs.

Following are some demographics and statistics that describe the Oregon PERS retiree insurance program as of May 2006:

	Enrollment	% Change vs.2005	Receiving Subsidy	Average Age
Medical Plans	48,941	3.4%		72
Medicare	46,676	4.0%	35,617	74
Non-Medicare	2,265	-7.3%	1,046	58
Dental Plans	22,728	8.3%		

Additional statistics can be found in Exhibit I.

#### PROPOSED HEALTH PLAN CONTRACTS, CONDITIONS AND CHANGES FOR 2007

PERS will continue to contract with Kaiser Permanente Health Plans, ODS Health Plans, and Providence Health Plan for medical insurance for PERS enrolled Medicare and non-Medicare members.

PERS will continue to contract with Clear Choice Health Plans. If a waiver is not received from Medicare for 2007, Clear Choice Medicare member rates will increase approximately 34%.

PERS will continue to contract with Kaiser Permanente Health Plans and ODS Health Plans for dental insurance for PERS enrolled Medicare and non-Medicare members.

PERS will continue to contract with ODS for a Stand Alone Prescription Drug Program (PDP) covering participants enrolled in ODS, Providence and Clear Choice Health Plans.

Minor adjustments will be made allowing PERS to remain actuarially equivalent to the Medicare Prescription Drug Program.

Kaiser Permanente will continue to insure and administer medical benefits and the prescription drug program to PERS members who are enrolled in Kaiser Permanente Health Plans that mirrors the ODS administered program, thereby providing uniformity, continuity, and stability for PERS members.

Implement health plan premium rates as shown on Exhibit II along with associated rates that include spouses and/or dependents.

#### PROPOSAL REVIEW AND RECOMMENDATIONS

Board Member Thomas Grimsley, PERS Health Insurance Program retiree advisors, PERS staff, and consultants, met April 14, 2006 to review the results of the 2006 contract year, and Medicare Part D implementation. The group met again on May 10, 2006 to review and discuss recommendations for the 2007 renewal.

As was anticipated the marketplace is still relatively unsettled around the changes and opportunities presented as a result of the Medicare Modernization Act and regulations by the Centers for Medicare and Medicaid Services (CMS) in 2006. In addition to the prescription drug benefit, new benefit plans became available. PERS staff and consultants continue to believe that it is too soon to know just how the marketplace will evolve following the initial offerings. In the same vein, assessing the funding that each plan will receive from CMS has been challenging for the health plans. While overall the renewal is positive, some of the increases are significant. This is primarily due to the challenges of the Medicare funding methodologies that are tied to participant health risk scores, and that information is gleaned from each plan's ability to report their claims and demographics accurately.

We are pleased to bring these proposals to you, and thereby conclude another year of hard work by our consultants, health plans, retiree advisors, and PERS staff.

PERS staff, the Administrator's staff, and consultants have already started the process of updating the Program Booklet and Plan Change materials for finalization and distribution if the PERS Board approves the proposals presented here. In mid-September PERS staff and the Administrator's staff will begin Retiree Meetings around the state, and will most likely have the opportunity to meet with 5,000 or more PERS retirees and their dependents during the six weeks of meetings planned from mid-September through October. You may refer to Exhibit II for additional information about the PERS Retiree Health Insurance Program.

Please review the attachments and feel free to call if you have questions. I can be reached at 503-378-8906 or email at [Gloria.English@state.or.us](mailto:Gloria.English@state.or.us).

#### STAFF RECOMMENDATIONS

Staff recommends the Board approve the proposed PERS Retiree Health Insurance Plan contracts, conditions and rate changes for 2007.

Health Insurance Plans			
Program Enrollment	Totals	Medicare	Non-Medicare
Covered Lives	48,941	46,676	2,265
Retirees (or Surviving Spouses)	39,233	37,909	1,324
Spouses / Dependents	9,708	8,767	941
Average Age of Enrolled Retirees	72	74	58

### Health Plan Membership Enrollment

Clear Choice Health Plans (Central OR)	1,159	1,128	31
Kaiser Permanente (Portland to Salem)	9,148	8,363	785
Kaiser (California & Hawaii)	70	51	19
ODS Advantage (Oregon)	647	618	29
ODS Supplement (All 50 States)	25,611	24,872	739
Providence Health Plan (Portland to Eugene)	12,306	11,644	662
ODS Dental Plan	19,171	18,330	841
Kaiser Dental Plan	3,557	3,253	304

Statutory Health Insurance Premium Subsidies			
Retirees Receiving RHIA*	35,617		
Retirees Receiving RHIPA**	1,046		
RHIA Monthly Payment – \$60 pmpm	\$2,203,540		
RHIPA Monthly Payment – \$175(avg)	\$182,816		
Total Monthly Premium Paid to Health Plans:	\$8,972,400		

**PERS PROPOSED RENEWAL RATES****2006 vs. 2007 All Carrier Rates**

Including All Administrative Fees  
Effective January 1, 2007

**SUMMARY**

Medical and Prescription Rates to Members before Statutory Subsidies  (Includes Fixed Costs)	April 2006 Enrollment	2006	2007	Percentage Change 2006 vs. 2007
<b>ODS MEDICAL / RX</b>				
Medicare Supplement	24,857	\$152.52	\$172.27	12.9%
Medicare PPO	584	\$139.91	\$148.55	6.2%
non-Medicare PPO	780	\$692.89	\$797.67	15.1%
<b>PROVIDENCE HEALTH PLANS</b>				
Medicare	11,762	\$133.37	\$145.15	8.8%
non-Medicare	660	\$550.49	\$596.75	8.4%
<b>CLEAR CHOICE HEALTH PLANS</b>				
Medicare	1,114	\$145.17	\$158.65	9.3%
non-Medicare PPO	32	\$590.57	\$609.17	3.1%
<b>KAISER HEALTH PLANS</b>				
Medicare	8,342	\$130.71	\$173.43	32.7%
non-Medicare	789	\$474.30	\$586.50	23.7%
<b>DENTAL</b>				
Kaiser Dental	3,556	\$45.67	\$47.38	3.7%
ODS Dental	19,079	\$45.92	\$45.92	0.0%

**PERS PROPOSED RENEWAL RATES****2005 vs. 2007 All Carrier Rates**

Including All Administrative Fees  
Effective January 1, 2007

**SUMMARY**

Medical and Prescription Rates to Members before Statutory Subsidies					
(Includes Fixed Costs)	April 2006 Enrollment	2005	2006	2007	Percentage Change vs. 2007
<b>ODS MEDICAL / RX</b>					
Medicare Supplement	24,857	\$176.59	\$152.52	\$172.27	-2.4%
Medicare PPO	584	N/A	\$139.91	\$148.55	6.2%
non-Medicare PPO**	780	\$576.26	\$692.89	\$797.67	38.4%
<b>PROVIDENCE HEALTH PLANS</b>					
Medicare	11,762	\$160.45	\$133.37	\$145.15	-9.5%
non-Medicare	660	\$488.33	\$550.49	\$596.75	22.2%
<b>CLEAR CHOICE HEALTH PLANS</b>					
Medicare	1,114	\$177.49	\$145.17	\$158.65	-10.6%
non-Medicare PPO	32	\$555.84	\$590.57	\$609.17	9.6%
<b>KAISER HEALTH PLANS</b>					
Medicare	8,342	\$148.68	\$130.71	\$173.43	16.6%
non-Medicare	789	\$396.03	\$474.30	\$586.50	48.1%
<b>DENTAL</b>					
Kaiser Dental	3,556	\$43.17	\$45.67	\$47.38	9.8%
ODS Dental	19,079	\$45.16	\$45.92	\$45.92	1.7%



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

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11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
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[www.pers.state.or.us](http://www.pers.state.or.us)

June 16, 2006

TO: Members of the PERS Board

FROM: Brian DeForest, Budget and Fiscal Operations Manager

SUBJECT: 2007-09 Agency Request Budget Development

MEETING DATE	6-16-06
AGENDA ITEM	D.4. Agency Budget

This report is to update the PERS Board on progress in developing the 2007-09 Agency Request Budget (ARB) and provide a preliminary overview of proposed policy packages for potential inclusion in the ARB. A summary of budget dollars and some historical perspective will be made available as a handout at the Board meeting. No Board action is required at this time. Staff will present the final ARB for approval to submit to the Governor at the July 21, 2006 Board meeting.

### SUMMARY OF PROPOSED PACKAGES

The Agency is proposing six policy packages for the Agency Request Budget. The packages focus on continuation of two priority projects and providing stability and continuity of base operations. The packages include requests to establish both permanent and limited duration positions where necessary to complete project work or maintain current operations. There are no new projects being proposed in these packages. Requests for permanent positions recognize the existence of long-term, on-going workloads and functions. Requests for limited-duration positions recognize work of a time-limited nature or the need to further review workload capacity following the implementation of new technology tools, such as the full implementation of the jClarety product.

#### **Strunk/Eugene Project**

**57 positions/57.00 FTE**

This package continues the Project with anticipated completion of the Project at the end of the 2007-09 biennium. Positions cross all division lines in the agency and include all related activities such as scanning and imaging retiree records and correspondence, benefit recalculations, database changes that result from benefit recalculations, benefit adjustments, and collection and recovery activities. All of the positions are requested as limited-duration.

