

# OREGON PUBLIC EMPLOYEES RETIREMENT BOARD

**Friday  
June 15, 2007  
11:30 A.M. & 1:00 P.M.**

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

	<b>ITEM</b>	<b>PRESENTER</b>
<b>A. Contested Case Hearings – 11:30 A.M.</b>		
<ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> <li>4.</li> </ol>	Contested Case Hearing for Marilyn Bowen Contested Case Hearing for Elaine Mahoney Contested Case Hearing for Paul Sundermier Status of Contested Cases	RODEMAN/KUTLER
<b>Break</b>		
<b>B. Administration – 1:00 P.M.</b>		
<ol style="list-style-type: none"> <li>1.</li> <li>2.</li> </ol>	May 18, 2007 Board Meeting Minutes Director's Report <ol style="list-style-type: none"> <li>a. Forward-Looking Calendar</li> <li>b. OIC Investment Report</li> <li>c. HB2020 Report</li> <li>d. Budget Report</li> </ol>	CLEARY
<b>C. Consent Action and Information Items</b>		
<ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> <li>4.</li> <li>5.</li> </ol>	Action on Contested Cases First Reading of Judge Member Rules First Reading of Administrative Review and Appeal Processes Rules First Reading of OAR 459-005-0220, Receipt Date for Reports, Documents, and Remittances First Reading of OAR 459-050-0077, OSGP Loan Program	RODEMAN
<b>D. Action and Discussion Items</b>		
<ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>	OSGP Advisory Committee Member Appointments 2007 Retiree Health Insurance Contract Change Proposals 2007 Legislative Update	BATH MATCHETT DELANEY
<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.</li> </ol>	Litigation Update	LEGAL COUNSEL

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

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

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

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**PUBLIC EMPLOYEES RETIREMENT BOARD**

PERS Board Meeting  
1:00 P.M., May 18, 2007  
Tigard, Oregon

**DRAFT**

**MINUTES**

**Board Members:**

Mike Pittman, Chair  
James Dalton  
Eva Kripalani  
Thomas Grimsley  
Excused: Brenda Rocklin

**Staff:**

Paul Cleary  
Donna Allen  
Steve Rodeman  
Eric Sokol  
Beth Porter

Patrick Teague  
Joe DeLillo  
David Crosley  
David Tyler  
Daniel Rivas

Gay Lynn Bath  
Susan Riswick  
Jeannette Zang  
Jason Stanley  
Steve Delaney

**Others:**

Deborah Tremblay  
B. J. Pinkerton  
Bruce Adams  
Daniel Sims

Keith Kutler  
Janice Essenberg  
Lance Colley  
Steve Manton  
P. Peg

Bill Hallmark  
Greg Chamoiv  
Linda Ely  
Chris Warner

Greg Smith  
Karla Alderman  
Matt Larrabee  
E. Marie Laird

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

Brenda Rocklin was excused from the meeting due to a scheduling conflict.

**ADMINISTRATION**

B.1. BOARD MEETING MINUTES OF MARCH 30, 2007

The Board unanimously approved the minutes of the March 30, 2007 Board meeting.

B.2. DIRECTOR'S REPORT

Director Paul Cleary presented the Forward-Looking Calendar and noted that a number of rulemaking items are scheduled for the June meeting and Mercer will present the 2006 Experience Study at the July meeting. Cleary presented the OIC report ending March 31 indicating a year-to-date 3.38% return for the OPERF regular account. Cleary provided an update on the HB2020 Employer Reporting and Accounts Receivable Programs. Cleary noted that new on-line reporting tools for reconciling records and making necessary adjustments have been very well received by employers. Cleary presented the May 2007 budget report, projecting a positive variance for the end of the biennium. Cleary reported on the mailing of over 400,000 annual member statements for Tier 1, Tier 2, IAP and OPSRP accounts. Cleary said that the mailings generated an increase in customer service calls, peaking at over 1,400 calls, almost double the normal daily call volume. In addition, approximately 2 – 3 % of the statements have been returned due to incorrect addresses.

Steve Rodeman, Policy, Planning, and Legislative Analysis Division (PPLAD) administrator introduced Susan Riswick, PERS' new PPLAD Manager, replacing Brendalee Wilson.

## **CONSENT ACTION AND INFORMATION ITEMS**

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

Rodeman presented the staff recommendations in the contested case hearings of Colleen Walker, and Katharine English and Barbara Pinkerton. Gregory Chaimov, representing Katharine English and Barbara Pinkerton, addressed the Board on behalf of his clients and recognized the Board's thorough consideration of his client's cases. The Board acknowledged the challenging issues presented in the consolidated cases and the ongoing efforts in the other forums to address those issues.

It was moved by Tom Grimsley and seconded by Eva Kripalani to approve the staff recommendations. The motion passed unanimously.

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

#### **ITEM A.1. CONTESTED CASE HEARING FOR COLLEEN WALKER**

Adopted the draft final order as presented in the contested case hearing of Colleen Walker.

#### **ITEM A.2. CONTESTED CASE HEARINGS FOR KATHARINE ENGLISH AND BARBARA PINKERTON**

Adopted the draft final order as presented in the contested case hearings of Katharine English and Barbara Pinkerton.

### **C.2. FIRST READING FOR DIRECT ROLLOVER RULES**

Rodeman presented the first reading of proposed rules that would allow PERS to conform to the 2006 federal Pension Protection Act provisions on non-spouse beneficiaries who are eligible to roll over benefit payments. Rodeman said that public comment was open through May 25, 2007 and no public comment had been received to date.

### **C.3. NOTICE OF JUDGE MEMBER RULES**

Rodeman presented the notice of rulemaking for Judge Member Program rules that would clarify administration of the program and inform members of administrative processes. Rodeman said that a rulemaking hearing will be held on May 22, the public comment period ends on June 22 and the rules would be presented for adoption at the July 20, 2007 Board meeting.

### **C.4. NOTICE OF ADMINISTRATIVE REVIEW AND APPEAL PROCESSES RULES**

Rodeman presented the notice of rulemaking that would clarify PERS administrative review and dispute resolution procedures as they apply to employer disputes and appeals. Rodeman said that a rulemaking hearing will be held on May 22, the public comment period ends on June 22 and the rules would be presented for adoption at the July 20, 2007 Board meeting.

**C.5. NOTICE OF OAR 459-005-0220, DOCUMENT RECEIPT DATE**

Rodeman presented the notice of rulemaking for modifications to rules regarding when a document would be deemed to be officially received by PERS. Rodeman said that staff are recommending that the receipt date would be the date the item is received and processed by PERS and not the postmark date, with a five-day grace period for items with a specific due date. Board member Dalton asked staff to further consider and specify in the rules how and when the grace period would operate. Rodeman said that a rulemaking hearing will be held on May 22, the public comment period ends on June 22 and the rule would be presented for adoption at the July 20, 2007 meeting.

**C.6. NOTICE OF OAR 459-050-0077, OSGP Loan Program**

Rodeman presented the notice of rulemaking to clarify administration and tax reporting requirements of Oregon Savings Growth Plan (OSGP) loan program. Rodeman said that the program's third party administrator, CitiStreet, and OSGP have completed the necessary processes to administer the loan program, and the proposed rule has been submitted to the Department of Justice for legal review. Rodeman said that a rulemaking hearing will be held on May 22, the public comment period ends on June 22 and the rule would be presented for adoption at the July 20, 2007 meeting.

**D.1. LEGISLATIVE UPDATE**

Rodeman provided an update regarding current proposed legislation affecting PERS, and answered questions from the Board.

**EXECUTIVE SESSION**

Pursuant to ORS 192.660 (2) (f), (h), and ORS 40.255, the Board went into executive session at 1:30 P.M.

The Board reconvened to open session.

Chair Pittman adjourned the meeting at 1:45 P.M.

Respectfully submitted,



Paul R. Cleary  
Executive Director

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# PERS Board Meeting Forward-Looking Calendar

MEETING	6-15-07
DATE	
AGENDA	B.2.a
ITEM	Calendar

## July 2007

**1:00 P.M. July 20, 2007**

Contested Case Hearing for Wayne Logemann  
Adoption of Direct Rollover Rules  
Adoption of Judge Member Rules  
Adoption of Administrative Review and Appeal Processes Rules  
Adoption of OAR 459-005-0220, Receipt Date for Reports, Documents, and Remittances  
Adoption of OAR 459-050-0077, Loan Program  
Notice of OAR 459-007-0530, Crediting Earnings to Employer Lump-Sum Payments  
Notice of OAR 459-009-0090, Lump-Sum Payments by Employers  
*Strunk/Eugene* Project Update  
2006 Experience Study  
2997 Legislative Update

## August 2007

**No Meeting Scheduled**

## September 2007

**1:00 P.M. September 21, 2007**

2006 System-wide Valuation Report  
2007 Legislation Implementation

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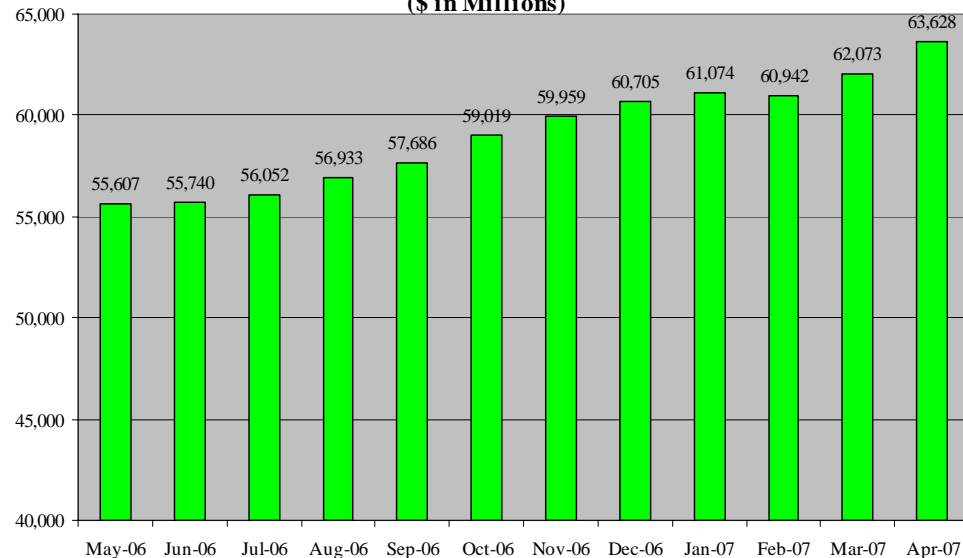


OPERF	Regular Account				Historical Performance					
	Policy <sup>1</sup>	Target <sup>1</sup>	\$ Thousands <sup>2</sup>	Actual	Year-To-Date	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
Domestic Equity	24-34%	29%	\$ 19,769,258	32.0%	5.77	12.98	17.07	13.46	16.72	9.66
Non-US Equity	11-21%	16%	10,824,601	17.5%	8.72	18.86	29.74	25.03	28.91	18.59
Global Equity	5-11%	8%	3,413,419	5.5%	N/A					
Alternative Equity	9-15%	12%	6,569,603	10.6%	10.33	24.82	25.86	28.24	24.08	17.12
<b>Total Equity</b>	<b>60-70%</b>	<b>65%</b>	<b>40,576,881</b>	<b>65.6%</b>						
Opportunity Portfolio			77,242	0.1%	4.25					
<b>Total Fixed</b>	<b>22-32%</b>	<b>27%</b>	<b>16,726,772</b>	<b>27.0%</b>	<b>2.32</b>	<b>8.29</b>	<b>5.56</b>	<b>5.96</b>	<b>5.63</b>	<b>6.82</b>
<b>Real Estate</b>	<b>5-11%</b>	<b>8%</b>	<b>4,441,097</b>	<b>7.2%</b>	<b>10.07</b>	<b>25.21</b>	<b>31.50</b>	<b>29.85</b>	<b>27.31</b>	<b>22.61</b>
<b>Cash</b>	<b>0-3%</b>	<b>0%</b>	<b>16,314</b>	<b>0.0%</b>	<b>1.77</b>	<b>5.38</b>	<b>4.59</b>	<b>3.69</b>	<b>3.05</b>	<b>2.82</b>
<b>TOTAL OPERF Regular Account</b>		<b>100%</b>	<b>\$ 61,838,306</b>	<b>100.0%</b>	<b>5.94</b>	<b>14.53</b>	<b>17.93</b>	<b>15.86</b>	<b>17.16</b>	<b>12.31</b>
<b>OPERF Policy Benchmark</b>					<b>5.52</b>	<b>14.15</b>	<b>15.65</b>	<b>13.68</b>	<b>15.72</b>	<b>10.95</b>
<b>Value Added</b>					<b>0.42</b>	<b>0.38</b>	<b>2.28</b>	<b>2.18</b>	<b>1.44</b>	<b>1.36</b>

**Asset Class Benchmarks:**

Russell 3000 Index	5.32	14.48	16.27	13.08	15.98	9.25
MSCI ACWI Free Ex US	8.65	19.69	28.59	24.57	28.56	18.29
Russell 3000 Index + 300 bps--Quarter Lagged	10.00	17.17	16.47	14.94	21.27	12.57
LB Universal--Custom FI Benchmark	2.08	7.58	4.54	4.93	4.35	5.54
NCREIF Property Index--Quarter Lagged	4.51	16.59	18.31	17.02	14.96	13.27
91 Day T-Bill	1.69	5.16	4.42	3.54	2.92	2.65

**TOTAL OPERF NAV**  
 (includes variable fund assets)  
 One year ending April 2007  
 (\$ in Millions)



<sup>1</sup>OIC Policy 4.01.18

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

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# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
(503) 598-7377  
TTY (503) 603-7766  
www.pers.state.or.us

June 15, 2007

TO: Members of the PERS Board  
FROM: Paul Cleary, Director  
SUBJECT: Update on HB2020 Employer Reporting and  
Employer Outreach Programs

MEETING	<b>06-15-07</b>
DATE	
AGENDA	
ITEM	<b>B.2.c.</b> HB2020 Update

PERS is working with 871 employer-reporting units to process outstanding 2006 and 2007 employer reports. In addition, PERS revised its employer outreach program in 2006. Updates on each are provided below.

