

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING

Friday July 29, 2011 1:00 P.M.		PERS 11410 SW 68th Parkway Tigard, OR	
ITEM		PRESENTER	
A. Administration – 1:00 P.M.			
1.	May 26, 2011 Board Meeting Minutes	CLEARY	
2.	Director's Report		
	a. Forward-Looking Calendar		
	b. OIC Investment Report		
	c. Operating Budget Report		
	d. Retiree Health Insurance Administrator and Consultant Contracts		
	e. Online Member Service / Data Verification Update		
	f. July Pension Roll Incident Review		
B. Administrative Rulemaking			
1.	Adoption of OSGP Self-Directed Brokerage Option Rules	RODEMAN	
2.	Adoption of Combined and Concurrent Service Rules		
3.	Adoption of Social Security Rules		
4.	Notice of Disability Rules		
5.	Notice of Retention of Membership by School Employees Rule (Repeal)		
C. Action and Discussion Items			
1.	City Club of Portland PERS Study Recommendations	PORTLAND CITY CLUB MERCER O'LEARY	
2.	2010 Experience Study – Investment Return and Demographic Assumptions		
3.	2011 Legislative Session Adjournment Report		
D. Executive Session Pursuant to ORS 192.660(2)(f), (h), and/or ORS 40.225			
1.	Litigation Update	LEGAL COUNSEL	

Note: A PERS Audit Committee meeting will be held immediately following the Board meeting.

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.

James Dalton, Chair * Eva Kripalani * Mike Pittman * Laurie Warner * Pat West
Paul R. Cleary, Executive Director
Level 1 - Public



OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

Item A.1.

May 26, 2011 PERS Board Meeting
Tigard, Oregon

MINUTES

Board Members:

James Dalton, Chair
Eva Kripalani
Laurie Warner
Pat West

Staff:

Brenda Abbott
Helen Bamford
Gay Lynn Bath
Kirstin Carlson
Paul Cleary
David Crosley
Jon DuFrene
Mary Dunn
Joe DeLillo
Yvette Elledge
Brian Harrington
H. Layton-Weihrauch
Jeff Marecic
Debbie Martin
Zue Matchett
Dale Orr
Steve Rodeman
Terri Roper
Jason Stanley
Stephanie Vaughn

Others:

Bruce Adams
Molly Butler
Linda Ely
Greg Hartman
Sally Hill
Gordon Hoberg
Celia Heron
Trish Isaah
Keith Kutler
Matt Larrabee
E. McCann
K. McCartney
Steve Manton
Victor Nolan
P. Peg
Megan Phelan
James Paulson
Megan Phelan
Scott Preppernau
Bill Robertson
John L. Thomas
Deborah Tremblay
Denise Yunker
Bill Robertson

Chair James Dalton called the meeting to order at 1:00 P.M.; Board member Mike Pittman was excused.

ADMINISTRATION

A.1. BOARD MEETING MINUTES OF MARCH 28, 2011

The Board unanimously approved the minutes from the March 28, 2011 Board meeting.

A.2. DIRECTOR'S REPORT

Executive Director Paul Cleary presented the Board's forward-looking calendar noting that the July Board meeting has been rescheduled to July 29. Cleary reported that meeting will include 2011 legislative results and the second-part of the 2010 Experience Study, including analysis and final recommendation for the assumed earnings rate. Cleary provided the March and April year-to-date Oregon Investment Council (OIC) reports showing a total asset value of nearly \$60 billion and regular account returns of 7.01%. Cleary said that the May 2011 operating budget maintained a positive budget variance for the biennium of about 4.3%.

Reviewing member retirement trends, Cleary noted benefit estimates and retirements are on the rise with retirements up more than 80% this year. Cleary said this was related to aging workforce demographics, followed by members who deferred their retirements after the 2008 market crash. Cleary noted additional factors are retirement incentive programs and budget reductions impacting various state, school and local government employees.

Cleary said the ongoing Employer Outreach Program has been successful and will continue in an effort to support all PERS employers.

NOTICE OF RULEMAKING

B.1. NOTICE OF RULE FOR COMBINED AND CONCURRENT SERVICE RULES

Deputy Director Steve Rodeman provided the first notice of rulemaking to create new rules to clarify retirement eligibility and benefit calculation for members with service as a police officer or firefighter and other combined service. Rodeman noted that a rulemaking hearing will be held on June 28, comments accepted through July 1, and the rules will be presented for adoption in July. No Board action was required.