#### **RIMS Conversion Project**

**6 positions/6.00 FTE**

This package continues the RIMS Conversion Project as it was approved for the current biennium through the 2007-09 biennium. All of the positions are requested as limited-duration.

#### **Retirement Processing**

**25 positions/25.00 FTE**

The Retirement Processing package focuses on core operation activities directly related to benefit calculations and payments. The package supports current operations through the 2007-09 biennium. The majority of the positions in the package are limited duration positions that

currently exist in the 2005-07 biennium. The package anticipates an average of 6,000 annual retirements, the same level as the current biennium.

**Retirement Data Support**

**23 positions/23.00 FTE**

This package focuses on the preparation and integrity of data necessary to calculate benefits efficiently and accurately. The package is a mix of permanent and limited duration positions with the majority of positions already existing as limited duration positions in the 2005-07 biennium.

**Operations & Infrastructure Support**

**30 Positions/30.00 FTE**

This package maintains the current infrastructure and operational support system for the Agency with some modifications recognizing efficiency gains in Information Services and Fiscal Services. The package is a mix of permanent and limited duration positions with the majority of positions already existing as limited duration positions in the 2005-07 biennium.

**Legal Services**

**0 Positions**

This package requests the continuation of \$1 million in budget limitation dedicated to the use of external legal services, where appropriate.

There are a total of 141 positions requested in the policy packages. When compared to the 2005-07 biennium, including the 27 administratively established positions currently being requested for the Strunk/Eugene project, the total staff count will decrease from 407 in the 2005-07 biennium to 405 in the 2007-09 biennium. Of the 141 positions being requested, 39 are requested as permanent positions and the remaining 102 as limited duration, compared to 143 limited duration positions in 2005-07.

The majority of the requested positions currently exist as limited duration positions in 2005-07. The chart below summarizes how the Agency proposes those positions cross from the current in into 2007-09. There are 10 new positions included in the requested packages.

▪ “Convert” from limited-duration to permanent	31
▪ Continue as limited-duration	100
▪ New limited-duration	2
▪ New permanent	8

ADMINISTRATIVE AND REMAINING BUDGET PROCESS

The Agency continues to review current operations and develop strategies to operate more efficiently and to more effectively recruit and retain its workforce. It also reviews current position descriptions to ensure that those descriptions accurately describe staff expectations and skill sets necessary to achieve stated outcomes. As the Agency moves through that review, it will develop administrative packages to reconfigure and reclassify staff positions. Each of these administrative packages must be self-funded and will not incur obligations above the Legislatively Approved Budget.

The remaining activities for budget development include:



**June** – Complete input into the Oregon Budget Information and Tracking System (ORBITS) and the Position Inventory Control System (PICS) for all requested positions and operational needs. Notify the PERS Board on updated fiscal impact information for the Policy Packages and overall budget request. Continue drafting narrative.

**July** – Complete necessary ORBITS and PICS audits with DAS. Seek PERS Board approval to forward the requested budget to the Governor. Complete supporting narrative and prepare the 2007-09 Agency Request budget binders for submission to the Governor.

**August** – PERS is scheduled as an ‘early submittal’ agency with a deadline of August 1<sup>st</sup> for submission of the Agency Request Budget. This is one month earlier than last biennium when the Agency was granted a one-time extension.



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

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June 16, 2006

TO: Members of the PERS Board  
FROM: Steve Delaney, Deputy Director  
SUBJECT: 2007 PERS Legislative Concepts

MEETING DATE	6/16/06
AGENDA ITEM	D.5. Legislative

On March 31, 2006 the PERS Board approved submission of nine legislative concepts to the Department of Administrative Services. Four of those concepts were submitted as placeholders, as they required additional research to complete the agency's recommended language.

On June 1, 2006, PERS staff was informed that all nine concepts had been approved by the Department of Administrative Services and had been forwarded to Legislative Counsel to begin drafting.

On June 2, 2006, PERS staff met with the Legislative Advisory Committee to review the draft language being proposed for submission to Legislative Counsel.

PERS must submit the agency's draft language for the four placeholder concepts no later than July 14, 2006.

### PLACEHOLDER CONCEPTS

#### **LC 459/03 – Elimination of “Break in Service”**

Summary: When HB 2020 was adopted, it established the concept of a “Break in Service” which applied to a PERS Chapter 238 member who re-entered PERS-covered employment after OPSRP was created. Legislation in 2005 altered the criteria for determining whether a “Break in Service” was incurred. The multiple criteria and the retroactive application of some criteria make the determination administratively burdensome.

Legislative Concept: Eliminate the concept of a “Break in Service.” Instead, use the pre-existing criteria for PERS Chapter 238 Program loss of membership and vesting standards. [Proposed language attached.]

Committee Comment: The Oregon Education Association (OEA) representative expressed strong support for this concept on behalf of their association and the other labor representatives. OEA is concerned about the unexpected financial exposure to the PERS Fund caused by certain types of “Break In Service” and associated re-hiring's as outlined by Mercer Inc. in the attached letter, as well as the difficulty their members experience in trying to understand “Break In Service.”

The Oregon School Board Association (OSBA) representative indicated their opposition to this concept even being drafted. His comment being that they had fought hard for the “Break In Service” provisions in 2003, and did not want to see those eliminated. To the issue of simplicity, he believed the administration of “Break In Service” would become

easier in the coming years as employers became more familiar with its provisions. The City of Portland representative indicated that while the Public Employer's Alliance have not yet taken an official position, he anticipates they will support OSBA in opposition.

Fiscal Impact: 0.01% of salary [See attached April 27, 2006 Mercer Inc fiscal impact letter]; \$295,000 one-time PERS administrative cost.

#### **LC 459/06 - Modification of the Definition of Covered Salary**

Summary: Currently, the PERS Chapter 238 Program has a different definition of what is considered to be "salary" from that of the OPSRP Pension Program and IAP. The definitions have many additions and exclusions, making reporting by employers extremely complicated and confusing.

Legislative Concept: Change the definition to match one already known and understood by payroll personnel – FICA. [Proposed language attached.]

Committee Comment: Because of concerns that moving to a different salary definition might disadvantage some members, the OEA representative opposed drafting of this concept on behalf of the PERS Labor Coalition.

While acknowledging the value of simplifying salary definitions, the employer representatives were also opposed to drafting this concept out of concern that employer costs might rise should salaries not presently covered by PERS become covered due to this concept.

Fiscal Impact: TBD

#### **LC 459/10 – Oregon Investment Council (OIC) Membership**

Summary: Presently no member of the PERS Board serves concurrently on the OIC Board. That is scheduled to change, on September 1, 2007, when statute mandates that a PERS Board member be also appointed to the OIC.

Legislative Concept: Rather than mandate PERS Board participation on the OIC, allow instead for the appointment of any qualified individual, which does not preclude appointment of a PERS Board member if an individual Board member were so inclined. [Proposed language attached.]

Committee Comment: The committee was unanimous in support of submitting this language to Legislative Counsel.

Fiscal Impact: \$0

#### **LC 459/11 – "Break In Service" Exemption**

Summary: On occasion an employee may challenge a termination of employment, and due to court or agency order be reinstated to his or her position. That order may require making the individual whole, however presently, if a Tier 1 or Tier 2 member has been out of the service of the employer for more than six months, a "Break In Service" will have occurred and the individual will be reemployed as an Oregon Public Service Retirement Plan (OPSRP) member. There is no current statutorily provided method to make that individual whole upon reemployment.

Legislative Concept: Allow a court or agency ordered resolution as an exemption to the "Break In Service" provisions. [Proposed language attached.]

Committee Comment: The committee was supportive of moving the language forward. Labor representatives would like the language to cover employer-employee settlement agreements, however employer representatives preferred the more restrictive language contained in the attached draft. The employer representatives were concerned that broad language would place undue pressure on their entities to settle rather than work through a more formal process.

Fiscal Impact: \$0

STAFF RECOMMENDATION

Despite opposition from some stakeholders to further development of LC 459-03 [Eliminate “Break In Service”] and -06 [Modification of Definition of Final Salary], PERS staff believes it’s possible to reach the Board’s goal of plan simplification if given time through this summer and fall to work further with those same stakeholders. Upon receipt of each legislative concept draft from Legislative Counsel, PERS staff will meet with the Legislative Advisory Committee for further review and study. All concepts will be brought back to the November 17, 2006 meeting of the PERS Board for final approval prior to submission to the Oregon Legislature. As such, PERS staff requests the PERS Board approve submission to Legislative Counsel of the attached proposed language for Legislative Concepts 459-03, -06, -10, and -11.