### EMPLOYER REPORTING

The table below shows the status as of May 25, 2007 of employer reports and member records for calendar years 2006 and 2007.

	Calendar Year 2006	Calendar Year 2007
Reports due:		
▪ Number expected	13,014	4,727
▪ Number received	12,910	4,595
▪ Percent received	99.2%	97.2%
▪ Annual Key Performance Measure	99.0%	N/A
Reports fully posted at 100%:		
▪ Number	12,301	3,823
▪ Percent received	95.3 %	83.1%
▪ Key Performance Measure	95.0 %	95.0%
Records due (estimated)	3,132,430	1,234,190
Records not posted:		
▪ Number	3,516	20,630
▪ Percent not posted	≤ .1%	1.7%
▪ Key Performance Measure	≤ .2%	≤ .2%
Contributions posted	\$ 426,820,364	\$161,155,741
Contributions not posted	\$ 87,403	\$415,163

Year-over-year employer reporting is improving. For 2006, we met our key performance measures and will continue to work with employers to get all member records 100% posted. For 2007, employers have submitted 97.2% of the reports due; this is a slight improvement over last year where employers had submitted 96% of report due. Given the strong start by employers, we feel confident PERS will meet all of its key performance measures for 2007.

### EMPLOYER OUTREACH PROGRAM

Since the inception of the employer outreach program, PERS has seen a significant improvement in the employers' timely and complete submission of payroll reports and records. However, the accuracy of the reported data needs to be improved. To meet this data accuracy void, in November 2006 PERS escalated its outreach efforts by scheduling aggressive statewide data quality training sessions. The sessions covered subject-specific training and focused on data quality reporting issues. A total of 19 presentation sessions were completed during the last quarter 2006. Approximately 400 employer staff attended these sessions, representing more than 250 employers.

For 2007, we are continuing to tackle the data quality issue as well as we are trying to simplify and educate the employers on data reporting problem areas such as plan eligibility. Over the past year our Policy, Planning and Legal Analysis Division (PPLAD) has worked to simplify the administration of the plan eligibility rules, and PERS has scheduled 31 presentations to present our new and simplified approach to employers. The first presentation was held on April 13th and our last presentation will be held on June 14. To date, 23 presentations have been conducted with over 350 attendees (representing 234 employers). Feedback has been positive, with the majority of attendees indicating their questions were answered. Employers also indicated what they liked best were the Eligibility Qualifying Position Determination sheet, the eligibility examples, and classes given at sites throughout the state. Finally, 99% of the attending employers said they would attend future educational sessions.



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[www.oregon.gov/pers](http://www.oregon.gov/pers)

June 15, 2007

TO: Members of the PERS Board  
FROM: Kyle J. Knoll, Budget and Fiscal Operations Manager  
SUBJECT: June 2007 Budget Report

MEETING DATE	<b>6/15/07</b>
AGENDA ITEM	<b>B.2.d. Budget</b>

Attached is the PERS Budget Report for the period ending May 31, 2007.

### 2005-07 ACTUAL EXPENDITURES AND PROJECTIONS

Operating expenditures for the month of May totaled \$4,723,970. Through 23 months (95.83%) of the biennium, the Agency has expended a total of \$69,046,879, or 92.04% of our operating budget. The positive budget variance for the biennium is currently projected at \$502,188, up from \$210,766 on April 30, 2007. As anticipated, the expenditure rate for May did increase significantly over March and April 2007 totals of \$2,672,847, and \$3,048,274 respectively; a similar increase is also anticipated in June. Budget and Fiscal Operations will continue to work closely with Division Administrators and Section Managers to monitor expenditures and ensure efficient and effective utilization of 2005-07 budget limitation.

### 2007-09 AND 2009-11 BUDGET UPDATES

Good news regarding PERS' 2007-09 budget bill, HB5040. Our 2007-09 budget bill was signed by the Governor on May 31, 2007, and is with the Secretary of State for filing and recording. Budget and Fiscal Operations will be reviewing 2007-09 Division and Section-level allocations with Division Administrators and Section Managers during the month of June, in preparation for the July 1, 2007 implementation.

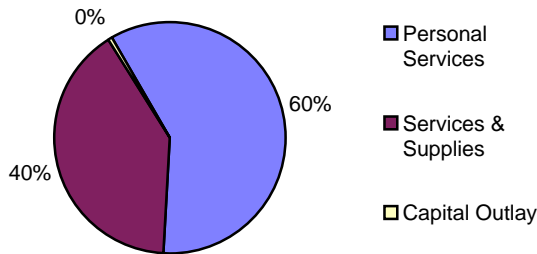
Strategic work on our 2009-11 Agency Request Budget will begin in the July – August timeframe, in support of 2009-11 Division and Section-level Business Plans. This will allow for the internal budget development process to be efficiently managed and completed by this time next year so the Board can then have several months to review and finalize the Agency Request Budget before submission to DAS.

## 2005-07 Agency-wide Operations - Budget Execution Summary Budget Analysis For the Month of: May 2007

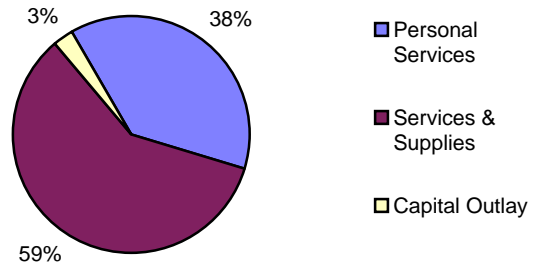
### Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2005-07 LAB	Variance
Personal Services	40,823,239	2,078,980	42,902,219	46,875,869	3,973,650
Services & Supplies	27,892,526	3,237,381	31,129,907	27,460,026	(3,669,881)
Capital Outlay	331,114	150,000	481,114	679,533	198,419
Special Payments					
<b>Total</b>	<b>69,046,879</b>	<b>5,466,361</b>	<b>74,513,240</b>	<b>75,015,428</b>	<b>502,188</b>

**Actual Expenditures**

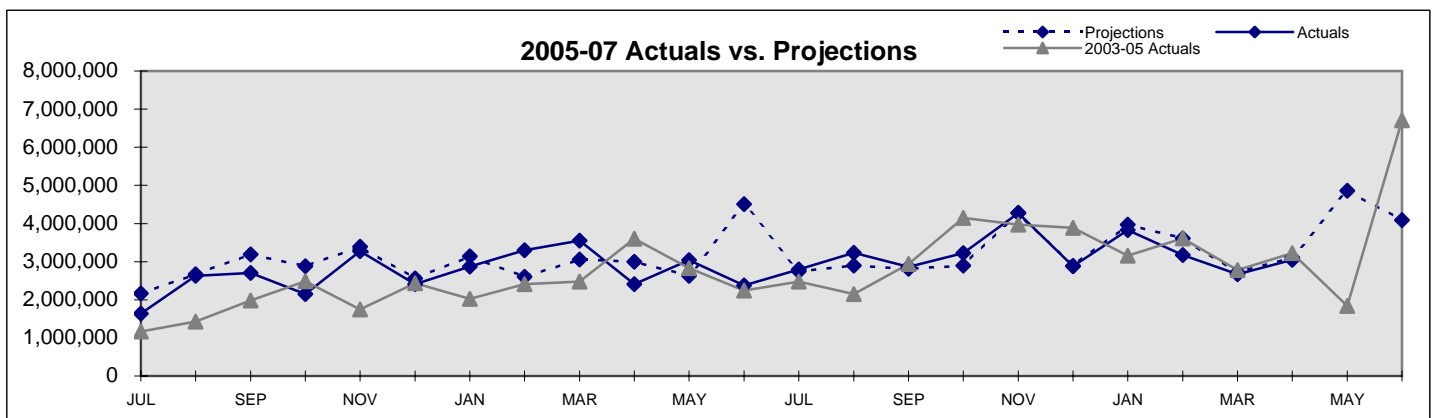


**Projected Expenditures**



### Monthly Summary

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Projected Expenditures
Personal Services	1,954,264	2,055,331	101,067	1,774,923	2,078,980
Services & Supplies	2,769,706	2,807,806	38,100	1,212,719	3,237,381
Capital Outlay				14,396	150,000
Special Payments					
<b>Total</b>	<b>4,723,970</b>	<b>4,863,137</b>	<b>139,167</b>	<b>3,002,038</b>	<b>5,466,361</b>





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June 15, 2007

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

MEETING DATE	<b>6/15/07</b>
AGENDA ITEM	<b>C.1. Contested Cases</b>

### OVERVIEW

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

- Adopt the Draft Final Orders as presented in the contested cases of Marilyn Bowen, Elaine Mahoney and Paul Sundermier.

### BOARD OPTIONS

The Board may:

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

### STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

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

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OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 040 – JUDGE MEMBERS

1 459-040-0001

2 Definitions

3 The words and phrases used in this Division have the same meaning given them  
4 in ORS Chapter 238, particularly as defined in ORS 238.500 to 238.585. Additional  
5 terms are defined as follows unless context requires otherwise:

6 (1) “Life pension” means an allowance paid monthly for:

7 (a) The life of a retired judge member as either a service or disability  
8 retirement allowance, as described in ORS 238.535 and 238.555; or

9 (b) The life of a surviving spouse of a deceased judge member or a deceased  
10 retired judge member as described in ORS 238.565.

11 (2) “Plan A” means the service retirement allowance payable under ORS  
12 238.535(1)(a).

13 (3) “Plan B” means the service retirement allowance payable under ORS  
14 238.535(1)(b).

15 (4) “Pro tem judge” means a retired judge member performing temporary  
16 service as a judge without pay as a condition of retirement under the Plan B  
17 retirement option.

18 (5) “Surviving spouse” means the spouse of the judge member at the date of the  
19 judge member’s death.

20 Stat. Auth.: ORS 238.650

21 Stats. Implemented: ORS 238.500 - 238.585

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 040 – JUDGE MEMBERS**

1 459-040-0010

2 General Administration

3 (1) A person younger than age 72 becomes a judge member on the date that the  
4 person takes office as a judge. A judge member does not serve a waiting period.

5 (2) A judge member may retire under:

6 (a) Plan A, as provided in OAR 459-040-0030; or

7 (b) Plan B, as provided in OAR 459-040-0040.

8 (3) Before attaining age 60, a judge member must elect in writing, on a form  
9 furnished by the Judicial Department, whether to retire under Plan A or Plan B. A  
10 judge member who fails to make the election must retire under Plan A.

11 (4) A judge member who has service as other than a judge member must elect a  
12 retirement option available for service in other classifications for that portion of the  
13 benefit.

14 (5) Lump sum options are not available for judge member retirement benefits.

15 (6) For purchases of creditable service, a judge member is subject to the same  
16 requirements as a general service member.

17 (7) A judge member’s contributions to PERS must cease at the end of the  
18 calendar year that the judge member attains age 75. The judge member shall be  
19 retired from judicial office and receive a service retirement allowance effective  
20 January 1 of the following calendar year.

21 (8) A person age 72 or older who becomes a judge is not eligible to become a  
22 judge member. The judge may establish membership in PERS as a general service

1 member; see generally OAR Chapter 459, Division 10 for membership eligibility

2 guidelines for the PERS Plan.

3 Stat. Auth: ORS 238.650

4 Stats. Implemented: ORS 238.500 - 238.585

OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 040 – JUDGE MEMBERS

1 459-040-0020

2 Judge Member Disability Retirement

3 A judge member who meets the requirements of ORS 238.555 may apply for  
4 disability retirement. The provisions of OAR chapter 459, Division 15 apply to  
5 judge member disability retirement with the following exceptions:

6 (1) The terms “member” and “employee member” in Division 15 mean a judge  
7 member as defined in ORS 238.500.

8 (2) “Normal retirement age” means the age at which a judge member may  
9 retire without a reduced benefit as set forth under ORS 238.535.

10 (3) “Qualifying position” as defined in OAR 459-015-0001(18) does not apply to  
11 judge members.

12 (4) A judge member’s effective disability retirement date is the first day of the  
13 month following the month in which the judge member’s disability retirement  
14 application is approved.