B.2. NOTICE OF RULEMAKING FOR SELF-DIRECTED BROKERAGE ACCOUNT RULE

Rodeman presented four new rules that are required to implement a self-directed brokerage option for the Oregon Savings Growth Plan (OSGP) that has been approved by the OIC. Rodeman said a hearing will be held on June 28, comments accepted through July 1, and the rules will be presented for adoption in July. No Board action was required.

B.3. NOTICE OF RULEMAKING FOR SOCIAL SECURITY RULES

Rodeman briefly reviewed PERS' responsibility as Social Security Administrator in support of state and local government employers fulfillment of Social Security requirements. Rodeman said these rules are being updated to comply with current Social Security requirements. Rodeman said a hearing will be held on June 28, comments accepted through July 1, and the rules will be presented for adoption in July. No Board action was required.

B.4. ADOPTION OF TRUSTEE-TO-TRUSTEE TRANSFER RULES

Rodeman presented proposed rule modifications and a new General Purchases rule that will clarify a member's ability to restore forfeited creditable service or to make retirement credit purchases.

Eva Kripalani moved and Pat West seconded the motion to adopt the modified Trustee-to-Trustee Transfer Rules, the new General Purchases rule, and other amendments to existing rules as presented. The motion passed unanimously.

B.5. ADOPTION OF RECOVERY OF ADMINISTRATIVE COSTS RULE

Rodeman presented proposed rule modifications that would clarify eligibility and costs to members who request additional verifications of retirement data.

Kripalani moved and West seconded the motion to adopt modifications to the Recovery of Administrative Costs rule as presented. The motion passed unanimously.

ACTION AND DISCUSSION ITEMS

C.1. RETIREE HEALTH INSURANCE 2012 PLAN RENEWALS AND RATES

Retiree Insurance Program Manager Zue Matchett, joined by Molly Butler, of Butler Partners & Associates, LLC and Kevin McCartin, of McCartin Actuarial and Analytical Services briefly reviewed details of the Retiree Health Insurance Renewal Plan. Butler reported that there would be minimal changes, with slight or no premium increase for PERS members enrolled in both Medicare and non-Medicare programs. McCartin highlighted the minimal contract modifications and attributed the minor rate increases to exceptional collaboration between health plans.

West moved and Kripalani seconded the motion to approve the proposed health plan contracts, conditions and rate changes for 2012 as presented. The motion passed unanimously.

C.2. APPOINT ADVISORY COMMITTEE MEMBERS FOR OREGON SAVINGS GROWTH PLAN (OSGP)

Cleary presented a memo from Gay Lynn Bath, Deferred Compensation Manager, recommending the appointment of OSGP advisory committee member Keith Baldwin to a second three-year term. Baldwin's present term ends June 30, 2011.

Laurie Warner moved and Pat West seconded the motion to re-appoint Keith Baldwin to a second three-year term. The motion passed unanimously.

C.3. RIMS CONVERSION PROJECT (RCP) DEPLOYMENT UPDATE

Rodeman briefly reviewed the multi-year RIMS conversion project as "coming in on time and on budget." Rodeman introduced individual PERS Business Process Owners (BPO) who reviewed their participation in the final stage deployment of the conversion project.

Debbie Martin, Central Administration BPO, reviewed her challenges in developing and managing the various electronic workflow processes and related movement from paper documents to computer records. Kirstin Carlson, Customer Service Division BPO, reviewed the JClarety process that allows employer data verification and individual member account access. Heather Thiel, Benefit Payments Division BPO, said the new system provides the tools to process faster and more reliable member benefit payments. Mary Dunn, Fiscal Services BPO, said JClarety has provided electronic accounting procedures with fewer prospects for human error. Dunn said that due to continued interfaces with DAS and Treasury accounting systems, JClarety will not perform all of PERS accounting tasks. Brenda Abbott, Information Services Division BPO, said that her responsibility was to ensure that the business processes were supported by ISD delivering dependable, secure, computer technology and infrastructure.

C.4. ETOB REPORTS; CITY OF THE DALLES AND UNION COUNTY

Dale Orr, Actuarial Services Manager, provided the background for Mercer's study of "Equal to or Better Than" testing thresholds of non-PERS employer public safety retirement plans, finding that all such plans now have passed the ETOB test.

Kripalani moved and Laurie Warner seconded the motion to adopt an exemption from the PERS participation requirement stated in ORS 237.620 (1) for Union County and The City of The Dalles. The motion passed unanimously.