- |                   |  |
|-------------------|--|
| Attachment D.5.a. | Mercer, Inc. April 10, 2006 Letter on “Break in Service”     |
| Attachment 1      | LC 459/03 – Elimination of “Break in Service”                |
| Attachment 2      | LC 459/06 - Modification of the Definition of Covered Salary |
| Attachment 3      | LC 459/10 – Oregon Investment Council (OIC) Membership       |
| Attachment 4      | LC 459/11 – “Break In Service” Exemption                     |

# MERCER

Human Resource Consulting

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April 10, 2006

Mr. Dale S. Orr  
Manager – Actuarial Information  
Oregon PERS  
11410 SW 68th Parkway  
Tigard, OR 97281-3700

## Via E-Mail

Subject:

**Request Number: 2006-013**

**Legislative Concept: Six-Month Break-In-Service Provisions Addendum**

Dear Dale:

In our letter dated, March 2, 2006, we concluded that the legislative concept of eliminating the requirement of ORS 238A.025 (if an ORS 238 member incurs a six-month break-in-service, upon rehire the member is covered under ORS 238A) would have no immediate impact on employer rates. Over time, however, we concluded that rates would reflect the System's actual experience with respect to rehires and that based on rehires in the last two years, we expect the elimination of the break-in-service requirement to increase the value of benefits for rehires by approximately 3.4 percent. This analysis addresses the additional question of what is the expected impact on rates over time of eliminating the break-in-service provision. This letter builds on and should be used in conjunction with the analysis prepared under Request Number: 2006-007 dated March 2, 2006.

The impact on rates will be very sensitive to utilization. For the two-year period studied, there were approximately 3,000 rehires compared to an active population of about 150,000, or about 1 percent of the active population each year. Under current actuarial methods and assuming the same mix of rehires in the future, we would expect normal cost to be 0.004 percent (1.0 percent rehire rate times 3.4 percent average increase in benefits times 12.28 percent normal cost rate) higher as a result of the increased benefits for rehires. Since normal cost is only measured to two decimal places, the expected increase for a year of rehires under this change is within the rounding convention. Similarly, the increase in UAL rate is approximately 0.006 percent (1.0 percent rehire rate times 3.4 percent average benefit increase times \$17,588.8 active accrued liability divided by 15.4 amortization factor divided by \$6,772.4 valuation payroll). Combined, the rate increase would be approximately 0.01 percent for a year of rehires. Over time the cost of rehires could accumulate, but given the closed group to which this provision applies, the adjustment to normal cost rates would continue on a smaller group, but the adjustment to the UAL rate would get even smaller.

# MERCER

Human Resource Consulting

Page 2

April 10, 2006

Mr. Dale S. Orr

Oregon PERS

It should be noted that if the current law remains in place, the System will be subject to anti-selection as members may choose to incur a break-in-service using a sabbatical or other means in order to improve their retirement benefits. For members where a break in service is advantageous, we found an average increase of 11 percent in the value of their benefit. For some the increase is even higher. While the legislative concept increases the value of projected benefits based on past patterns of breaks-in-service, these patterns may not be appropriate when an incentive to incur a break-in-service is introduced such as that in current statute. Depending on the anti-selection experienced, the current statute could be significantly more expensive than the proposed legislative concept. Under the proposed legislative concept, there is no anti-selection possible, and breaks-in-service are likely to follow patterns prior to the introduction of the break-in-service rules under PERS reform.

Our analysis and conclusions are based on our understanding of the request and the data, methods and assumptions described in our letter of March 2, 2006, with the additions described above. Differences in the data, methods, assumptions and interpretations of the plan provisions may produce different results.

Mercer Human Resource Consulting is not a law firm and cannot provide legal advice. You may wish to have our interpretation of the legislative concept reviewed by your legal counsel.

If you have any questions about our response or need any additional information, please let us know.

Sincerely,

[WRH]

William R. Hallmark, ASA, EA, MAAA  
Principal

BJM/WRH/wrh:gjw

Copy:  
Steve Delaney

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**The information contained in this document (including any attachments) is not intended by Mercer to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code that may be imposed on the taxpayer.**

**LC 459/03 – Elimination of “Break in Service”**

ORS 238A.025 is amended to read:

**238A.025 Oregon Public Service Retirement Plan established.** (1) The Oregon Public Service Retirement Plan is established. The purpose of the Oregon Public Service Retirement Plan is to provide career public employees with a secure and fair retirement income at an affordable, stable and predictable cost to the taxpayers. The Oregon Public Service Retirement Plan shall be composed of a pension program, established and maintained with the Public Employees Retirement System as a tax-qualified governmental defined benefit plan, and an individual account program, established and maintained as a tax-qualified governmental defined contribution plan. The pension program and the individual account program are separate plans for purposes of federal income tax qualification, and the assets of each program must be held in a separate trust for the exclusive benefit of the participants and beneficiaries in each program. The Public Employees Retirement Board may create separate accounts within the Public Employees Retirement Fund for the assets of the pension program and of the individual account program.

(2) Notwithstanding any provision of ORS chapter 238, any person who is employed by a participating public employer on or after August 29, 2003, and who has not established membership in the Public Employees Retirement System before August 29, 2003, is entitled to receive only the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers on and after August 29, 2003, and has no right or claim to any benefit under ORS chapter 238 except as specifically provided by this chapter.

(3)~~(a)~~ Any person who is an active **or inactive** member, **as defined in ORS 238.005**, of the Public Employees Retirement System on August 28, 2003, is entitled to receive the benefits provided by ORS chapter 238 for all service performed before, on and after August 29, 2003, unless the person’s ~~[has a break in service]~~ **membership is terminated under ORS 238.095** on or after August 29, 2003. If the person’s ~~[has a break in service]~~ **membership is terminated** on or after August 29, 2003, the person is entitled to receive ~~[the benefits provided by ORS chapter 238 for all creditable service performed before the break in service, and]~~ **only** the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers after the **termination of membership** ~~[break in service]~~.

~~[(b) Except as provided in this subsection, a person has a break in service for the purposes of this subsection if the person performs no service with a participating public employer in a qualifying position for a period of six consecutive months.~~

~~(c) If a person leaves employment with a participating public employer for purposes that would qualify the person for family leave under ORS 659A.150 to 659A.186, the person has a break in service for the purposes of this subsection only if the person performs no service with a participating public employer in a qualifying position for a period of 12 consecutive months after leaving employment with the participating public employer.~~

~~(d) If a person leaves employment with a participating public employer for career development purposes pursuant to written authorization of the participating public~~

~~employer under a written policy of the employer that applies generally to the class of employees to which the member belongs, the person has a break in service for the purposes of this subsection only if the person performs no service with a participating public employer in a qualifying position for a period of 12 consecutive months after leaving employment with the participating public employer.~~

~~(e) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person leaves employment with a participating public employer for the purpose of serving as a member of the Legislative Assembly during a legislative session.~~

~~(f) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person is absent from employment with a participating public employer and receives a disability retirement allowance under ORS 238.320.~~

~~(g) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person leaves employment with a participating public employer based on the seasonal nature of the person's employment as long as the person returns to employment with the public employer before the expiration of 12 full calendar months.]~~

(4) A person establishes membership in the system before August 29, 2003, for the purposes of this section if:

(a) The person is a member of the system, or a judge member of the system, on August 28, 2003; or

(b) The person performed any period of service for a participating public employer before August 29, 2003, that is credited to the six-month period of employment required of an employee under ORS 238.015 before an employee may become a member of the system.

(5) Except as provided in this chapter, ORS chapter 238 does not apply to the Oregon Public Service Retirement Plan.

~~[(6) The provisions of this section do not apply to a person elected or appointed as a judge as defined in ORS 238.500.]~~

## **Injured Employees; Seasonal Employees**

Section 7, chapter 332, Oregon Laws 2005 is repealed.

~~[SECTION 7. (1) ORS 238A.025 (3)(f) applies to any period of time before, on or after August 29, 2003, during which an employee is entitled to receive a disability retirement allowance under ORS 238.320.~~

~~(2) ORS 238A.025 (3)(g) applies to any period of time on or after August 29, 2003, during which an employee leaves employment with a participating public employer based on the seasonal nature of the employment.]~~



## Inactive Members on August 29, 2003

Section 2a, chapter 733, Oregon Laws 2003 is repealed.

~~Sec. 2a. (1) Any person who is an inactive member of the Public Employees Retirement System on August 28, 2003, is entitled to receive the benefits provided by ORS chapter 238 for all service performed before August 29, 2003. Except as provided in subsection (2) of this section, the person is eligible only to receive the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers on and after August 29, 2003, unless the person returns to a qualifying position without a break in service as described in ORS 238A.025 (3). If the person returns to a qualifying position without a break in service as described in ORS 238A.025 (3), the person shall be treated in the same manner as provided by ORS 238A.025 (3) for persons who are active members of the system on August 28, 2003. If the person has a break in service as described in ORS 238A.025 (3), but returns to a qualifying position before January 1, 2004, the person is entitled to receive the benefits provided by ORS chapter 238 for all creditable service performed before January 1, 2004, and the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers on and after January 1, 2004.~~

~~(2) A person who is an inactive member of the Public Employees Retirement System on August 28, 2003, does not have a break in service as described in ORS 238A.025 (3) if:~~

~~(a) The person is vested, as defined in ORS 238.005, on August 28, 2003; and~~

~~(b) The person returns to qualifying employment before January 1, 2006, with the same participating public employer that employed the person immediately before the person became an inactive member.~~

~~(3) The provisions of this section do not apply to a person elected or appointed as a judge as defined in ORS 238.500.]~~

## Credit Under ORS Chapters 238 and 238A After Break in Service

ORS 238.180 is repealed.