15 (5) A judge member must have six years of service as a judge member to be  
16 eligible for non-duty disability retirement.

17 (6) If a judge member meets the eligibility criteria for disability retirement, the  
18 member’s disability retirement allowance shall be based on creditable service time  
19 as though the member had continuously worked as a judge pursuant to ORS  
20 238.555(1) or (2).

21 (7) PERS judge membership is terminated by withdrawal of the member  
22 account balance as provided in ORS 238.545. Former PERS judge members who

1 have terminated their membership through withdrawal are not eligible to receive

2 PERS disability retirement allowances.

3 (8) OAR 459-015-0060 does not apply to judge members.

4 Stat. Auth: ORS 238.650

5 Stats. Implemented: ORS 238.555

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OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 040 – JUDGE MEMBERS

1 459-040-0030

2 Plan A Service Retirement Allowance

3 (1) The Plan A service retirement allowance is a life pension calculated in  
4 accordance with ORS 238.535(1)(a).

5 (2) A judge member is not eligible to receive a service retirement allowance  
6 under Plan A before the judge member turns age 60.

7 (3) A judge member may retire under Plan A upon written application on a  
8 form furnished by PERS:

9 (a) At age 65 or thereafter with an unreduced service retirement allowance.

10 (b) At or after age 60 but before age 65, with an actuarially reduced service  
11 retirement allowance. The service retirement allowance shall be reduced by 8% for  
12 each full year and 8% prorated for each partial year the effective retirement date  
13 precedes the date the judge member attains age 65.

14 (4) If a judge member, retiring at age 70 or thereafter, was formerly  
15 contributing to the Judges’ Retirement Fund and established membership in PERS  
16 pursuant to ORS 237.215(3) (1989 Edition), the judge member shall be entitled to a  
17 service retirement allowance as provided for in ORS 238.535(4).

18 Stat. Auth: ORS 238.650

19 Stats. Implemented: ORS 238.535

OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 040 – JUDGE MEMBERS

1 459-040-0040

2 Plan B Service Retirement Allowance

3 (1) The Plan B service retirement allowance is a life pension calculated in  
4 accordance with ORS 238.535(1)(b).

5 (2) A judge member is not eligible to receive a service retirement allowance  
6 under Plan B before age 60.

7 (3) A judge member may retire under Plan B at age 60 or thereafter upon  
8 written application on forms furnished by PERS.

9 (4) A judge member who retires under Plan B must serve as a pro-tem judge  
10 for 35 days per calendar year for five years following the judge member’s  
11 retirement date. Appointment and service as a pro-tem judge is administered by the  
12 Office of the State Court Administrator under rules adopted by order of the Chief  
13 Justice of the Oregon Supreme Court.

14 (5) In the event of the death of a retired judge member, benefits must be paid to  
15 a surviving spouse, or to the beneficiary of the retired judge member, in accordance  
16 with ORS 238.565(3) and OAR 459-040-0060 and 459-040-0070.

17 (6) If a judge member, retiring at age 70 or thereafter, was formerly  
18 contributing to the Judges’ Retirement Fund and established membership in PERS  
19 pursuant to ORS 237.215(3) (1989 Edition), the judge member shall be entitled to a  
20 service retirement allowance as provided for in ORS 238.535(4).

21 Stat. Auth: ORS 238.650

22 Stats. Implemented: ORS 238.535



OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 040 – JUDGE MEMBERS

459-040-0050

Variable Annuity Adjustments for Judge Members

(1) A judge member may have elected to have a portion of the judge member’s contributions paid into the Variable Annuity Account in the Fund as provided in ORS 238.260(3) before June 30, 2003. A judge member who was participating in the Variable Annuity Account on that date may continue to make contributions to the Variable Annuity Account for service as a judge member performed on or after January 1, 2004.

(2) The retirement allowance of a judge member with a variable account, whether receiving a service or disability retirement, shall be adjusted in accordance with ORS 238.260(12). The adjustment may result in a benefit greater than 75% of final average salary.

(3) A retiring judge member participating in the Variable Annuity Account must elect at retirement to transfer the variable account balance to the judge member’s regular account in the fund, as of the effective date of retirement under the provisions of ORS 238.260(9), or to maintain an account in the Variable Annuity Account under the provisions of ORS 238.260(10) and (11).

(4) A judge member who meets the criteria of ORS 238.260(14)(a) may elect at any time before retirement to make a one-time transfer of the balance of the judge member’s variable account to the judge member’s regular account in accordance with ORS 238.260(14).

Stat. Auth: ORS 238.650

Stats. Implemented: ORS 238.260 & OL 2003 Ch. 625 † 19

OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 040 – JUDGE MEMBERS

1 459-040-0060

2 Judge Member Death Before Retirement

3 If a judge member dies before retiring, benefits shall be distributed and  
4 calculated as follows:

5 (1) For a surviving spouse:

6 (a) If the judge member has six or more years of service as a judge and the  
7 judge member is not an inactive judge member performing pro tem service under  
8 the provisions of ORS 238.545(4), the surviving spouse shall receive a life pension  
9 equal to two-thirds of the retirement allowance the judge member would have  
10 received under Plan A, had the judge member retired on the date of death.

11 (b) If the judge member has six or more years of service as a judge and the  
12 judge member is an inactive judge member performing pro tem service under the  
13 provisions of ORS 238.545(4) at the time of death, the surviving spouse shall receive  
14 a life pension equal to two-thirds of the service retirement allowance the judge  
15 member would have received under Plan B, had the judge member retired on the  
16 date of death.

17 (c) If the judge member has less than six years of service as a judge, the  
18 surviving spouse shall receive a lump sum payment equal to the amount credited to  
19 the judge member account in the Fund on the first of the month following the date  
20 of death.

21 (d) If a surviving spouse receiving a life pension under this section dies and the  
22 total amount of pension payments received by the surviving spouse is less than the

1 amount that had been credited to the deceased judge member’s account as of the  
2 date of death of the judge member, the designated beneficiary of the judge member  
3 shall receive a lump sum payment equal to the difference between these amounts.

4 (2) For purposes of computing a surviving spouse’s life pension in section (1) of  
5 this rule, a judge member who dies before age 60 is deemed to have died at age 60.

6 (3) If the judge member has six or more years of service as a judge has no  
7 surviving spouse, the designated beneficiary shall receive a lump sum payment  
8 equal to the amount credited to the judge member account in the Fund on the first  
9 of the month following the date of death.

10 (4) If the judge member has no surviving spouse and no designated  
11 beneficiary at death, a lump sum payment equal to the amount credited to the judge  
12 member’s account on the date of death shall be paid to the judge member’s estate.

13  
14 Stat. Auth: ORS 238.650

15 Stats. Implemented: ORS 238.565

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OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 040 – JUDGE MEMBERS

1 459-040-0070

2 Judge Member Death After Retirement

3 If a judge member dies after the effective retirement date, benefits shall be  
4 distributed and calculated as follows:

5 (1) Surviving spouse Standard Two-thirds Benefit. The surviving spouse of a  
6 judge member shall receive a life pension equal to two-thirds of the service  
7 retirement allowance the judge member is receiving or is entitled to receive on the  
8 date of death.

9 (2) Additional benefit for surviving spouse. The surviving spouse may be  
10 entitled to an addition to the pension described in section (1) of this rule if:

11 (a) The judge member selected a reduced retirement allowance under ORS  
12 238.565(4); and

13 (b) The surviving spouse is the spouse of record on the effective date of  
14 retirement. The additional benefit for a surviving spouse shall be void upon the  
15 death or divorce of the spouse of record.

16 (3) No surviving spouse. If the judge member has no surviving spouse and the  
17 total amount of retirement allowance received by the retired judge member is less  
18 than the amount credited to the judge member account on the judge member's  
19 effective retirement date, the designated beneficiary shall receive a lump sum  
20 payment equal to the difference.

21 (4) Death of surviving spouse. If a surviving spouse receiving a pension under  
22 section (1) of this rule dies and the total amount received as retirement allowance by

1 the retired judge member and as pension by the surviving spouse is less than the  
2 amount credited to the judge member account on the effective date of retirement of  
3 the judge member, the designated beneficiary of the judge member shall receive a  
4 lump sum payment equal to the difference.

5 (5) Default beneficiary. If the judge member has no valid written designation of  
6 beneficiary filed with the PERS Board before the judge member's death, the  
7 beneficiary of the judge member shall be the personal representative of the judge  
8 member's estate.

9 (6) Unpaid accrued retirement allowance. Any accrued retirement allowance  
10 due a retired judge member that is unpaid at the time of death of the judge member  
11 shall be paid as follows:

12 (a) To the surviving spouse of the judge member;

13 (b) If there is no surviving spouse of the judge member, to the beneficiary of the  
14 judge member; or

15 (c) If there is no surviving spouse or beneficiary of the judge member, in the manner  
16 provided for payments under ORS 238.390(2).

17 Stat. Auth: ORS 238.650

18 Stats. Implemented: ORS 238.565

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 040 – JUDGE MEMBERS**

1 **459-040-0080**

2 **Required Minimum Distribution of Judge Member Death Benefits**

3 **(1) In the event an active or inactive judge member dies before retiring, the**  
4 **required minimum distribution of death benefits attributable to the deceased judge**  
5 **member shall be made in accordance with OAR 459-014-0100.**

6 **(2) In the event a retired judge member dies, the required minimum**  
7 **distribution(s) to a surviving spouse and/or to a beneficiary of the deceased judge**  
8 **member shall be made in accordance with OAR 459-005-0560.**

9 **(3) A lump sum distribution of death benefits of a deceased judge member may**  
10 **be eligible for a rollover in accordance with OAR 459-005-0590 to 459-005-0599.**

11 **Stat. Auth: ORS 238.650**

12 **Stats. Implemented: ORS 238.565**

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# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
(503) 598-7377  
TTY (503) 603-7766  
www.pers.state.or.us

June 15, 2007

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Administrator, PPLAD  
SUBJECT: First Reading of Judge Member rules  
OAR 459-040-0001, *Definitions*  
OAR 459-040-0010, *General Administration*  
OAR 459-040-0020, *Judge Member Disability Retirement*  
OAR 459-040-0030, *Plan A Service Retirement Allowance*  
OAR 459-040-0040, *Plan B Service Retirement Allowance*  
OAR 459-040-0050, *Variable Annuity Adjustments for Judge Members*  
OAR 459-040-0060, *Judge Member Death Before Retirement*  
OAR 459-040-0070, *Judge Member Death After Retirement*  
OAR 459-040-0080, *Required Minimum Distribution of Judge Member Death Benefits*

MEETING DATE	6/15/07
AGENDA ITEM	C.2. Judge Members

### OVERVIEW

- Action: None. This is the first reading of the Judge Member Rules.
- Reason: To clarify administration of the judge member retirement program under ORS 238.500 to 238.585.
- Subject: Administration of the judge member retirement program.
- Policy Issue: No policy issues have been identified at this time.

### BACKGROUND

Legislation in 1983 (ORS 238.500 to 238.585) created the PERS Judge Member Program and transferred all sitting judges covered under the Judges Retirement Fund to the Judge Member Program. The Judge Member Program now includes any judge of the Oregon Supreme Court, Court of Appeals, Oregon Tax Court, and Circuit Courts. Any judge elected or appointed on or after January 1, 1984 automatically becomes a judge member of PERS on the date they take office.

Administrative rules are being adopted to publicize and clarify the administration of judge member retirement benefits under ORS 238.500 to 238.585. These rules will explain the benefit program more completely and inform the program's members of how PERS will administer certain provisions.

More modifications to the rules will be necessary if the Oregon State Legislature passes Senate Bill 872, allowing judges to designate former spouses to receive the surviving spouse benefit. Those changes will be incorporated in the rule before it is presented for adoption.

### POLICY ISSUE

No policy issues have been identified at this time. These rules conform to the long-standing administrative practices that PERS has applied to the Judge Member Program.

### SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

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

The following substantive modifications have been made to the rules since notice:

459-040-0010:

Sections (1) and (8) were edited to clarify that a judge must be younger than age 72 when taking office to become a judge member.

Section (4) was edited by adding “for that portion of the benefit” to clarify that judge members with service in other classifications must elect a separate retirement option for service as other than a judge.

459-040-0040:

Section (5) was edited by deleting paragraph (c) in the ORS citation because all of 238.565(3) applies to how benefits must be paid.

459-040-0050:

Section (2) was revised to include the possibility of a judge member receiving a retirement allowance greater than 75% of final average salary based on the adjustment to the judge member’s variable account.

459-040-0060:

Section (4) was moved to section (2) to fit better with the structure of the rule.

459-040-0070:

Section (6)(c) was deleted because the citation in section (6)(d) includes the personal representative of a judge member’s estate.

### PUBLIC COMMENT AND HEARING TESTIMONY

The public comment period ends on June 22, 2007 at 5:00 p.m. A rulemaking hearing was held on May 22, 2007 at 2:00 p.m. at PERS headquarters in Tigard.

Deborah Tremblay, Benefits Manager, Oregon Judicial Department, presented public comment regarding suggested changes to the judge member rules. Staff incorporated all of her non-substantive edits, which provided clarity and consistency. Her suggested substantive changes are addressed below.