~~**[238.180 Use of retirement credit granted under Oregon Public Service Retirement Plan.** If a member is eligible to receive retirement benefits under both this chapter and ORS chapter 238A by reason of a break in service under ORS 238A.025, the Public Employees Retirement Board shall treat all service for which retirement credit is granted under ORS chapter 238A as though it were creditable service under this chapter for the purpose of any statute in this chapter that requires that a member complete a specified period of creditable service as a condition of retiring or receiving any other benefit under this chapter.]~~

ORS 238A.157 is repealed.

~~**[238A.157 Use of retirement credit under ORS chapter 238.** If a member is eligible to~~

~~receive retirement benefits under both this chapter and ORS chapter 238 by reason of a break in service under ORS 238A.025, the Public Employees Retirement Board shall treat all service for which retirement credit is granted under ORS chapter 238 as though it were retirement credit under this chapter for the purpose of any statute in this chapter that requires that a member have a specified amount of retirement credit as a condition of retiring or receiving any other benefit under this chapter.]~~

### **Early Retirement Age**

ORS 238A.165 is amended to read:

**238A.165 Earliest retirement age; earliest retirement date.** (1) Except as provided in this section, earliest retirement age for a member of the pension program is 55 years of age.

(2) Earliest retirement age for a member of the pension program who retires from service as a police officer or firefighter is 50 years of age if the member has held a position as a police officer or firefighter continuously for a period of not less than five years immediately before the effective date of retirement. Earliest retirement date for a member described in this subsection is not later than the date the member reaches 55 years of age.

~~[(3) If a member has a break in service under ORS 238A.025 and is entitled to receive a retirement allowance under ORS chapter 238 in addition to a pension under this chapter, earliest retirement age under this chapter is the age attained by a member when the member could first make application for retirement under the provisions of ORS 238.280.]~~

~~[(4)]~~ (3) A member of the pension program who has reached earliest retirement age may retire on an early retirement date that is the first day of any month on or after the member has reached earliest retirement age.

### **Individual Account Program**

ORS 238A.305 is amended to read:

**238A.305 Persons establishing membership in system before August 29, 2003.** (1) Except as provided in subsection (2) of this section, all members of the Public Employees Retirement System who established membership in the Public Employees Retirement System before August 29, 2003, as described in ORS 238A.025 become members of the individual account program on January 1, 2004.

(2) A member of the Public Employees Retirement System may not be a member of the individual account program during any period of time during which the member is required to make contributions to the system under ORS 238.200.

(3) Solely for the purpose of determining the amount of the employee contribution for persons who become members of the individual account program under this section, whether paid by the employee or by the employer, the Public Employees Retirement

Board shall use the definition of "salary" provided by ORS 238.005. If a person who is subject to this subsection **terminates membership under the provisions of ORS 238.095** [~~has a break in service as described in ORS 238A.025~~], **and retains or establishes membership in the individual account program under ORS 238A.300** the board shall use the definition of "salary" provided by ORS 238A.005 for the purpose of determining the amount of the employee contribution to the individual account program for all service by the member after the [~~break in service~~] **the termination of membership under ORS 238.095.**

**LC 459-/06 – Definition of Covered Salary**

**238.005 Definitions.** For purposes of this chapter:

\*\*\*

(21)[(a)] “Salary” means the same as the federal definition of wages for the purpose of the Federal Insurance Contribution Act (FICA), as defined in Internal Revenue Code section 3121(a). [~~remuneration paid an employee in cash out of the funds of a public employer in return for services to the employer, plus the monetary value, as determined by the Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and other advantages the employer furnishes the employee in return for services.~~

- (b) “Salary” includes but is not limited to:
  - (A) Payments of employee and employer money into a deferred compensation plan, which are deemed salary paid in each month of deferral;
  - (B) The amount of participation in a tax sheltered or deferred annuity, which is deemed salary paid in each month of participation;
  - (C) Retroactive payments made to an employee to correct a clerical error or pursuant to an award by a court or by order of or a conciliation agreement with an administration agency charged with enforcing federal or state law protecting the employee’s rights to employment or wages, which shall be allocated to and deemed paid in the periods in which the work was done or in which it would have been done; and
  - (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190.
- (c) “Salary” or “other advantages” does not include:
  - (A) Travel or any other expenses incidental to employer’s business which is reimbursed by the employer;
  - (B) Payments for insurance coverage by an employer on behalf of employee or employee and dependents, for which the employee has no cash option;
  - (C) Payments made on account of an employee’s death;
  - (D) Any lump sum payment for accumulated unused sick leave;
  - (E) Any accelerated payment of an employment contract for a future period or an advance against future wages;
  - (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement gratuitous payment;
  - (G) Payments for periods of leave of absence after the date the employer and employee have agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for sick leave and vacation;
  - (H) Payments for instructional services rendered to institutions of the Department of Higher Education or the Oregon Health and Science University when such services are in excess of full-time employment subject to this chapter. A person employed under a contract for less than 12 months is subject to this subparagraph only for the months to which the contract pertains; or
  - (I) Payments made by an employer for insurance coverage provided to a domestic partner of an employee.]

\*\*\*

[1999 c.971 §2]

|

238A.005 Definitions. For the purposes of this chapter:

\*\*\*

(16)(a) "Salary" means the same as it does in ORS 238.005(21). [remuneration paid to an active member in return for services to the participating public employer, including remuneration in the form of living quarters, board or other items of value, to the extent the remuneration is includable in the employee's taxable income under Oregon law. Salary includes the additional amounts specified in paragraph (b) of this subsection, but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether those amounts are includable in taxable income.

— (b) "Salary" includes the following amounts:

— (A) Payments of employee and employer money into a deferred compensation plan that are made at the election of the employee.

— (B) Contributions to a tax-sheltered or deferred annuity that are made at the election of the employee.

— (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit plan by the employer at the election of the employee and that is not includable in the taxable income of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on August 29, 2003.

— (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the election of the employee and that is not included in the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in effect on August 29, 2003.

— (E) Retroactive payments made to an employee to correct a clerical error, pursuant to an award by a court or by order of or pursuant to a conciliation agreement with an administration agency charged with enforcing federal or state law protecting the employee's rights to employment or wages, which shall be allocated to and deemed paid in the periods in which the work was done or in which the work would have been done.

— (F) The amount of an employee contribution to the individual account program that is paid by the employer and deducted from the compensation of the employee, as provided under ORS 238A.335 (1) and (2)(a).

— (G) The amount of an employee contribution to the individual account program that is not paid by the employer under ORS 238A.335.

— (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190.

— (c) "Salary" does not include the following amounts:

— (A) Travel or any other expenses incidental to employer's business which is reimbursed by the employer.

— (B) Payments made on account of an employee's death.

— (C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid leave.

— (D) Any severance payment, accelerated payment of an employment contract for a future period or advance against future wages.

— (E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

— (F) Payment for a leave of absence after the date the employer and employee have agreed that no future services in a qualifying position will be performed.

— (G) Payments for instructional services rendered to institutions of the Department of Higher Education or the Oregon Health and Science University when those services are in excess of full-time employment subject to this chapter. A person employed under a

~~contract for less than 12 months is subject to this subparagraph only for the months covered by the contract.~~

~~— (H) The amount of an employee contribution to the individual account program that is paid by the employer and is not deducted from the compensation of the employee, as provided under ORS 238A.335 (1) and (2)(b);~~

~~— (I) Any amount in excess of \$200,000 for a calendar year. If any period over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.]~~

LC 459/10 – OIC Membership

Section 25, chapter 625, Oregon Laws 2003 is repealed.

~~**SECTION 25.** ORS 293.706, as amended by section 3, chapter 69, Oregon Laws 2003 (Enrolled House Bill 2005), and section 24 of this 2003 Act, is amended to read:~~

~~293.706. (1) There is created the Oregon Investment Council, consisting of five voting members:~~

~~(2) One member of the council shall be a person who is appointed to serve on the Public Employees Retirement Board under ORS 238.640 (4).~~

~~[(2)] (3) [Four] Three members, who shall be qualified by training and experience in the field of investment or finance and who may not hold any other public office or employment, shall be appointed by the Governor, subject to Senate confirmation in the manner provided in ORS 171.562 and 171.565. One member shall be the State Treasurer. In addition, the Director of the Public Employees Retirement System appointed by the board shall be an ex officio member of the council with no voting power.~~

~~[(3)] (4) The term of office of each appointed non ex officio member of the council is four years, but each appointed member serves at the pleasure of the appointing authority. A vacancy in the appointed membership occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.]~~

Section 27, chapter 625, Oregon Laws 2003 is amended to read:

**SECTION 27.** ORS 293.711, as amended by section 4, chapter 69, Oregon Laws 2003 (Enrolled House Bill 2005), and section 26 of this 2003 Act, is amended to read: 293.711.

(1) A member of the Oregon Investment Council is entitled to compensation and expenses as provided in ORS 292.495 **except that [the] a member of the council who is also a member of the Public Employees Retirement Board shall be compensated in the manner provided in ORS 238.640 (7).**

(2) The council shall select one of its members as chairperson, for a term and with powers and duties necessary for the performance of the functions of the office as the council shall determine.

Section 28, chapter 625, Oregon Laws 2003 is amended to read:

**SECTION 28.** The amendments to ORS ~~[293.706 and]~~ 293.711 by section ~~[s 25 and]~~ 27 of this 2003 Act become operative on October 1, 2007.

**Note:** All the above actions need to be effective prior to 10/1/07 or the 2003 amendments will become operative and will need to be amended.



**LC 459/11 – Exception to “Break in Service” (BIS)**

ORS 238A.025 is amended to read:

**238A.025 Oregon Public Service Retirement Plan established.** (1) The Oregon Public Service Retirement Plan is established. The purpose of the Oregon Public Service Retirement Plan is to provide career public employees with a secure and fair retirement income at an affordable, stable and predictable cost to the taxpayers. The Oregon Public Service Retirement Plan is composed of a pension program and an individual account program. The pension program and the individual account program are separate accounts for purposes of federal income tax qualification, and the assets of each program must be held as part of the trust established by ORS 238.660 for the exclusive benefit of the participants and beneficiaries. It is the intent of the Legislative Assembly that pursuant to section 414(k) of the Internal Revenue Code the individual account program be established and maintained as a tax-qualified defined contribution governmental plan for the purposes of sections 72(d) and 415 of the Internal Revenue Code. The Public Employees Retirement Board may create separate accounts within the Public Employees Retirement Fund for the pension program and the individual account program.

(2) Notwithstanding any provision of ORS chapter 238, any person who is employed by a participating public employer on or after August 29, 2003, and who has not established membership in the Public Employees Retirement System before August 29, 2003, is entitled to receive only the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers on and after August 29, 2003, and has no right or claim to any benefit under ORS chapter 238 except as specifically provided by this chapter.

(3)(a) Any person who is an active member of the Public Employees Retirement System on August 28, 2003, is entitled to receive the benefits provided by ORS chapter 238 for all service performed before, on and after August 29, 2003, unless the person has a break in service on or after August 29, 2003. If the person has a break in service on or after August 29, 2003, the person is entitled to receive the benefits provided by ORS chapter 238 for all creditable service performed before the break in service, and the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers after the break in service.

(b) Except as provided in this subsection, a person has a break in service for the purposes of this subsection if the person performs no service with a participating public employer in a qualifying position for a period of six consecutive months.

(c) If a person leaves employment with a participating public employer for purposes that would qualify the person for family leave under ORS 659A.150 to 659A.186, the person has a break in service for the purposes of this subsection only if the person performs no service with a participating public employer in a qualifying position for a period of 12 consecutive months after leaving employment with the participating public employer.

(d) If a person leaves employment with a participating public employer for career development purposes pursuant to written authorization of the participating public employer under a written policy of the employer that applies generally to the class of employees to which the member belongs, the person has a break in service for the

purposes of this subsection only if the person performs no service with a participating public employer in a qualifying position for a period of 12 consecutive months after leaving employment with the participating public employer.

(e) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person leaves employment with a participating public employer for the purpose of serving as a member of the Legislative Assembly during a legislative session.

(f) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person is absent from employment with a participating public employer and receives a disability retirement allowance under ORS 238.320.

(g) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person leaves employment with a participating public employer based on the seasonal nature of the person's employment as long as the person returns to employment with the public employer before the expiration of 12 full calendar months.

**(h) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person is terminated or suspended from employment with a participating public employer and is returned to employment with that same participating employer by order of a court, by order of an agency charged with enforcing federal or state law protecting employee's rights to employment or wages, by order of an arbitrator, or through a conciliation agreement with the employer arising from such court, agency, or arbitration proceeding.**

(4) A person establishes membership in the system before August 29, 2003, for the purposes of this section if:

(a) The person is a member of the system, or a judge member of the system, on August 28, 2003; or

(b) The person performed any period of service for a participating public employer before August 29, 2003, that is credited to the six-month period of employment required of an employee under ORS 238.015 before an employee may become a member of the system.

(5) Except as provided in this chapter, ORS chapter 238 does not apply to the Oregon Public Service Retirement Plan.

(6) The provisions of this section do not apply to a person elected or appointed as a judge as defined in ORS 238.500. [2003 c.733 §2; 2005 c.332 §6; 2005 c.808 §9]

Note: Section 7, chapter 332, Oregon Laws 2005, provides:

Sec. 7. (1) ORS 238A.025 (3)(f) applies to any period of time before, on or after August 29, 2003, during which an employee is entitled to receive a disability retirement allowance under ORS 238.320.

(2) ORS 238A.025 (3)(g) applies to any period of time on or after August 29, 2003, during which an employee leaves employment with a participating public employer based on the seasonal nature of the employment.

**(3) ORS 238A.025 (3)(h) applies to any period of time on or after August 29, 2003, during which an employee is returned to employment with a participating**

**public employer.**



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

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11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
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June 6, 2006

TO: Members of the PERS Board  
FROM: Dale S. Orr, Coordinator, Actuarial Analysis Section

MEETING	
DATE	6/16/06
AGENDA	D.6.
ITEM	Experience Study

SUBJECT: 2005 Experience Study: Methods and Economic Assumptions

Every two years PERS' actuary, Mercer Human Resource Consulting (Mercer), conducts a study of the actuarial assumptions and methodologies of PERS defined benefit programs by reviewing the programs' economic and demographic experience. Based on this experience study, the actuary recommends to the Board whether to retain or change the methodologies and assumptions that will be used to cost the pension programs, calculate employer rates and determine actuarial equivalency factors.

Bill Hallmark and Annette Strand of Mercer Human Resource Consulting (Mercer) will present Mercer's experience study findings and recommendations at both the Board's June and July meetings. The actuaries will cover actuarial methodologies and economic assumptions on June 16, 2006, and present demographic assumptions on July 21, 2006.

An electronic version of Mercer's presentation will be sent to the Board members prior to the meeting, if available.

Board Action: Because the actuary's recommendations will be presented at two Board meetings, the Board may defer all of its actions until the July 21, 2006 meeting.

**ADDITIONAL ITEMS FOR PERS BOARD**  
**June 16, 2006**

1. Agenda Item C.2.      ***Strunk / Eugene Project Update***  
June 16, 2006 *Strunk & Eugene* Project Business Plan Update
  
2. Agenda Item D.1.      **IAP Remediation Project Plan**  
June 16, 2006 IAP Remediation Project Plan Presentation
  
3. Agenda Item D.2.      **HB 2189 Employee Contributions on Lump – Sum Payments**
  
4. Agenda Item D.6.      **2005 Experience Study: Methods and Economic Assumptions**  
Mercer Presentation



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# Strunk and Eugene Project Business Plan Update

June 16, 2006





# Current Activities

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- Completing the project business plan
- Preparing to finalize 2,800 estimated benefits and issue associated Notices of Entitlement
- Preparing to issue the first invoices in September
- Adjusting current transactions, such as death benefits, new retirements, disability benefits, etc.
- Staging underlying transaction data for different adjustments groups



# Completing the Business Plan

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- Submitted the agency-wide staffing model to DAS
- Finalized the account adjustment schedule
- Completing project budget estimates





# Preparing to Issue the First Invoices

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- Benefit adjustment tools and processes
- Accounts receivable system tools and processes



# Benefit Adjustment Tools and Processes

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- Finalize and test the Benefit Calculator
  - Calculates the revised benefit amount at the retirement date
- Finalize and test the Benefit Adjustment Program
  - Calculates over or underpayment from retirement date to the adjustment date
  - Calculates the ARM amount, if applicable
  - Generates the benefit adjustment letter
- Create and refine the processes to manage and support the adjustments
- Continue RIMS modifications to support recalculations
  - Membership
  - Benefit calculation
  - Pension roll and reserves



# Accounts Receivable Tools and Processes

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- Selected accounts receivable collection software -- procurement must be finalized and then software installed
- Create and refine the processes and policies to manage and support accounts receivable collections
- Accounts receivable section has begun recruitment of two revenue agents
- Collection letters for recipients issued lump sum payments are in development



# Next Steps

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- July
  - Present final project business plan, including estimated project budget
  
- August – no Board meeting
  
- September
  - Report on work to finalize 2,800 benefits and issue associated Notices of Entitlement
  - Report on status of first project invoices



# IAP Remediation Project Plan

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PERS Board Presentation  
June 16, 2006



# Overview

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- Refresher on IAP Remediation
- Review of Policies and Principles
- Outline of Remediation Process
- Projected Timeline
- Transitional Issues
- Post-Remediation Administration



# Review of IAP Remediation

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- The Individual Account Program (IAP) was created by the 2003 Oregon Legislature as the repository and investment account for all member contributions due on or after January 1, 2004.
- Both new OPSRP members and PERS Chapter 238 Tier One and Tier Two members participate in the IAP.
- Ongoing administrative challenges and production of the 2004 IAP member statements revealed flaws in the principles used in the initial design of the program.
- At the PERS Board's direction, agency staff embarked on a project to remedy concerns regarding IAP administration.