Ms. Tremblay suggested expanding the definition of “normal retirement age” in 459-040-0020(2) to more closely match statute. Staff decided that because the definition cites statute, there is no need to paraphrase the statute.

She also questioned the accuracy of section (4) of 459-0040-0020, and we have confirmed that for our agency, the judge member's disability retirement date is as set forth in the section.

She asked whether 459-040-0050(2) is necessary because the adjustment to the member's account in ORS 238.260(12) only appeared to apply to judges who made contributions on salary in excess of \$4,800 between 1956 and 1967. The adjustment under ORS 238.260(12) applies to both "the retirement allowance to which a member of the system *who has a variable account or* who made contributions on salary in excess of \$4,800 per year during the period January 1, 1956, through December 31, 1967..." [Emphasis added]. Therefore, the current language is correct.

Ms. Tremblay noted that if a judge has a variable account and the variable outperforms the regular, the variable adjustment could result in a total benefit greater than the 75% of salary limitation stated in the rule. Staff added clarifying language to 459-040-0050(2).

In 459-040-0070, she suggested that the language in section (5) more closely match ORS 238.565(5), which applies to accrued retirement allowance. Section (6) of the rule deals with accrued retirement allowance, and ORS 238.390(2) is cited. Language in section (5) has been added to clarify that the section applies to payments made under sections (3) and (4) of the rule.

#### LEGAL REVIEW

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

#### IMPACT

Mandatory: No, the Board need not adopt the rules.

Impact: Clarification of procedures in administration of judge member retirement will benefit members, employers, and staff.

Cost: There are no discrete costs attributable to the rules.

#### RULEMAKING TIMELINE

April 13, 2007	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
May 1, 2007	<i>Oregon Bulletin</i> published the Notice.
May 18, 2007	PERS Board notified that staff began the rulemaking process.
May 22, 2007	Rulemaking hearing held at 2:00 p.m. in Tigard.
June 15, 2007	First reading of the rules.
June 22, 2007	Public comment period ends at 5:00 p.m.

First Reading – Judge Member Rules

6/15/2007

Page 4 of 4

July 20, 2007

Staff proposes adopting the permanent rules, including any amendments warranted by further public comment, research, or legislative action.

NEXT STEPS

The rules are scheduled to be brought before the PERS Board for adoption at the July 20, 2007 meeting.



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
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TTY (503) 603-7766  
[www.pers.state.or.us](http://www.pers.state.or.us)

June 15, 2007

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Administrator, PPLAD  
SUBJECT: First Reading of OAR 459-001-0030, *Review of Staff Actions and Determinations*, 459-001-0035, *Contested Case Hearing*, and 459-001-0040, *Petitions for Reconsideration*

MEETING DATE	6/15/07
AGENDA ITEM	C.3. Review/Appeal Processes

### OVERVIEW

- Action: None. This is the first reading of the Administrative Review and Appeal Processes Rules.
- Reason: Changes are necessary because employer grievance procedures are not spelled out in the rules.
- Subject: PERS administrative review and appeal processes.
- Policy Issue: Should employers have a specific process to follow to seek review or appeal of staff actions and determinations?

### BACKGROUND

Employers have asked staff to begin rulemaking on the staff determination, contested case, and appeal rules to allow for modifications that would create a different dispute review and resolution process from that used for member disputes. These modifications to the review and hearing processes would include addressing disputes raised by PERS participating employers in connection with determinations made in regard to their obligations (e.g., paying contributions for prior years, being charged for associated earnings, etc.) that raise distinct issues from those posed by member contests.

While the rules are open, staff is also proposing some modifications to conform to the DOJ model rules and eliminate overlap and duplicative authorities.

### POLICY ISSUE

*Should employers have a specific process to follow to seek review or appeal of staff actions and determinations?*

The dispute resolution process in PERS' current rules proceeds from a director-level review of a staff action or determination through a contested case hearing with the Administrative Law Judge that results ultimately in a final order by the PERS Board. That model does not provide an efficient process to resolve employer disputes, which more often deal with allocations of obligations between the parties. PERS staff recommends that a dispute resolution process based on weighing that allocation be the model instead.

### SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

The following modifications were made to OAR 459-001-0030 since notice:

The title of the rule was clarified because the rule applies to both persons and employers.

A new section (1) was added to define the term “Director” for purposes of the rule as including the PERS executive director or an administrator appointed by the director.

Subsequent sections have been renumbered. Due to the definition of “Director,” the phrase “, or an administrator appointed by the director” was removed from the rule.

Subsections (2)(b) and (g) were edited to further illustrate staff actions or determinations that pertain to employers.

Section (5) was edited to clarify that the Director may deny requests for review.

Starting with section (5)(c), the term “member” has been deleted because the context now applies to both persons and employers, or replaced with “person” where applicable. In section (6), “person” was replaced with “requester” and in section (7), “hearing” was replaced with “conference.”

Section (8) is the same as the previous section (9), but moved up to accommodate the new rule structure which applies to persons and employers, with separate sections applicable only to persons or employers.

Section (9) combines the previous sections (7) and (8) into one section regarding persons only.

The previous section (10) applicable to employers only was expanded into sections (10) and (11), which outline dispute resolution processes for state and non-state agencies.

Disputes for state agency employers shall be resolved under the provisions of Oregon Accounting Manual (OAM) policy 35.70.30.PO, the Interagency Dispute Resolution Process, while disputes with non-state agency employers are proposed to be subject to arbitration, which could closely parallel the OAM policy.

### LEGAL REVIEW

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

### PUBLIC COMMENT AND HEARING TESTIMONY

The public comment period ends on June 22, 2007 at 5:00 p.m. To date, PERS has received public comment from two stakeholders. Copies of the comments received are included with this memo.

Greg Hartman, representing the PERS Coalition, commented by a letter dated May 16, 2007. Mr. Hartman was writing to confirm that the amendments to the rules did not have a direct impact on individual member benefits. He has received confirmation that the substantive rule modifications were to only address employer appeals.

PERS received an email from Linda Ely representing the Centralized PERS Team at the Department of Administrative Services, on behalf of state agencies. Staff responded to all of her questions. A copy of her email is included with this memo.

A rulemaking hearing was held on May 22, 2007 at 2:00 p.m. at PERS headquarters in Tigard. Linda Ely and Alida McNew, from the Department of Administrative Services, attended in support of amending 459-001-0030 to clarify the process for employer appeals. Linda Ely presented public comment at the rulemaking hearing regarding 459-001-0030.

In reference to the rule, Ms. Ely pointed out that there was no actual process explained in the noticed version of the rule for handling appeal process for employers. She recommended a standardized appeal process for all employers, whether state, city, or county. She emphasized that DAS wants the process to be clear and fair. PERS staff notes that, as representing state agencies, DAS is bound to follow their policy on dispute resolution noted in the rule. PERS proposes that process as a model; we await comment from employers on whether they concur with that approach.

She also noted that the 45-day timeframe for PERS to reply to a request is not a strict standard. But the 60-day turnaround for agencies gives no real leeway for an agency if there is a reason they might need to appeal or go beyond those 60 days. She asked for these deadlines to be fair so that if PERS doesn't need to stick to 45-day deadline, agencies don't need to stick to 60-day deadline. At one point DAS received 41 invoices and had issues with 14 of them. They received three, 45-day letters from all 14 of those invoices. A number of the invoices may have been looked at as earned when earned instead of earned when paid, so PERS is either under- or over-invoicing.

The 45-day deadline and extension are performance standards PERS sets in the rule but they are not mandated deadlines. The 60-day deadline runs from the date of the determination. Supporting documentation would hopefully be available since it must supposedly be developed to support the invoice in the first place; PERS would of course strive to be timely in responding to requests for that documentation. However, that deadline is standard under the Administrative Procedures Act and the clock would not restart with subsequent correspondence. Exceptions or extensions can always be considered; the circumstances would undoubtedly determine the relative merits of that request. Lastly, the 60-day deadline pertains only to notice to PERS of a request for review whereas PERS' 45-day deadline is for our substantive response. There does need to be closure beyond which an issue cannot be reviewed as opposed to a service standard of when a review should be completed but circumstances for either party may extend how long that review reasonably takes.

### IMPACT

Mandatory: No, the Board need not adopt the rules.

Impact: Clarification of the process employers should follow to challenge a staff determination will benefit employers and staff.

Cost: There are no discrete costs attributable to the rules.

RULEMAKING TIMELINE

April 13, 2007	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
May 1, 2007	<i>Oregon Bulletin</i> published the Notice.
May 18, 2007	PERS Board notified that staff began the rulemaking process.
May 22, 2007	Rulemaking hearing held at 2:00 p.m. in Tigard.
June 15, 2007	First Reading of the rules.
June 22, 2007	Public comment period ends at 5:00 p.m.
July 20, 2007	Staff proposes adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

NEXT STEPS

The rules are scheduled to be brought before the PERS Board for adoption at the July 20, 2007 meeting.

C.3. Attachment 1 - Hartman public comment letter

C.3. Attachment 2 - Ely public comment email



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

ATTORNEYS AT LAW

**GREGORY A. HARTMAN**

hartmang@bennetthartman.com  
Direct Dial: 503-546-9601

SUITE 1650  
111 S.W. FIFTH AVENUE  
PORTLAND, OREGON 97204-3627  
(503) 227-4600  
FAX (503) 248-6800  
www.bennetthartman.com

May 16, 2007

*BY EMAIL AND FIRST CLASS MAIL*

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

Re: Rulemaking  
Our File No.: 5415-237

Dear Steve:

The purpose of this letter is to confirm our conversation regarding item C-4 on the agenda for the upcoming board meeting (May 18, 2007) relating to developing a process for resolving employer/PERS disputes. I understand from our conversation that the intent is to develop a process to resolve those disputes in areas which will have no direct impact on individual members' benefits.

If the proposed rules were to be given a broader application and be used in circumstances where individual member benefits could be affected, then the rules would have to be drafted to make certain that there were adequate procedural protections for those individual members. In light of your assurance about the limited scope of these rules I do not anticipate that the Coalition is likely to have further comment.

Yours very truly,



Gregory A. Hartman

GAH:kaj

G:\Hartman\AFSCME 5415\237 PERS 2\Rodeman 07-05-16.wpd

cc: PERS Coalition

## Daniel Rivas - RE: Staff Determinations/Appeals Process rules

---

**From:** "ELY Linda C \* DAS HRSD" <Linda.C.Ely@state.or.us>  
**To:** "RIVAS Daniel" <Daniel.Rivas@state.or.us>  
**Date:** 5/16/2007 1:58 PM  
**Subject:** RE: Staff Determinations/Appeals Process rules  
**CC:** "MCNEW Alida \* DAS HRSD" <Alida.Mcnew@state.or.us>

---

Hi Daniel,

We (the Centralized PERS Team here at DAS on behalf of state agencies) have a few questions on the one of these proposed rules that is slated for amendments in the rulemaking process. We need to get these questions answered so we can determine whether or not we need to make public comments on the proposed changes. We thought we would address our questions prior to the public hearing and will attend if that is the correct forum to get the answers to these questions.

OAR 459-001-0030 - Review of Staff Actions and Determination

In subsection (1), "or public employer" was removed and an entirely new subsection (10) concerning employers appeal rights for member accounts and invoices was added at the end of the rule. Being at the end of the entire section and rule, seems a bit confusing, as if the entire rule up to the point does not apply to employers. Yet that does not really make any sense; all the information provided in the rule sets up the appeal process.

Can you explain how this is expected to work when an employer appeals an invoice, refund or staff determination for an employee's account?

The rule states that the "requests must be filed within 60 days following the date of staff action or determination". Generally, we receive a cover letter from PERS, we assume you mean 60 days from that letter. Since state agencies should have documentation that supports an invoice, in many cases we have asked PERS staff to provide supporting documentation that will assist agencies in researching an invoice. In some cases it has taken weeks to get that documentation. Will PERS staff be able to provide the requested documentation timely, so we can meet the 60 day period? Or, will the 60 day clock start once the requested documentation has been sent? Will exceptions and/or extensions of this 60 day period be allowed to employers? If yes, under what circumstances?

Subsections, (4) Denial of request, (5) re-submittal of request and (6) Approval of request, indicate that PERS staff has 45 days in which to issue a written determination of the request. Subsection (9) Extension of deadline, indicates that ANY 45 days deadline can be extended an additional 45 days. Does this mean that this 45 Extension deadline can also be extended an additional 45 days? How many of these does PERS staff get? Are there any consequences to PERS if the 45 day period is not met?

Subsection (10) mentions an arbitration process. Does PERS have a process in place? If yes, how does it work? Is, or will the information on this process be published someplace on the PERS webpage, or described in an additional Administrative Rule? If employers have to go to arbitration, in the long run this may be very costly for employers.

It appears that OAR 459-001-0035 - Contested Case Hearing and 459-001-0040 - Petitions for Reconsiderations do not actually apply to employer requests, is this correct?

Please let me know if you will be able to answer these questions prior to the public hearing, or if you believe it may be in our best interest to attend the hearing to ask these questions there.

Thank you in advance, for your help in clearing up our questions.

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

1 459-001-0030

2 Review of Staff Actions and Determinations Regarding Persons and Employers

3 (1) For purposes of this rule, “Director” means the executive director of PERS,  
4 or an administrator appointed by the executive director.

5 ~~[(1)]~~(2) Request for review. Any person or public employer may file with the  
6 Director a request for review of a staff action or determination. Except as provided for in  
7 ORS 238.450 or in Board rules on disability retirement, oral or written staff actions or  
8 determinations that are subject to review under this rule include but are not limited to:

9 (a) Establishing membership;

10 (b) Determining service credit, eligibility of an employee for service credit, and  
11 final average salary;

12 (c) Refund of contributions;

13 (d) Eligibility for benefits;

14 (e) Computation of benefits; *[or]*

15 (f) Penalty for late reporting; or

16 (g) Invoice amount of employee and employer contributions, including earnings  
17 on those contributions.

18 The request *[shall]* must be filed within 60 days following the date of the staff  
19 action or determination. *[Late requests may be considered only if facts constituting good*  
20 *cause are alleged in the request.]*

21 ~~[(2)]~~(3) Informal conferences. Informal conferences are available as an alternative  
22 means that may achieve resolution of any matter under review. *[A request for an informal*

1 *conference does not relieve a person of the requirements for timely filing of a review*  
2 *request.]*

3 ~~[(3)]~~(4) Criteria for request. A request for review of a staff action or determination  
4 ~~[shall]~~ must be in writing and set forth:

5 (a) A description of the staff action or determination for which review is requested;

6 (b) A short statement of the manner in which the action is alleged to be in error;

7 (c) A statement of facts that are the basis of the request;

8 (d) Reference to applicable statutes, rules or court decisions upon which the person  
9 relies;

10 (e) A statement of the relief the request seeks; and

11 (f) A request for review.

12 ~~[(4)]~~(5) Denial of request. The Director~~[, or an administrator appointed by the~~  
13 ~~Director,]~~ may deny any request ~~[made pursuant to]~~ for review under this rule:

14 (a) Which does not contain the information required under section ~~[(3)]~~(4) of this  
15 rule; or

16 (b) Regarding which, in the Director's view, there is no bona fide dispute of material  
17 fact, the pertinent statutes and rules are clear in their application to the facts, and there

18 ~~[was]~~is ~~no[t a]~~ material administrative error.

19 (c) The denial of the request shall be made within 45 days of receipt of the

20 ~~[member's]~~ request.

21 ~~[(5)]~~(6) If a request is denied by the Director~~[, or an administrator appointed by the~~  
22 ~~Director,]~~ because it does not contain the information required under section ~~[(3)]~~(4) of

1 this rule, a *[person]*requester shall have one opportunity to correct that deficiency and  
2 resubmit a request for review within 45 days of the date of denial.

3 *[(6)](7)* Approval of request. If the request for review is granted, the Director*[, or an*  
4 *administrator appointed by the Director, shall]*must issue a written determination within  
5 45 days of receipt of the *[member's]* request after:

- 6 (a) Considering the request;
- 7 (b) Directing staff to reconsider; or
- 8 (c) Directing staff to schedule an informal *[hearing]*conference.

9 **(8) Extension of deadline. Any 45-day deadline within this rule may be extended**  
10 **upon request in writing for an additional 45 days.**

11 **(9) The provisions of this section apply to requests for review by persons only.**

12 *[(7)](a)* *[Contested case hearing]*Dispute resolution process for disputes with  
13 persons. In lieu of issuing a written determination, the Director may direct the staff to  
14 schedule a formal contested case hearing. *[Such]*The hearing *[shall]*must be conducted  
15 in accordance with *[OAR 459-001-0035]*ORS 183.415 and the Attorney General's  
16 Model Rules of Procedure.

17 *[(8)](b)* If a request is denied or the Director's determination is not the relief sought  
18 by the *[requester]*person, and the Director did not cause a contested case hearing to be  
19 scheduled, a person may file with the Board a request for a contested case hearing  
20 pursuant to *[OAR 459-001-0035]*ORS 183.415 and the Attorney General's Model  
21 Rules of Procedure.

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

4 **(10) Dispute resolution process for disputes with state agency employers. If a**  
5 **request is denied or the Director's determination is not the relief sought by the**  
6 **employer, then the dispute shall be resolved under the provisions of OAM policy**  
7 **35.70.30.PO, the Interagency Dispute Resolution Process.**

8 **(11) Dispute resolution process for disputes with non-state agency employers. If**  
9 **a request is denied or the Director's determination is not the relief sought by the**  
10 **employer, then the dispute shall be subject to arbitration. If the employer requests**  
11 **arbitration, PERS and the employer will determine the arbitration process, which**  
12 **must closely parallel the process outlined in OAM policy 35.70.30.PO.**

13 Stat. Auth.: ORS 237.263

14 Stats. Implemented: **ORS 183.413 - 183.470**

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

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,]*made under OAR 459-001-0030 for which a contested case hearing has  
5 not been held, the party *[shall]*must file with the Board a *[petition]*request for a  
6 contested case hearing. The *[petition shall]* request must be filed within 45 days  
7 following the date of the Director's determination. *[Late petitions may be considered only*  
8 *if facts constituting a good cause are alleged in the petition.]*

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

13 (3) Criteria for request. The *[petition]*request for a contested case hearing *[shall]*  
14 must be in writing and set forth:

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

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

18 (c) A statement of facts that are the basis of the *[petition]*request;

19 (d) Reference to applicable statutes, rules or court decisions upon which the  
20 *[petitioner]*requester relies;

21 (e) A statement of the action the *[petition]*request seeks; and

22 (f) A request for a hearing.

1        *[(4) Contested case hearing. The Board shall acknowledge receipt of a petition for a*  
2 *contested case hearing within 15 days of filing.]*

3        *[(5)](4)* The Director, or an administrator appointed by the Director, may direct the  
4 staff to schedule a formal contested case hearing or develop a recommendation to deny  
5 the member's request to be presented to the Board. The Board may then deny a request  
6 for a hearing when it has decided, in consultation with legal counsel, that the Board has  
7 no authority to grant the relief requested.

8        *[(6)](5)* The hearing *[shall]* **must** be conducted in accordance with the Attorney  
9 General's Model Rules of Procedure.

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

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

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



1        ~~[(10)]~~(6) The Board *[will]* generally deliberates~~s~~ and decides~~s~~ on final orders during  
2 regularly scheduled board meetings. The Board may instead deliberate and decide at any  
3 other time and place allowed by law, as determined on a case-by-case basis, such as  
4 electronically or via a telephone conference.

5        Stat. Auth.: ORS 238.650, 183.464 & 183.600 - 183.690

6        Stats. Implemented: ORS 183.413 - 183.470

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

1 **459-001-0040**

2 **Petitions for Reconsideration**

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

12 *[(b) Reference to applicable statutes, rules or court decisions on which the party*  
13 *relies;]*

14 *[(c) A suggested alternative form of order; and]*

15 *[(d) A request for reconsideration.]*

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

20 *[(a) Affirm the original order; or]*

21 *[(b) Reconsider and issue an amended order.]*

1            *[(4)](3)* Staff action. If the petition for reconsideration is granted *[and the Board*  
2 *reconsiders]*, the *[Director shall submit]* Board must enter a new final order in  
3 accordance with OAR 137-003-0675 and may consider written argument from the  
4 Director on the merits of the petition *[for Board consideration]*.

5            *[(5)](4)* Petitioner action. Written argument from a petitioner *[shall]* must be  
6 submitted together with the petition. The Board may schedule oral argument in its  
7 discretion.

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

11            Stat. Auth.: ORS 238.650

12            Stats. Implemented: ORS 183.413 - 183.470



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
(503) 598-7377  
TTY (503) 603-7766  
www.pers.state.or.us

June 15, 2007

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Administrator, PPLAD  
SUBJECT: First Reading of OAR 459-005-0220, *Receipt Date for Reports, Documents, and Remittances*

MEETING DATE	6/15/07
AGENDA ITEM	C.4. Document Receipt

### OVERVIEW

- Action: None. This is the first reading of OAR 459-005-0220, Receipt Date for Reports, Documents, and Remittances.
- Reason: The provisions dealing with when a document is deemed to be received by PERS require changes in response to the agency converting to workflows and digital document handling.
- Subject: Modifications to make the agency record filing process more definite and certain.
- Policy Issue: Should the date on which an item is received and processed by PERS be considered the receipt date?

### BACKGROUND

OAR 459-005-0220 provides guidelines for document receipt by PERS. The provision dealing with having a document deemed to be received by PERS on its postmark date leads to problems as PERS converts to workflows and digital document handling. Staff recommends instead going by the received or imaged date of the document, with a built-in grace period to allow for delivery of the document to PERS after having been posted.

### POLICY ISSUE

*Should the date on which an item is received and processed by PERS be considered the receipt date?*

The current rule considers a document's postmark date as the date the item is filed and received by PERS. Using this standard creates administrative difficulties as the postmark date is often not legible on the envelope, meaning the envelope must be notated or stamped by hand. Then, the envelope must be digitally captured and related to the document in question to establish its timely arrival.

The rule modifications would consider the date an item is received and processed by PERS as the receipt date. The draft rule provides a five-day grace period, so if the member did mail the item before the due date, the grace period should operate to deem the item received within the required time line.

### SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

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

The following substantive modifications have been made to the rules since first reading:

“Payments” was added to the title. “Report, remittance, or payment” were included in the definition of “Imaged date.”

To respond to Board Member Dalton’s comment at the May meeting, Section (4) was edited to limit the grace period only to items received via the United States Postal Service (USPS) regular mail. Items that are delivered in person or via any other service or transmittal will have to be received by the stated due date.

Section (5)(b) was edited to include a citation of OAR 459-005-0215, which applies to transmittal of remittances or payments.

Section (9) was moved below section (10) to better fit the rule structure.

New language in the new section (10) clarifies that the section only applies to reports or documents transmitted by fax or email.

### LEGAL REVIEW

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

### PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on May 22, 2007 at 2:00 p.m. at PERS headquarters in Tigard. No public comment was received on the rule. The public comment period ends on June 22, 2007 at 5:00 p.m.

### IMPACT

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

Impact: Streamlines and simplifies process for determining document receipt.

Cost: There are no discrete costs attributable to the rule.

### RULEMAKING TIMELINE

April 13, 2007	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
May 1, 2007	<i>Oregon Bulletin</i> published the Notice.
May 18, 2007	PERS Board notified that staff began the rulemaking process.
May 22, 2007	Rulemaking hearing held at 2:00 p.m. in Tigard.
June 15, 2007	First reading of the rule.
June 22, 2007	Public comment period ends at 5:00 p.m.

First Reading – OAR 459-005-0220

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July 20, 2007

Staff proposes adopting the permanent rule, including any amendments warranted by public comment or further research.

NEXT STEPS

The rule is scheduled to be brought before the PERS Board for adoption at the July 20, 2007 meeting.

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

1 **459-005-0220**

2 **Receipt Date for Reports, Documents, *[and]* Remittances, and Payments**

3 (1) As used in this rule *[,];*

4 **(a) “Imaged date” means the date on which a report, document, remittance, or**  
5 **payment is imaged and stored electronically to a dedicated network server.**

6 **(b) “Private express carrier” *[shall have]* has** the same meaning as in ORS  
7 293.660(2).

8 **(c) “Settlement date” means the date on which the participating Depository**  
9 **Financial Institution (DFI) or its correspondent is scheduled to be debited or**  
10 **credited by the Federal Reserve.**

11 (2) If the due date of a report, document, remittance, or payment falls on a weekend  
12 or *[a]* legal holiday, the due date is deemed to be the next *[regular]* business day.  
13 *[following.]*

14 (3)*[(a) Except as provided for in sections (3), (4), and (5) of this rule,]* Any report,  
15 *[or]* document, **remittance, or payment** required by PERS shall be deemed filed and  
16 received based on *[the receipt stamp affixed to the report or document when received by*  
17 *PERS]* **the date received by PERS, or the imaged date if the date received by PERS**  
18 **cannot be determined.**

19 *[(b) A remittance or payment and a remittance advice or a payment advice, as*  
20 *described in OAR 459-005-0215, shall be deemed filed and received as provided in*  
21 *sections (4), (5) and (6) of this rule.]*

22 *[(4) Any report, document, remittance or payment required by PERS which is:]*



1 *[(a) Transmitted through the United States Postal Service (USPS) or by private*  
2 *express carrier, shall be deemed filed or received on the date shown by the post office*  
3 *cancellation mark or other record of transmittal;]*

4 **[(4) Any report, document, remittance, or payment received by PERS through**  
5 **the United States Postal Service (USPS) via regular mail within five business days**  
6 **after the due date shall be deemed filed and received on the due date.**

7 **[(5) Any report, document, remittance, or payment required by PERS which is**  
8 *[(b)]* lost in transmission through USPS or by a private express carrier, shall be deemed  
9 filed and received on the date it was mailed or deposited for transmittal if the sender:

10 *[(A)]***(a)** Can establish by evidence satisfactory to PERS, which includes but is not  
11 limited to documentation provided by USPS or the private express carrier, that the report,  
12 document, *[or]* remittance, **or payment** was deposited in the USPS or with a private  
13 express carrier on or before the date due for filing, and was correctly addressed to PERS;

14 *[(B)]***(b)** Files with PERS a duplicate of the lost report, document, *[or]* remittance,  
15 **or payment**, in accordance with the **transmittal** requirements *of [specified in]* OAR  
16 459-005-0210 **or 459-005-0215**; and

17 *[(C)]***(c)** Satisfies the requirements of *[paragraphs]***subsections [(A)](a)** and *[(B)]***(b)**  
18 of this *[sub]*section within 30 days after PERS notifies the sender in writing of *[its]*  
19 failure to receive the report, document, *[or]* remittance, **or payment**.