# Goals of IAP Remediation

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**The Board recognized several goals that have shaped the development of a new structure as staff has worked towards implementing IAP remediation:**

1. Align the IAP with the administration of Tier One and Tier Two member regular accounts under the PERS Chapter 238 Program.
2. More closely match member and stakeholder expectations with the IAP's operations, communications, and controls.
3. Create a structure that could be more efficiently administered by staff without creating new paradigms and features.
4. Conform the administrative structure to the statutory direction established when the program was created.





# Principles Behind Remediation

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## **The Board also established several guiding principles as touch-stones for the remediation plan:**

1. Members should not be harmed financially by the IAP structure and administration. Under remediation, PERS will determine what current member account balances would have been if the new administrative structures had been applied to current member accounts since inception and will adjust accounts accordingly.
2. Transparency and simplicity should continue to be IAP core values.
3. The IAP structure and reporting system should be simple and understandable. The IAP should not be designed to be more than the statute directs: an individual account where members contribute 6% of subject salary that is then adjusted at least annually for earnings, losses, and administrative fees.



# Major Structural Features

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## **Principle changes from the current IAP operations will include:**

- IAP accounts would be adjusted annually for earnings or losses instead of monthly. Originally, IAP accounts were credited with a “unit value” that changed monthly. Under remediation, annual earnings will be credited using a similar structure as Tier One and Tier Two member regular accounts.
- Administrative fees will be netted against earnings on investments instead of being charged directly to member accounts. Currently, members pay a flat monthly administrative fee. Those fees will be restored to member accounts, and instead costs will be subtracted from investment earnings under the annual earnings crediting process.
- Withdrawal and retirement processes will be expedited because ending monthly unitization allows processing based on prior month’s account values and year-to-date earnings.



# Imbedded Remediation Policies

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**The following policies have been incorporated into the remediation plan and the design of subsequent operations:**

- Account withdrawals and retirements that occurred prior to remediation will not be revised. Those members voluntarily left the program and their rights and obligations were settled under the rules governing the program at the time of their termination. However, those members will receive contributions and related earnings for any prior period adjustments such as corrections of missing or under-reported contributions. This policy will also be adjusted as necessary to reflect the Board's final decision on HB 2189 related contributions and earnings.



## Imbedded Remediation Policies (continued)

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- Employers will be held responsible for the consequences of late reporting and forwarding of contributions. If member contributions are not posted in time to receive annual earnings because of an employer's delay beyond the "annuals closing", that employer will be charged for the imputed earnings, which will then be credited to that member's account. This policy will also be adjusted as necessary to reflect the Board's final decision on HB 2189 related contributions and earnings.



# Calendar Mileposts

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## August 1, 2006

- “Blackout” Period begins – access to member account data blocked while CitiStreet rebuilds a database using remediation structures.
- Effective date of last withdrawal/retirement under the former account structure.

## October 1, 2006

- “Blackout” Period ends – rebuilt member account data access restored to PERS.
- Effective date of processing withdrawals and retirements under new account valuation and crediting.

**Note:** Start and end dates could change depending on final policy decisions, but staff and CitiStreet would work to maintain no more than a 60-day “Blackout Period” regardless of start and end dates.



# IAP Member Statements

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Will include revised 2004 and 2005 account data

- Contributions for each calendar year
- Earnings credited for each calendar year

Objective is to have statements for 2004 and 2005 produced and mailed during Fourth Quarter 2006



# Transitional Issues

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- Members will not have access to account data during the “blackout” period.
- Contribution records will not be posted until CitiStreet has constructed the new database.
  - Contributions will continue to be received by PERS and invested daily.
  - With annual earnings crediting, this delay will not affect the amount credited to accounts as all contributions received within a calendar year and related “annual closing” are credited equally on a year-end account balance basis.
- PERS will continue to process account withdrawals and retirement applications so the distribution can occur as soon as CitiStreet’s systems are restored; some delays may occur but not anticipated to go beyond the current 120 day threshold from the effective date of application.



# Post-Remediation Administration

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After remediation is completed, several conditions will still require attention or resolution:

- What will be the nature and scope of member account access?  
Does the web site provide sufficient value for the cost considering the only change in account value from month to month will be additional contributions?
- Processing of withdrawals and retirements must continue to be streamlined so members receive their benefits quicker.
- Process improvements in the areas of employer corrections and notification need to be developed and instituted.
- Some members who retired under the former operational structure still receive installments. Adjustments for earnings and losses will have to be made under that structure as closely as possible.
- Records of the prior account balances and transactions will be maintained in case questions or challenges arise.





HB 2189

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# Funding for Retroactive Adjustments

PERS Board Presentation  
June 16, 2006



# Background

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**HB 2189 restored lump sum payouts as “salary” for PERS Chapter 238 Tier One and Tier Two member’s IAP accounts.**

- Initial definition in 2003’s HB 2020 excluded lump sum payments (eg., vacation, overtime and comp time) payouts from being subject to IAP contributions.
- In 2005, HB 2189 was adopted to apply former definition to lump sum payments.
- Applied retroactively to payments since January 1, 2004. Effective June 29, 2005.



# Remedial Steps So Far

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1. Employer reporting format changed eff. May 1, 2006 to allow posting of corrected salary figures.
2. Lump-sum related salary reported for Tier One and Two members backed out – \$63,726,908.76.
3. Employers can now report lump sum payments in correct field:
  - Triggers 6% IAP Contribution
  - Employer contribution charged based on employer's rate
  - Included in Final Average Salary for Tier One (never was for Tier Two)



# Statistics

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- Total Employers Adjusted: 471
- Total IAP Contributions Due: \$3,823,617.00
  - Employer assumed and paid: \$2,844,192.25
  - Member withheld and paid: \$979,424.75



# Sample Employers – Top 10 IAP Due

	Salary Backed Out	Employer Paid IAP Due	Member Paid IAP Due	Total IAP Due
DEPT. OF HUMAN SERVICES	\$ (4,175,255.60)	\$ 250,515.45	\$ -	\$ 250,515.45
MARION COUNTY	\$ (4,167,908.56)	\$ -	\$ 250,074.61	\$ 250,074.61
LANE COUNTY	\$ (3,673,859.30)	\$ -	\$ 220,431.46	\$ 220,431.46
CITY OF EUGENE	\$ (3,486,758.90)	\$ 209,205.53	\$ -	\$ 209,205.53
DEPT. OF TRANSPORTATION	\$ (2,421,888.48)	\$ 145,313.41	\$ -	\$ 145,313.41
CITY OF PORTLAND	\$ (2,274,453.54)	\$ 136,467.10	\$ -	\$ 136,467.10
MULTNOMAH COUNTY	\$ (2,092,020.37)	\$ 125,521.33	\$ -	\$ 125,521.33
CITY OF SALEM	\$ (1,880,316.78)	\$ 106,348.31	\$ 6,470.85	\$ 112,819.16
OR HEALTH & SCIENCES UNIV.	\$ (1,732,903.02)	\$ 103,974.32	\$ -	\$ 103,974.32
JOSEPHINE COUNTY	\$ (1,502,575.89)	\$ 29.74	\$ 90,124.87	\$ 90,154.61



# Process to Restore IAP Accounts

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1. Employers re-post lump sum payments under new reporting format.
  - Format is available now but not mandatory until January 1, 2007.
2. JClarety system bills employers for ER and IAP contribution; saves salary record for FAS as appropriate.
3. IAP contribution is forwarded to CitiStreet to be posted to member's account along with attributed earnings.
  - Calculated from effective date of new law (June 29, 2005) or from when lump sum payment was actually made to the member? Calculating earnings from when payment was made would be consistent with legislative direction to make these adjustments retroactive to January 1, 2004.



# Options to Fund IAP Contributions and Earnings

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1. Employers billed for IAP contributions and associated earnings.
2. Employers billed for IAP contributions; associated earnings are paid by the Contingency Reserve.
3. The Contingency Reserve is used to credit employers for the cost of IAP contributions and to pay associated earnings.



# Contingency Reserve as Source

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Would be consistent with statute: reserve is available for any contingency that the Board may determine to be appropriate.

- Except legal expenses or judgments arising in the adjudicating individual member or employer disputes.

Would be consistent with prior usage to settle disputes: funded amounts owed to petitioning employers in *Eugene* case for over-charging for employer contributions.





# Other Considerations

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- Some employers would benefit disproportionately since not all employers made lump sum payments during the time period January 1, 2004 to May 1, 2006, nor under consistent policies.
- Disproportionate benefits for members would otherwise have had their IAP contribution withheld out of their own wages; employer or Contingency Reserve may pay instead.
- Places responsibility on the system as a whole (through use of Contingency Reserve) for an obligation that falls disproportionately among members and employers.
- Consistency with IAP Remediation policies insofar as prior period adjustments.