20 *[(5) For purposes of this rule:]*

21 *[(a) “Settlement date” is the date on which the participating Depository Financial*  
22 *Institution (DFI) or its correspondent is scheduled to be debited or credited by the*  
23 *Federal Reserve.]*

1 *[(b) "Pay date" means the date inscribed on a pay check or settlement date if paid*  
2 *by EFT, whichever is the later.]*

3 (6) An electronic funds transfer (EFT) shall be deemed received on the settlement  
4 date of the transfer. A settlement date specified by an employer for an EFT shall be no  
5 later than the due date specified by PERS for a remittance or a payment.

6 (7) Any report or document that PERS *[will]* accepts by *[telephonic facsimile*  
7 *communication (fax)] fax* as provided in OAR 459-005-0210 or 459-005-0215 which is:

8 (a) Transmitted by a fax device to any office of PERS shall be deemed filed or  
9 received on the date of transmission as inscribed by the PERS fax device.

10 (b) Lost in transmission through a fax communication shall be deemed filed and  
11 received when originally transmitted if the sender can establish by affidavit the proof of  
12 sending and correct addressing, together with a copy of any activity report from the  
13 sender's fax device, and a duplicate of the original report or document.

14 (8) A fax shall be accepted on weekends and holidays as long as the fax is otherwise  
15 in compliance with due dates specified in *[law and]* administrative rule.

16 *[(9) A report, document, remittance, or payment shall be transmitted in accordance*  
17 *with the provisions of this rule and OAR 459-005-0215 prior to midnight of the date due*  
18 *to be considered by PERS as received timely.]*

19 *[(10)]*(9) Any report or document that PERS *[will]* accepts by e-mail transmission as  
20 specified in OAR 459-005-0210(5) which is:

21 (a) Transmitted by e-mail to any office of PERS shall be deemed received as of the  
22 date PERS receives the transmission *[is received by PERS]*.

1 (b) Lost in transmission by e-mail shall be deemed filed and received when  
2 originally transmitted if the sender can establish by affidavit the proof of sending and  
3 correct addressing, together with a copy of any activity report from the sender's  
4 electronic device, and a duplicate of the original report or document.

5 **(10) A report or document transmitted by fax or e-mail must be transmitted in**  
6 **accordance with the provisions of this rule and OAR 459-005-0215 and must be**  
7 **received by PERS before midnight on the due date.**

8 (11) When transmitting a document or report by use of fax or e-mail, the sender  
9 bears the risk of failure of the transmission.

10 Stat. Auth.: ORS 238.650

11 Stats. Implemented: ORS 238.005 - 238.750

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# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
(503) 598-7377  
TTY (503) 603-7766  
[www.pers.state.or.us](http://www.pers.state.or.us)

June 15, 2007

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Administrator, PPLAD  
SUBJECT: First Reading of OAR 459-050-0077, *OSGP Loan Program*

MEETING DATE	6/15/07
AGENDA ITEM	C.5. Loan Program

### OVERVIEW

- Action: None. This is the first reading of OAR 459-050-0077, OSGP Loan Program.
- Reason: Modification of rule to clarify administration and tax reporting requirements.
- Subject: Oregon Savings Growth Plan (OSGP) Loan Program.
- Policy Issues: None.

### BACKGROUND

OAR 459-050-0077, establishing a loan program for Oregon Savings Growth Plan (OSGP) participants, was adopted by the Board on January 12, 2007, with an effective date of May 1, 2007. The delayed effective date was to permit the third party administrator, CitiStreet, and OSGP to develop the processes to administer the program. In the course of that development, it became evident that the rule should be modified to more clearly address federal tax reporting requirements.

Under the rule as drafted, an OSGP participant with a loan in default may cure the default by resuming payments or repaying the loan balance in full before the end of a limited cure period. If the default is not cured, the loan balance is reported as a taxable distribution to the participant. The rule modifications more clearly distinguish between those participants who are eligible for an actual distribution and those who are not.

The proposed rule modifications also eliminate reamortization on loans that go into default but are cured by the participant resuming payments. Staff determined that reamortizing payments on these defaulted loans was administratively burdensome and disproportionately costly, since it would have generally resulted in a small change to the loan payment amount. Instead, the payments missed would be repaid before the end of the repayment period. Loans suspended for approved leaves of absence and absences due to military service would continue to be reamortized.

Lastly, requirements of the state payroll system (OSPS) needed to be accommodated. OSPS requires a signed authorization for payroll deduction. The rule modifications establish that a promissory note or other document that includes the payroll deduction amount and is signed by a participant as a requirement for obtaining the loan is acceptable as a payroll deduction agreement. Copies or images of these documents will

be made available to OSPS on request. This accommodation arose from the coordinated efforts of OSGP, Department of Justice, and OSPS.

#### SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

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

#### LEGAL REVIEW

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

#### PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on May 22, 2007 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public commented on the rule. The public comment period ends on June 22, 2007 at 5:00 p.m. To date, no public comment has been received.

#### IMPACT

Mandatory: No. The Board need not adopt these rule modifications. However, OSGP staff is seeking these changes to improve the program's administration and accommodate the needs of the plan's stakeholders.

Impact: Clarification of tax reporting requirements will more effectively comply with federal tax law. Streamlining of administration will enhance efficiency and avoid additional costs.

Cost: There are no discrete costs attributable to the rule.

#### RULEMAKING TIMELINE

April 13, 2007	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
May 1, 2007	<i>Oregon Bulletin</i> published the Notice.
May 18, 2007	PERS Board notified that staff began the rulemaking process.
May 22, 2007	Rulemaking hearing held at 2:00 p.m. in Tigard.
June 15, 2007	First Reading of the rule.
June 22, 2007	Public comment period ends at 5:00 p.m.
July 20, 2007	Staff proposes adopting the permanent rule modifications, including any amendments warranted by public comment or further research.

#### NEXT STEPS

The rule is scheduled to be brought before the PERS Board for adoption at the July 20, 2007 meeting.

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

1 **459-050-0077**

2 **Loan Program**

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

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

6 (b) "Loan balance" means the outstanding principal and accrued interest due on the  
7 loan.

8 (c) "Participant Loan" means a loan that only affects the deferred compensation  
9 account of a participant.

10 (d) "Promissory note" means the agreement of loan terms between the Program and a  
11 participant.

12 (e) "Third Party Administrator (TPA)" means the entity providing record keeping  
13 and administrative services to the Program.

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

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

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

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

3 (4) Loan Types:

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

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

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

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

20 (7) Loan Limitations:

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

22 (A) \$50,000; or



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

3            (b) The minimum loan amount is \$1000.

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

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

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

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

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

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

16           (a) Loan payments must be made by payroll deduction. To receive a loan from the  
17 Program a participant must enter into a payroll deduction agreement. For the purposes  
18 of this rule, a promissory note or other document that includes the payroll  
19 deduction amount and is signed by a participant as a requirement to obtain a loan  
20 may be a payroll deduction agreement. Except as provided in this rule, a participant  
21 may not submit a loan payment directly to the Program or the Third Party Administrator.

22           (b) A participant is responsible for loan repayment even if the employer fails to  
23 deduct or submit payments as directed under the payroll deduction agreement. To avoid

1 defaulting on a loan by reason of the employer's failure to deduct or submit a payment a  
2 participant may submit a loan payment by sending a money order or certified check to the  
3 Third Party Administrator.

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

6        (d) Partial payment of a scheduled payment and partial prepayment or advance  
7 payment of future payments shall not be permitted.

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

12        (f) Any overpayment will be refunded to the participant.

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

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

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

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

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

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

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

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

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

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

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

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

20           (E) The loan balance will be re-amortized upon the participant's return to work to be  
21 repaid within the remaining loan repayment period as determined under paragraph (C) of  
22 this subsection.

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

4 (11) Tax Reporting.

5 (a) The loan balance of a general purpose loan will be reported as a taxable  
6 distribution to the participant on the earlier of the last day of the loan repayment period,  
7 as adjusted under paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the  
8 loan is in default, the last day of the cure period.

9 (b) The loan balance of a residential loan will be reported as a taxable distribution to  
10 the participant on the earlier of the last day of the loan repayment period, as adjusted  
11 under paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the loan is in  
12 default, the last day of the cure period.

13 (c) If a participant dies prior to the loan balance being repaid, and the participant's  
14 beneficiary does not repay the loan balance in a single payment within 90 days of the  
15 participant's death, the loan balance will be reported as a taxable distribution to the estate  
16 of the participant.

17 (d) If a participant is eligible to receive a distribution under the Program, [T] the  
18 reporting of a loan balance as a taxable distribution under this section will cancel the loan  
19 at the time the taxable distribution is reported. A canceled loan is a distribution and is  
20 no longer outstanding in a participant's account.

21 (e) If a participant is not eligible to receive a distribution under the Program, a  
22 loan balance reported as a taxable distribution under this section will be a deemed  
23 distribution for tax reporting purposes. A loan deemed distributed may not be

1 canceled until the loan balance is repaid or the participant becomes eligible to  
2 receive a distribution. The loan balance will remain outstanding in the participant's  
3 account and will continue to accrue interest until repaid or canceled.

4 (12) Default.

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

7 (b) A loan is in default if the participant separates from employment with the plan  
8 sponsor that administers the loan payment payroll deductions.

9 (c) If a participant with a loan in default resumes loan payments by payroll deduction  
10 before the end of the cure period, the default will be cured. The participant must pay

11 any missed payments and accrued interest before the end of the loan repayment  
12 period. *[and the participant's loan balance will be re-amortized as if the participant had*  
13 *been on a leave of absence under the provisions of paragraph (10)(a)(C) of this rule.]*

14 (d) Except as provided in subsection (c) of this section, if the participant does not  
15 cure a default by repaying the loan balance before the end of the cure period, the loan  
16 balance will be reported as a taxable distribution to the participant as provided in section  
17 (11) of this rule*[and the loan will be canceled].*

18 (13) The effective date of this rule is May 1, 2007.

19 Stat. Auth.: ORS 243.470

20 Stats. Implemented: ORS 243.401 - 243.507

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# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
(503) 598-7377  
TTY (503) 603-7766  
[www.pers.state.or.us](http://www.pers.state.or.us)

June 15, 2007

TO: Members of the PERS Board

FROM: Gay Lynn Bath, Deferred Compensation Manager

SUBJECT: Oregon Savings Growth Plan (OSGP)  
Advisory Committee Member Appointments

MEETING DATE	5/18/07
AGENDA ITEM	D.1. OSGP Advisory

### OVERVIEW

- Subject: OSGP Advisory Committee
- Action: Appoint three members to the OSGP Advisory Committee.
- Reasons: The Advisory Committee for OSGP consists of seven members appointed by the PERS Board. The Board appoints members to fill projected and current vacancies.

### BACKGROUND:

The Oregon Savings Growth Plan (OSGP) is an IRC Section 457 deferred compensation plan available to all state employees and to those local government employees whose employers have adopted the plan as a voluntary supplemental retirement savings program. The plan itself has just passed the \$1 billion mark of assets under investment for the over 21,000 participants from state agencies, higher education and local governments. Attached are the performance results for the plan investment options as of May 31, 2007.

ORS 243.505 (copy attached) provides for an Advisory Committee for the OSGP that consists of seven members with knowledge of deferred compensation plans. According to statute and OAR 459-050-0025 (copy attached), the Advisory Committee shall study and advise the Public Employees Retirement Board, upon request, on all aspects of the deferred compensation program, including but not limited to:

- (a) The deferred compensation program fee structure and program procedures;
- (b) State and federal legislative issues relative to the administration of deferred compensation;
- (c) Administration of the catch-up and financial hardship provisions in Section 457 of the Internal Revenue Code;
- (d) Ways and means to inform and educate eligible employees about the deferred compensation program;

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

Advisory Committee members must be OSGP participants and have knowledge of the current program. One member shall be retired from state service. Two members shall be participants with separate local government plan sponsors who offer the OSGP. Four members shall be employees of separate state agencies. No member shall be an employee of PERS during the term of appointment. No two members shall be employed by the same state agency or local government plan sponsor.

Appointment is for a term of three years except in the case of a vacancy during an unexpired term, in which case the appointment is for the unexpired term. A member of the Advisory Committee is eligible for reappointment, but no person shall serve more than two consecutive full terms.