# MERCER

Human Resource Consulting



June 16, 2006

## Oregon PERS and OPSRP Experience Study for December 31, 2005 Valuation Methods and Economic Assumptions

Bill Hallmark and Annette Strand



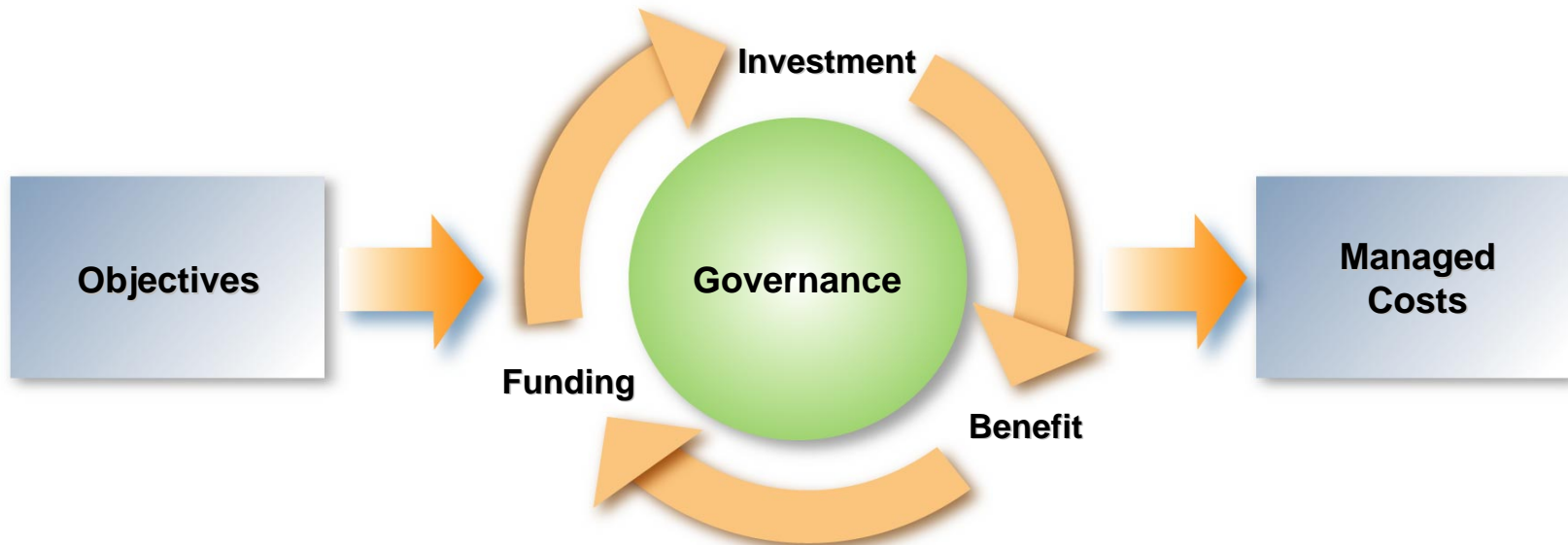
# Contents

- Introduction
- Actuarial Methods
  - Actuarial cost method
  - Amortization method
  - Asset valuation method
  - Contribution rate smoothing method
  - Adjustment for 18-month delay
- Economic Assumptions
  - Inflation
  - Real wage growth
  - Investment return
  - Health cost trend rate
- Next Steps
- Appendix

# Introduction

## Retirement Plan Financial Management Framework

Total Contributions = Benefits Paid - Investment Earnings



Actuarial methods primarily affect the timing of contributions



# Introduction

## Objectives for Actuarial Methods and Assumptions

- Transparent
- Predictable and stable rates
- Protect funded status
- Equitable across generations
- Actuarially sound
- GASB compliant



# Actuarial Methods PERS and OPSRP



# Actuarial Methods Overview

- Review of PERS methods
  - Significant method changes adopted with 12/31/2004 valuation
  - No changes recommended to the newly adopted methods
- Establish methods for first valuation of OPSRP
  - Recommend same basic methods as used for PERS valuation
  - Some minor differences



# Actuarial Methods Summary of Recommendations

	Current PERS	Recommended PERS	Recommended OPSRP
<b>Actuarial Cost Method</b>	Projected Unit Credit	Same as Current	Same as Current
<b>Amortization Method</b>	Level Percent of Combined Payroll	Same as Current	Same as Current
<b>Amortization Period</b>	<ul style="list-style-type: none"> <li>■ 12/31/2005 UAL – 22 years</li> <li>■ PUC Method change – 3-year rolling</li> <li>■ Future experience – Same as OPSRP</li> </ul>	Same as Current	20 years (from first valuation used to set contribution rates in which experience is recognized)
<b>Asset Valuation Method</b>	Market Value	Same as Current	Same as Current
<b>Excluded Reserves</b>	Contingency, Capital Preservation, and Rate Guarantee	Same as Current	Contingency and Capital Preservation
<b>Rate Collar</b>	Greater of 20% of current rate or 3 percentage points. Rate collar doubles if funded percentage falls below 80% or increases above 120%	Same as Current	Same as Current





# Actuarial Methods

## Actuarial Cost Method

- After significant analysis, the Board recently adopted the Projected Unit Credit Method for PERS.
- For OPSRP—
  - There is no Money Match benefit that drove our recommendation for PERS
  - OPSRP is not a closed group, so the PUC normal cost is not expected to rise over time as a percentage of payroll
  - Both the Entry Age Normal and Projected Unit Credit cost methods would work well for OPSRP
  - We believe there is an advantage in communicating to stakeholders using the same cost method for both systems, so we recommend the Projected Unit Credit Method for OPSRP



# Actuarial Methods

## Amortization Method

- PERS amortizes the UAL as a level percentage of payroll in order to target future contribution rates as a level percentage of payroll. We recommend that both PERS and OPSRP continue this methodology.
- For PERS, we recommend no change to the amortization period.
  - A rolling 3-year period for the increase in UAL due to the adoption of the PUC cost method.
  - A closed 22-year period for the regular UAL
  - Future gains and losses will be amortized over a closed 20-year period beginning with the first odd-year valuation in which they are recognized.
- For OPSRP, we recommend using PERS' ultimate method
  - Gains and losses are amortized over a closed 20-year period beginning with the first odd-year valuation in which they are recognized



# Actuarial Methods

## Asset Valuation Method and Excluded Reserves

- After significant analysis, the Board recently adopted the market value of assets as the asset valuation method for PERS.
- We recommend this method be continued for PERS and OPSRP.
- In the 12/31/2004 PERS valuation, the following reserve accounts were excluded from valuation assets
  - Contingency Reserve
  - Capital Preservation Reserve
  - Rate Guarantee Reserve
- We recommend the same reserve accounts continue to be excluded from the valuation assets



# Actuarial Methods

## Rate Collar Method

- After significant analysis, the Board recently adopted a rate collar that restricts the change in an employer's contribution rate to the greater of 20% of the current rate or 300 basis points.
- If the funded status is less than 80% or greater than 120%, the size of the rate collar is doubled.
- The rate collar is applied for each employer prior to any adjustments to the employer contribution rate for side accounts, transition liabilities, or pre-SLGRP pooled liabilities.
- We recommend that this method be applied to both PERS and OPSRP.



# Economic Assumptions PERS and OPSRP



# Economic Assumptions Summary of Recommendations

	Current Assumption	Recommended Assumption
<b>Inflation</b>	<b>3.00%</b>	<b>2.75%</b>
Real Wage Growth	1.00%	1.00%
<b>Payroll Growth</b>	<b>4.00%</b>	<b>3.75%</b>
Regular Investment Return	8.00%	8.00%
Variable Investment Return	8.50%	8.50%
Health Cost Trend Rate		
<ul style="list-style-type: none"> <li>■ <b>2007 Trend Rate</b></li> </ul>	<b>7.00%</b>	<b>9.00%</b>
<ul style="list-style-type: none"> <li>■ Ultimate Trend Rate</li> </ul>	5.00%	5.00%
<ul style="list-style-type: none"> <li>■ <b>Year Reaching Ultimate Trend</b></li> </ul>	<b>2011</b>	<b>2013</b>

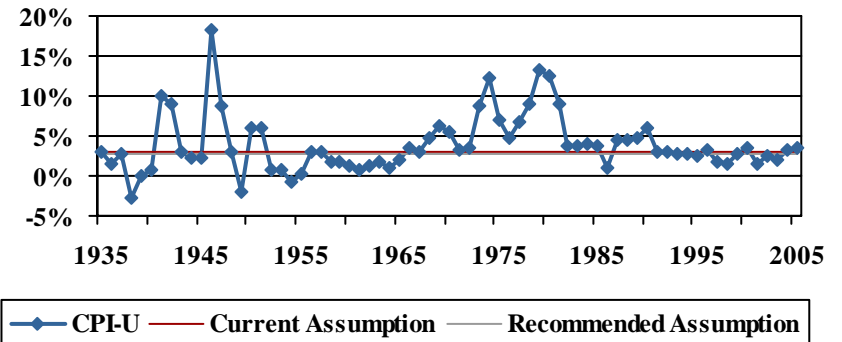
# Economic Assumptions

## Inflation



- The inflation assumption affects other assumptions, including payroll growth, investment return, and health care inflation
- Historical rates have varied significantly as shown in the chart on the top
- Market estimates of future inflation rates can be estimated from the difference in yield between nominal Treasury securities and Treasury inflation protection securities (TIPS)
- Market estimates of future average inflation rates as of December 31, 2005 are shown in the chart on the bottom.
- Expected inflation should be lower than breakeven inflation due to inflation risk premiums in nominal bonds

Historical CPI-U



As of 12/31/2005	10-Year	30-Year
Treasury Yield	4.39%	4.54%
TIPS Yield	2.06%	1.90%
<b>Breakeven Inflation</b>	<b>2.33%</b>	<b>2.64%</b>



# Economic Assumptions Inflation

## Inflation Assumption

Current Assumption	3.00%
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Mercer's Best-Estimate Range	1.75% -- 3.25%
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Recommended Assumption	2.75%
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- Adjusting the breakeven inflation rate for a 30 to 50 basis point risk premium produces an expected long-term inflation rate well below 3.0%.
- Social Security's current intermediate inflation assumption is 2.8%.
- Congressional Budget Office projection of CPI is 2.8% for 2006 and 2.2% for 2007 -2016.
- Consequently, we recommend reducing the inflation assumption to 2.75%.





# Economic Assumptions

## Real Wage Growth

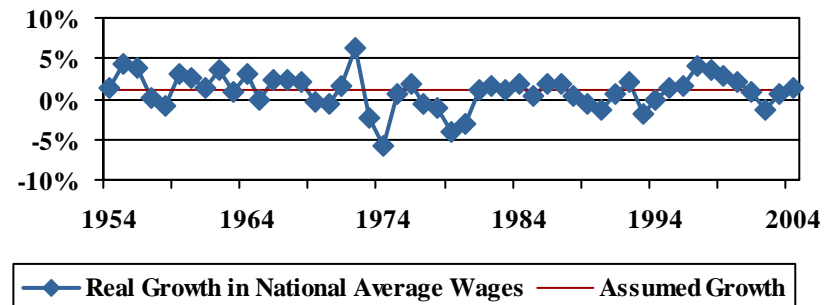
- An individual member's expected salary increase is composed of three components:
  - Inflation
  - Real wage growth
  - Merit and longevity wage growth
- Real wage growth represents the increase in wages above inflation for the entire group due to improvements in productivity and competitive pressures
- Real wage growth combined with inflation represents the expected growth in total payroll for a stable population
  - Changes in payroll due to an increase or decline in the covered population are not captured by this assumption

# Economic Assumptions

## Real Wage Growth

- Social Security's intermediate assumption for real wage growth is 1.1%
- This rate plus inflation is used to amortize the UAL as a level percentage of expected payroll
- Our best-estimate range for this assumption is from 0.75% to 1.5%
- **We recommend maintaining this assumption at 1.0%**
- **Combined with our recommended inflation assumption, the payroll growth assumption would decrease from 4.0% to 3.75%.**

Historical Real Growth in National Average Wages



Period Ending	Average Real Growth Rate
December 31, 2004	National Average Wages
10 Years	1.67%
20 Years	1.01%
30 Years	0.64%
40 Years	0.61%
50 Years	0.93%



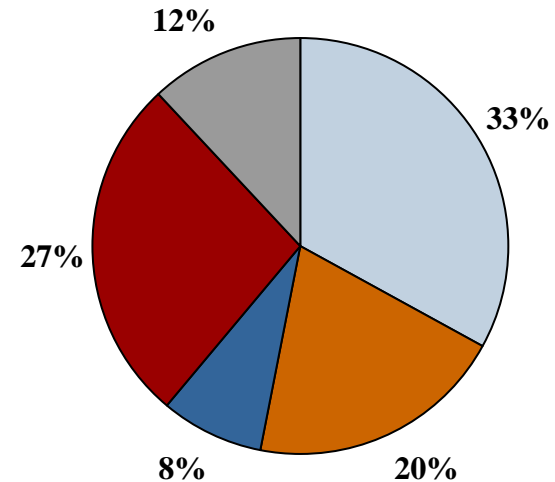
# Economic Assumptions Investment Return

- The investment return assumption is the most important assumption in the valuation. It is used to:
  - Discount expected future benefit payments to the valuation date
  - Project interest credits on member accounts to retirement
  - Convert member accounts to annuity benefits under the Money Match formula
- The assumption is based on the target asset allocation set by the Oregon Investment Council and capital market assumptions for each asset class.

# Economic Assumptions Investment Return

- The target asset allocation is established by the Oregon Investment Council (OIC).
- Based on capital market forecasts developed by OIC's investment consultant, Strategic Investment Solutions, Inc., and the OIC's expectation of annual active management returns, the OIC expects to earn a total expected annual policy return of 8.0% for the regular account and 8.7% for the variable account.
- These expectations assume 60 and 50 basis points in active management return net of fees for the regular and variable accounts respectively.

**Target Asset Allocation**



# Economic Assumptions

## Investment Return

Please note that the US equity allocation is overweighted by 40% to small cap stocks compared to the all cap index and 10% of the fixed income portfolio is non-US hedged government bonds.

Asset Class	Target Allocation	Compound Annual Return	Annual Arithmetic Return	Standard Deviation
US Equity – Large Cap	29%	8.05%	9.50%	18.0%
US Equity – Small Cap	4%	8.39%	10.90%	24.0%
Private Equity	12%	9.38%	14.00%	33.5%
Non-US Equity	20%	8.40%	10.10%	19.6%
US Fixed Income	24%	5.03%	5.20%	6.0%
Non-US Hedged Bonds	3%	4.63%	4.80%	6.0%
Real Estate	8%	7.27%	8.10%	13.5%
<b>Portfolio -- Gross</b>		<b>8.16%</b>	<b>8.93%</b>	<b>13.0%</b>
<b>Portfolio – Net of Expenses</b>		<b>7.91%</b>	<b>8.68%</b>	<b>13.0%</b>



# Economic Assumptions Investment Return

Percentile	Investment Return
35th	6.79%
40th	7.17%
45th	7.54%
50th	7.91%
55th	8.28%
60th	8.65%
65th	9.03%

- Using Mercer Investment Consulting assumptions the median expected return is 7.91% net of expenses.
- We assumed 5 basis points in administrative expenses and 20 basis points in passive investment expenses.
- We assume that expenses incurred for active management are offset by additional returns gained from active management.
- The OIC expected annual policy return is 8.0%
- We recommend no change to the 8.0% investment return assumption.



# Economic Assumptions

## Variable Account Investment Return

Asset Class	Target Allocation	Compound Annual Return	Annual Arithmetic Return	Standard Deviation
US Equity – Large Cap	89%	8.05%	9.50%	18.0%
US Equity – Small Cap	11%	8.39%	10.90%	24.0%
Portfolio -- Gross		8.16%	9.65%	18.3%
Portfolio – Net of Expenses		7.90%	9.40%	18.3%

- The variable account is invested entirely in US Equities.
- The annual arithmetic return is significantly higher than for the regular account, but so is the standard deviation.
- The result is a long-term compounded annual return very similar to the regular account.



# Economic Assumptions

## Variable Account Investment Return

Percentile	Investment Return
35th	6.32%
40th	6.86%
45th	7.39%
50th	7.90%
55th	8.42%
60th	8.94%
65th	9.48%

- Using Mercer Investment Consulting assumptions the median expected return is 7.90% net of expenses.
- The OIC expected annual policy return is 8.7%
- The OIC expected return is between the 55th and 60th percentiles of expected returns using Mercer Investment Consulting assumptions.
- A higher return assumption for the variable account is more conservative than a lower assumption.
- We recommend no change to the 8.5% variable account investment return assumption.



# Economic Assumptions

## Health Cost Trend Rate for RHIPA Subsidy

- The Maximum Subsidy increased an average of 9.6% over the last 4 years
- The Maximum Subsidy increased 17.3% and 7.5% in 2005 and 2006 respectively
- Mercer's healthcare actuaries expect medical costs to increase 7-13% in 2007
- We recommend revising the trend assumption to reflect recent increases and a longer timeframe before reaching the ultimate rate

Health Cost Inflation		
	Prior Assumption	Recommended Assumption
2005	8.0%	
2006	7.5%	
2007	7.0%	9.0%
2008	6.5%	8.0%
2009	6.0%	7.0%
2010	5.5%	6.5%
2011	5.0%	6.0%
2012	5.0%	5.5%
2013 and later	5.0%	5.0%



# Next Steps

- June Board Meeting – Experience Study Part 1
  - Actuarial Methods
  - Economic Assumptions
  - No Decisions Required
- July Board Meeting – Experience Study Part 2
  - Demographic Assumptions
  - Allocation Procedures
  - Board Adoption of Methods and Assumptions for 12/31/2005 Actuarial Valuation
- September Board Meeting – 12/31/2005 system-wide valuation results
  - OPSRP
  - PERS T1/T2