Currently, the Advisory Committee consists of the following members:

<b>Name</b>	<b>Employer/City</b>	<b>Term</b>	<b>Term Ends</b>
Frank Goulard, Chair	Portland Community College, Portland	Second	6/30/2009
Jason Evers	Oregon Liquor Control Commission, Bend	First	5/30/2008
William L. Robertson	Oregon DEQ, Portland	Second	6/30/2008
Judy Scales	High Desert ESD, Redmond	First	6/30/2009
Kathleen Beaufait	Retiree, Salem	First	6/30/2007
Roman Martushev	DAS, Salem	Second	6/30/2007
Barry Kast	State Hospital, Salem	Second	6/30/2007

There will be two vacant Advisory Committee positions, each for a state agency employee as of the end of June 2007. In addition, the first term of the retiree representative expires at the end of June. OSGP staff provided notice of the pending state employee representative vacancies in the April 2007 OSGP member newsletter, asking interested parties to submit a letter of interest and a résumé. Notice was also distributed to all state agencies via the state payroll system. Seven applications were received and reviewed by the OSGP manager and four members of PERS management.

The criteria staff uses in recommending Advisory Committee appointments includes:

1. Current participation in OSGP.
2. Meeting the qualifications for the position to be filled.
3. Possessing a mixture of expertise, knowledge and experience useful to Advisory Committee.
4. Sincere interest in deferred compensation program.



5. Willing and able to work in a group setting to review and recommend policies governing the program.

#### RECOMMENDED APPOINTMENTS

The first term of Advisory Committee member Kathleen Beaufait, retiree, will expire on June 30, 2007. Staff recommends reappointing her for another three-year term. Staff also recommends appointment of Pete Farrelly, who is employed as an environmental engineer by the Department of Human Services in Portland, and Brian Burleigh, who is employed as human resources manager by the Oregon Department of Transportation in Bend, to fill the vacant state agency employee positions. These positions are vacant because the second terms of Advisory Committee members Roman Martushev and Barry Kast will expire on June 30, 2007.

#### BOARD OPTIONS

The Board may:

1. Appoint Brian Burleigh and Pete Farrelly as OSGP Advisory Committee members representing state employees for three-year terms beginning July 1, 2007 and appoint Kathleen Beaufait to a second three-year term as an OSGP Advisory Committee member representing retirees.
2. Appoint other persons who meet the qualifications to serve in these positions on the OSGP Advisory Committee.

#### STAFF RECOMMENDATIONS

Staff recommends the Board adopt Options 1 above.

Reason: Staff believes Brian Burleigh and Pete Farrelly meet the qualifying criteria and service requirements of the Advisory Committee, and will bring strong personal interest, solid experience and valued perspectives to the committee. Kathleen Beaufait has served well during her first term as a member and is a definite asset to the committee.

Attachment 1 5-31-07 OSGP Performance Results

Attachment 2 ORS 243.505

Attachment 3 OAR 459-050-0025

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## Oregon Savings Growth Plan

### Performance Results

as of May 31, 2007

OPTION <i>BENCHMARKS (for comparison)</i>	1 Month	3 Months	Year to Date	Annualized					
				From Inception 10/31/96	Since 10/31/01	1 Year	2 Years	3 Years	5 Years
Short-Term Fixed Option <i>91-Day T-Bill</i>	0.42% 0.44%	1.27% 1.34%	2.09% 2.14%	3.57% 3.91%	2.39% 2.63%	5.10% 5.20%	4.45% 4.51%	3.55% 3.66%	2.47% 2.71%
Stable Value Option <i>91-Day T-Bill</i> <i>Rolling Average 5 Year CMT**</i>	0.34% 0.44% 0.31%	1.12% 1.34% 0.93%	1.84% 2.14% 1.56%	4.84% 3.91% 5.21%	4.17% 2.63% 4.44%	4.44% 5.20% 3.79%	4.28% 4.51% 3.80%	4.15% 3.66% 3.94%	4.10% 2.71% 4.31%
Intermediate-Bond Option <i>Lehman Bros. Bond Aggregate</i>	-0.61% -0.76%	-0.09% -0.22%	1.44% 1.28%	5.61% 6.09%	4.69% 4.38%	6.81% 6.66%	3.22% 3.03%	4.49% 4.28%	4.95% 4.72%
Balanced Fund Option <i>Balanced Blended Index*</i>	1.97% 1.80%	5.38% 5.22%	6.32% 6.34%	8.74% 8.65%	9.14% 8.89%	15.75% 16.29%	12.28% 12.21%	11.19% 11.17%	9.22% 9.17%
Large Company Value Stock Option <i>Russell 1000 Value</i>	3.61% 3.61%	9.18% 9.10%	9.33% 8.77%	10.85% 11.84%	12.93% 12.94%	24.72% 25.58%	19.14% 18.91%	17.60% 17.76%	12.59% 12.51%
Stock Index Option <i>Russell 3000</i>	3.66% 3.64%	8.91% 8.91%	9.13% 9.16%	9.31% 9.63%	9.52% 9.80%	22.32% 22.58%	15.98% 16.19%	13.67% 13.89%	10.03% 10.29%
Large Company Growth Stock Option <i>Russell 1000 Growth</i>	3.24% 3.60%	8.50% 9.06%	8.71% 9.76%	6.30% 6.59%	6.29% 5.82%	17.75% 20.37%	12.88% 13.03%	9.68% 9.70%	7.82% 7.50%
International Stock Option <i>MSCI EAFE</i>	2.18% 1.75%	9.03% 8.98%	9.24% 10.61%	10.45% 8.56%	17.39% 16.25%	25.35% 26.84%	28.31% 27.54%	23.39% 23.08%	16.27% 16.75%
Small/Mid-Size Company Stock Option <i>Russell 2500</i>	5.07% 4.18%	9.60% 7.90%	12.08% 10.66%	13.64% 12.31%	16.01% 15.58%	20.44% 20.97%	19.06% 19.02%	17.13% 16.92%	14.54% 14.38%

\* The Balanced Blended Index is 5% 91-Day T-Bill, 10% Russell 1000 Value, 10% Russell 1000 Growth, 10% Russell 2500, 10% MSCI EAFE, 20% Russell 3000 and 35% Lehman Bros. Bond Aggregate.

\*\*5 Year Rolling Average of the 5 Year Constant Maturing Treasury Yield.

Performance figures are net of fees. The results shown represent past performance and should not be considered a representation of performance of the options in the future. Investment returns and principal are not guaranteed.

Monthly performance results are published on the PERS web page at [www.pers.state.or.us](http://www.pers.state.or.us)

To access current account information 24 hours a day call our Customer Service Center at 1-800-365-8494.

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(Deferred Compensation Advisory Committee)

**243.505 Deferred Compensation Advisory Committee.**

(1) The Deferred Compensation Advisory Committee shall be appointed by the Public Employees Retirement Board, consisting of seven members with knowledge of deferred compensation plans.

(2) At the direction of the board, the committee shall advise the Public Employees Retirement Board on policies and procedures and such other matters as the board may request.

(3) The term of office of each member is three years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the board shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the Deferred Compensation Advisory Committee is entitled to compensation and expenses as provided in ORS 292.495.

(5) The Deferred Compensation Advisory Committee shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the committee determines.

(6) A majority of the members of the committee constitutes a quorum for the transaction of business.

(7) The Deferred Compensation Advisory Committee may meet at a place, day and hour determined by the committee. The committee also may meet at other times and places specified by the call of the chairperson or of a majority of the members of the committee. [1991 c.618 §10; 1997 c.179 §19; 1999 c.406 §1]

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

**459-050-0025****Deferred Compensation Advisory Committee**

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

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

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

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

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

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

(f) No member may serve more than two consecutive full terms.

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

(2) The Advisory Committee shall study and advise the Board on all aspects of the Program, including but not limited to:

(a) The Program fee structure and procedures;

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

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

(d) Ways and means to inform and educate eligible employees about the Program;

(e) The expressed desires of eligible employees as to the Program; and

(f) The actuarial characteristics of eligible employees.

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

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

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

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

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

(6) Pursuant to the Public Meetings Law, ORS 192.610 to 192.690, the Deferred Compensation Manager shall distribute to the Advisory Committee, and other interested parties, an agenda for a regular meeting a reasonable time prior to the meeting.

(7) Nominations of candidates for the Advisory Committee shall be made as follows:

(a) Notice of a position on the Advisory Committee expected to become vacant upon the expiration of a term of appointment shall be published not later than April 15 of each calendar year.

(b) Persons interested in serving on the Advisory Committee must apply in writing to the Manager not later than May 15 following the publication of a vacancy.

(c) The Manager shall review the written applications of interested persons for completeness, accuracy, and satisfaction of the minimum requirements of the vacant position on the Advisory Committee.

(d) A committee consisting of the Manager and four members of PERS executive or managerial staff designated by the PERS Executive Director shall review the acceptable applications and recommend to the Board candidates for appointment to the Advisory Committee that:

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

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

(C) Appear to have a sincere interest in the Program; and

(D) Appear to be willing and able to work in a group setting to review and recommend policies governing the Program.

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

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.505



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
(503) 598-7377  
TTY (503) 603-7766  
www.pers.state.or.us

June 15, 2007

TO: Members of the PERS Board  
FROM: Gloria English, Retiree Insurance Program Manager  
SUBJECT: PERS Retiree Health Insurance Program  
January 1, 2008 Contract Renewals

MEETING DATE	<b>6/15/07</b>
AGENDA ITEM	<b>D.2. Health Ins.</b>

### BACKGROUND

January 1, 2008 will mark the beginning of the third year of Medicare subsidized prescription drug coverage. However, the rate reductions that retirees experienced in 2006 have been offset over time by increasing costs, and prescription rates are anticipated to climb once again in 2008.

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 2007 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



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 2007 varies from \$116 to \$232 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. Effective July 1, 2007 the RHIA employer rate will be 0.37% and the RHIPA rate (State of Oregon payroll only) will be 0.10%

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 2007:

	Enrollment	% Change vs.2006	Receiving Subsidy	Average Age
Medical Plans	49,659	1.5%		74
Medicare	47,610	2.0%	37,370	74
Non-Medicare	2,049	-9.5%	608	58
Dental Plans	24,083	6.0%		

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, Providence Health Plan and Clear Choice Health Plans for medical insurance for PERS enrolled Medicare and non-Medicare members.

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.

Providence Health Plans will introduce a new option for Medicare eligible retirees. Similar to the ODS Medicare Advantage PPO plan, the Providence Medicare Choice plan allows flexibility and competitive pricing to retirees more familiar with PPO style benefits.

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.

Health plan premium rates will be implemented as shown on Exhibit II along with associated rates that include spouses and/or dependents.

### PROPOSAL REVIEW AND RECOMMENDATIONS

PERS Director Paul Cleary, Board Member Thomas Grimsley, PERS Health Insurance Program retiree advisors, PERS staff, and consultants, met May 24, 2007 to review and discuss recommendations for the 2008 contract renewals.

Although the second year of significant changes in the marketplace due to the implementation of Medicare Part D is almost half over, PERS staff and consultants continue to believe that it is too soon to know just how the marketplace will evolve following the initial offerings. Many plans have had challenges determining accurate funding from the Centers for Medicare and Medicaid Services (CMS) for their approved products. Overall, however, the 2008 renewal is positive and PERS retirees will continue to enjoy a variety of competitively priced benefit options.

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 I and II for additional information about the PERS Retiree Health Insurance Program.

Finally, this will be the last Board report prepared by Gloria English as the PERS Health Insurance Program Manager. The new program manager Zue Matchett is in place and has begun work preparing to bring the 2008 renewal to retirees.

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 2008.

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EXHIBIT I

Health Insurance Plans			
<b>Program Enrollment</b>	Totals	Medicare	Non-Medicare
Covered Lives	49,659	47,610	2,049
Retirees (or Surviving Spouses)	39,920	38,716	1,204
Spouses / Dependents	9,739	8,894	845
Average Age of Enrolled Retirees	74	74	58

**Health Plan Membership Enrollment**

Clear Choice Health Plans (Central OR)	1,259	1,228	31
Kaiser Permanente (Portland to Salem)	9,049	8,330	719
Kaiser (California & Hawaii)	68	48	20
ODS Advantage (Oregon)	1,885	1,833	52
ODS Supplement (All 50 States)	25,358	24,747	611
Providence Health Plan (Portland to Eugene)	12,040	11,424	616
ODS Dental Plan	20,534	19,775	759
Kaiser Dental Plan	3,549	3,261	288

Statutory Health Insurance Premium Subsidies			
Retirees Receiving RHIA*	37,370		
Retirees Receiving RHIPA**	608		
RHIA Monthly Payment – \$60 pmpm	\$2,260,680		
RHIPA Monthly Payment – \$259(avg)	\$157,433		
Total Monthly Premium Paid to Health Plans:	\$10,397,916		

## PERS PROPOSED RENEWAL RATES

### 2007 vs. 2008 All Carrier Rates

*Including All Carrier Administrative Fees  
Effective January 1, 2008*

#### SUMMARY

Includes non-Statutory proposed subsidies / surcharges

Medical and Prescription Rates to Members before Statutory Subsidies	Enrollment May 2007	2007	2008	Percentage Change 2008 vs. 2007
<i>(Includes Fixed Costs)</i>				
<b>ODS MEDICAL / RX</b>				
<b>Medicare Supplement</b>	24,747	\$172.27	\$199.39	15.7%
<b>Medicare PPO</b>	1,833	\$148.55	\$172.03	15.8%
<b>non-Medicare PPO</b>	663	\$797.63	\$825.11	3.4%
<b>PROVIDENCE HEALTH PLANS</b>				
<b>Medicare Extra</b>	11,424	\$145.15	\$166.39	14.6%
<b>Medicare Choice</b>	NEW	N/A	\$136.39	
<b>non-Medicare</b>	616	\$596.75	\$630.68	5.7%
<b>CLEAR CHOICE HEALTH PLANS</b>				
<b>Medicare</b>	1,228	\$158.65	\$175.89	10.9%
<b>non-Medicare PPO</b>	31	\$609.17	\$657.09	7.9%
<b>KAISER OREGON HEALTH PLANS</b>				
<b>Medicare</b>	8,330	\$173.43	\$192.72	11.1%
<b>non-Medicare</b>	719	\$586.50	\$586.50	0.0%
<b>DENTAL</b>				
<b>Kaiser Dental</b>	3,549	\$47.38	\$48.02	1.4%
<b>ODS Dental</b>	20,534	\$45.92	\$47.03	2.4%



# Oregon

Theodore R. Kulongoski, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
(503) 598-7377  
TTY (503) 603-7766  
[www.oregon.gov/pers](http://www.oregon.gov/pers)

June 15, 2007

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

MEETING DATE	<b>06-15-07</b>
AGENDA ITEM	<b>D.3. Legislative</b>

As of today, 33 bills have been introduced during the 2007 session that directly impact PERS or the Oregon Savings Growth Plan.

### RECENT ADDITIONS TO PERS BILL TRACKING

**HB 2184A** This bill as introduced deals with unclassified service positions at the Department of Human Services. On May 21 the Senate Health and Human Services Committee adopted an amendment that added a PERS-related clause. That clause eliminates the 1039 hour limitation on the reemployment of a retiree who, if the Governor approves, is employed as the Deputy Director or Assistant Director of the Department of Human Services.

**HB 2592** This bill as introduced deals with local governments and revenue issues. The bill briefly impacted PERS when on May 25 a Dash 8 amendment was adopted that made PERS retirement benefits available to local government taxation. The amending language raised some concerns with PERS regarding the complications and potential costs of administration. On June 13 a Dash 10 amendment was adopted that eliminates the language that dealt with PERS.

### BILLS PENDING FINAL LEGISLATIVE CONSIDERATION

**HB 2285B** [Elimination of "Break in Service"; Elimination of "gross up"] Waiting for consideration on the Senate floor.

**HB 2585B** [Exempts certain ESD employees, certain community college employees, and speech pathologists from 1039 hour limitation] Waiting for consideration on the Senate floor.

**SB 4A** [Exempts nurses or nurse instructors from 1039 hour] To be considered Friday, June 15 by the Ways and Means subcommittee on Education.

CURRENT ACTIVITY MATRIX OF ALL PERS-RELATED BILLS

<u>Bill Numbers</u>	<u>Basic Concept</u>	<u>Last Action</u>	<u>Hearings Scheduled</u>
<b><u>HB 2007</u></b>	<b>Domestic Partnerships</b> Procedures and privileges for entering into a domestic partner contract.	<b>May 9</b> Signed by the Governor	
<b><u>HB 2184A</u></b>	<b>Exemption to the 1039 hour limitation</b> Allows Deputy Director or assistant Director of DHS to exceed 1039 hours as re-employed retirees	<b>June 7</b> Signed by the Governor	
<b><u>HB 2280</u></b>	<b>Equal To Or Better Than</b> Removes requirement that ETOB study be conducted every two years. Allows PERS by administrative rule to determine when an ETOB study is to be conducted.	<b>June 6</b> Passed out of the Senate by unanimous vote. House concurred with Senate amendments, passed with a vote of 44-1	
<b><u>HB 2281</u></b>	<b>Withdrawals</b> Requires that a member who wishes to withdraw (not retire) from any one PERS program must withdraw from all PERS programs at the same time.	<b>April 17</b> Signed by the Governor	
<b><u>HB 2282</u></b>	<b>Notice of Contest</b> Changes the statutory term "Notice of Contest" to another term less likely to cause confusion - "Notice of Dispute."	<b>April 17</b> Signed by the Governor	
<b><u>HB 2283A</u></b>	<b>Oregon Investment Council Membership</b> Removes requirement that the Governor appoint one PERS Board member to serve on the Oregon Investment Council (OIC).	<b>May 29</b> Passed out of the Senate with a vote of 24-4	
<b><u>HB 2284A</u></b>	<b>"Break In Service" (An exception)</b> Exempts individuals who are absent from employment for more than six months from the Break In Service provisions, if the individual is reinstated to employment by judgment, administrative order, arbitration, settlement, or other resolution.	<b>June 7</b> Passed out of the Senate with a vote of 22-8. House concurred with Senate amendments and passed with a vote of 56-2	



<b><u>Bill Numbers</u></b>	<b><u>Basic Concept</u></b>	<b><u>Last Action</u></b>	<b><u>Hearings Scheduled</u></b>
<b><u>HB 2285B</u></b>	<b>Total Lump Sum Retirement Option</b> Prohibits reemployment of members who retire with a total lump sum option for the first six months following retirement. [B Engrossed] Guts above language; Eliminates "Break In Service;" Eliminated "gross up" for part-time OPSRP members.	<b>June 13</b> work session held – Senate Rules Committee and passed out with a "do-pass" recommendation.	<b>Nothing presently scheduled</b>
<b><u>HB 2286</u></b>	<b>Oregon Savings Growth Plan</b> Clarifies that an order creating an Alternate Payee of an Oregon Savings Growth Plan (OSGP) participant may provide that the Alternate Payee may commence payments from the Alternate Payee account earlier than the participant would be eligible to commence payments.	<b>April 17</b> Signed by the Governor	
<b><u>HB 2358</u></b>	<b>Oregon Savings Growth Plan</b> Allows Oregon State Bar employees to participate in the OSGP	<b>April 17</b> Signed by the Governor	
<b><u>HB 2397B</u></b>	<b>Rollovers</b> Allows PERS to accept rollover contribution payments for benefit overpayments. Allows early purchase of waiting and refunded service time.	<b>June 8</b> Passed out of the Senate on 29-0 vote, House concurred by unanimous vote	
<b><u>HB 2401B</u></b>	<b>Early Retirement for Telecommunicators (9-1-1 Operators)</b> Allows 9-1-1 operators with 25 years of service as a telecommunicator to retire with a reduced benefit if not yet age eligible.	<b>June 6</b> Signed by Senate President	
<b><u>HB 2492</u></b>	<b>Benefits Paid To Felons</b> Makes pension benefits subject to execution if the individual is convicted of a felony.	<b>February 12</b> Public hearing by the House Judiciary Committee	<b>*</b>
<b><u>HB 2585B</u></b>	<b>Reemployed Retirees</b> Exempts ESD employees whose "primary work duties" are in a county of 35,000 inhabitants or less from the 1039-hour limitation on employment. Also exempts community colleges and Speech Pathologists.	<b>June 6</b> Public hearing and work session held – Senate Rules Committee adopts amendments and passes out with "do-pass" recommendation.	<b>Nothing presently scheduled</b>

<b><u>Bill Numbers</u></b>	<b><u>Basic Concept</u></b>	<b><u>Last Action</u></b>	<b><u>Hearings Scheduled</u></b>
<b><u>HB 2592A</u></b>	<b>Tax Withholding</b> Requires PERS to withhold local income tax from retirement distributions under certain conditions	<b>June 13</b> Work session held – Senate Revenue <b>NOTE: Dash 10 Amendments passed removing all reference to PERS</b>	<b>CLOSED</b>
<b><u>HB 2593</u></b>	<b>Reemployed Retirees</b> Exempts PERS retirees rehired as nurses or nurse instructors from the 1039-hour limitation on employment.	<b>March 21</b> Referred to the Joint Ways & means Committee	#
<b><u>HB 2619A</u></b>	<b>Police Officer Full Cost Purchase</b> Allows police officers to purchase up to four years of service time served as a police officer out-of-state. Provides for earnings and losses to LOM accounts.	<b>June 13</b> Passed out of the Senate with a vote of 27-1	<b>Nothing presently scheduled</b>
<b><u>HB 2623</u></b>	<b>Elimination of Break In Service</b> Retroactively eliminates the Break in Service provisions.	<b>May 4</b> Referred to the Joint Ways and Means Committee with do-pass recommendation	#
<b><u>HB 2679</u></b>	<b>Individual Account Program</b> Allows payout of IAP over the life expectancy of the member, in addition to the current 5, 10, 15 or 20-year payout periods.	<b>June 6</b> Signed by Senate President and Speaker of the House	
<b><u>HB 2724</u></b>	<b>Exemption to the 1039 Hour Limitation</b> Allows any retiree rehired by a school district, ESD, or Community College as other than management or a teacher to work unlimited hours.	<b>February 19</b> Referred to the House Business and Labor Committee	*
<b><u>HB 3061</u></b>	<b>Voluntary deductions</b> Requires PERS to allow retired members and beneficiaries to make voluntary monthly contributions to labor organizations.	<b>April 20</b> Public hearing by House Business and Labor Committee	*
<b><u>HB 3183A</u></b>	<b>401(B) employer contribution</b> Educational institution may make non-collective employer contributions to tax sheltered annuity or custodial account on behalf of employees.	<b>June 8</b> Passed out of the Senate with a vote of 28-1, House concurred by unanimous vote	<b>Nothing presently scheduled</b>

<b><u>Bill Numbers</u></b>	<b><u>Basic Concept</u></b>	<b><u>Last Action</u></b>	<b><u>Hearings Scheduled</u></b>
<b><u>HB 3318A</u></b>	<b>P &amp; F status</b> Re-Classifies OUS Campus security as Public Safety Officers.	<b>May 7</b> Referred to the Joint Ways & Means Committee with a do – pass recommendation with amendments	#
<b><u>HB 3361</u></b>	<b>Exemption to the 1039 limitation</b> Allows retired member to work for legislative assembly, any or all parts of session with no effect on their retirement status.	<b>April 26</b> Referred to the Joint Ways & Means Committee	#
<b><u>HB 3385</u></b>	<b>Police &amp; Fire Status</b> Grants police and fire status to (1) Dog Control officers (2) OHSU Campus Security; and (3) Judicial Dept. employees providing court security	<b>March 19</b> Referred to the House Business and Labor Committee	*
<b><u>HB 3451A</u></b>	<b>OPSRP Gross-up elimination</b> – provides that retirement credit be calculated in the same manner as Tier One/Two.	<b>May 8</b> House Business and Labor passes with “do-pass” recommendation and refers to the Ways & Means Committee	#
<b><u>HB 3536</u></b>	<b>Domestic Partnerships</b> Pertaining to the rights of individuals not allowed to marry but with significant emotional, personal and economic relationships.	<b>April 17</b> Referred to the House Elections, Ethics & Rules Committee	*
<b><u>HB 5040</u></b>	<b>PERS Budget</b>	<b>May 31, 2007</b> Signed by the Governor	
<b><u>SB 4A</u></b>	<b>Exemption to the 1039 limitation</b> Declares nursing workforce shortage. Among other provisions, allows retired nurses to exceed 1039 hour limitation.	<b>June 13</b> Assigned to Ways and Means subcommittee on Education	<b>June 15 Public hearing and work session scheduled before Ways and Means subcommittee on Education</b>

<b><u>Bill Numbers</u></b>	<b><u>Basic Concept</u></b>	<b><u>Last Action</u></b>	<b><u>Hearings Scheduled</u></b>
<b><u>SB 342A</u></b>	<b>Exemption to the 1039 Hour Limitation</b> Allows registered nurses who have retired to work unlimited hours as a “nurse instructor.”	<b>June 13</b> Passed out of the House by unanimous vote, signed by Senate President	<b>Nothing presently scheduled</b>
<b><u>SB 384A</u></b>	<b>Optional Retirement Plan for School Administrators</b> Allows a school administrator who is not a PERS member to choose an alternate retirement plan in lieu of PERS.	<b>March 21</b> Referred to the Education Committee. <b>NOTE:</b> <b>Amendments passed removing all reference to PERS</b>	<b>CLOSED</b>
<b><u>SB 478</u></b>	<b>Judge Members</b> Provides that PERS judge members may not be required to remain a resident of Oregon as a condition of retirement under the retirement option requiring 35 days of pro tem service for five years.	<b>February 12</b> Referred to the Senate Commerce Committee	*
<b><u>SB 872A</u></b>	<b>Judge members</b> Provides that Judge Member’s may designate ex-spouse as PERS beneficiary.	<b>June 12</b> Passed out of the House with a vote of 54-1, Signed by Senate President	

\* Bill is still in the committee and the chamber it was introduced, has not been referred to one of five committees that can continue to work on the bill by April 30th deadline.

# Bill is currently assigned to the Ways and Means Committee.