C.5. 2010 EXPERIENCE STUDY PRESENTATION

Matt Larrabee and Scott Preppernau, Mercer actuaries, presented various recommendations resulting from a biennial study of actuarial methods and assumptions used in PERS defined benefit programs. Larrabee said that final recommendations will be presented at the July 29, 2011 Board meeting.

Warner moved and West seconded the motion to adopt Mercer's recommendations to update the amortization schedule for newly established side accounts and the allocation of liability for service segments; and to confirm current assumptions for inflation, real wage growth, RHIPA health care trends, and OPSRP administrative expenses. The motion passed unanimously.

C.6. 2011 LEGISLATIVE SESSION UPDATE

PPLAD Administrator Joseph O'Leary provided a summary report of 13 bills tracked by PERS in the 2011 legislative session. O'Leary will provide final 2011 Legislative results at the July 29, 2011 Board meeting.

C.7. PETITION FOR RECONSIDERATION – MURRAY CONTESTED CASE

Rodeman presented Attorney Greg Hartman's April 27, 2011 petition for reconsideration of the Board's March 3, 2011 final order for Raymond Murray.

Warner moved and Dalton seconded the motion to deny Mr. Hartman's reconsideration request. The motion passed with West voting no.

Rodeman said an order would be submitted within a 60-day time period.

Steve Manton, City of Portland, recalled a 2003 conversation regarding the impact on employer rates from reducing the assumed earnings rate and said that rising employer rates were already onerous for employers. Manton also forecast a wave of retirements in December that could be triggered by a reduction in the assumed earnings rates.

Bill Robertson, Tier One member, shared his thoughts on the actuarial review, saying that investment returns are higher now than a few years ago and dropping the assumed earning rate is not supported by current market conditions.

Dalton adjourned the meeting at 4:15 PM.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paul R. Cleary".

Paul R. Cleary
Executive Director



PERS Board Meeting Forward-Looking Calendar

September 30, 2011

Quarterly Report of Member Transactions
Adoption of Disability Rules
Adoption of Retention of Membership by School Employees Rule (Repeal)
2010 Valuation Results
2010 Actuarial Equivalency Factors

November 18, 2011

Employer Reporting
Audit Committee Meeting

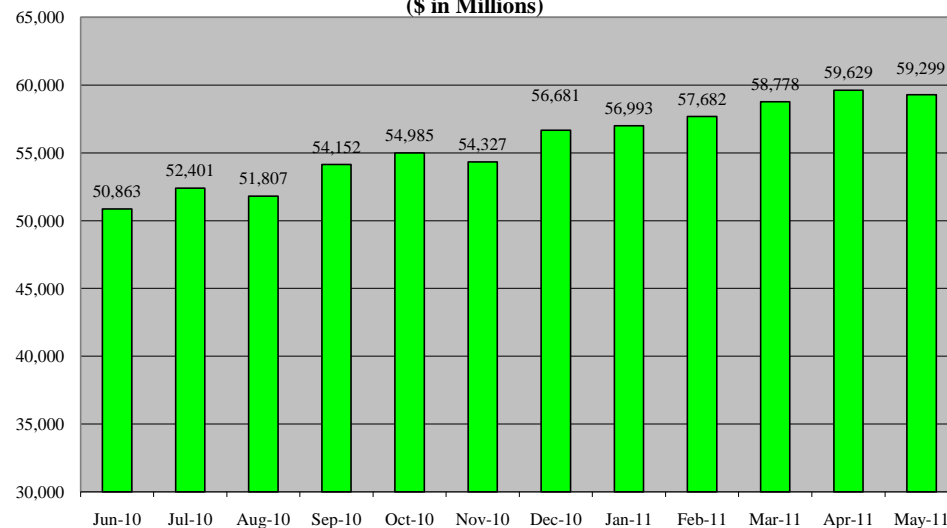


OPERF	Regular Account				Historical Performance (Annual Percentage)					
	Policy ¹	Target ¹	\$ Thousands ²	Actual	Year-To-Date ³	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
Public Equity	38-48%	43%	\$ 23,192,828	39.8%	6.67	29.94	23.54	(0.25)	(1.02)	3.52
Private Equity	12-20%	16%	12,502,453	21.4%	6.41	17.53	18.58	2.19	5.37	9.00
Total Equity	54-64%	59%	35,695,281	61.2%						
Opportunity Portfolio			1,115,535	1.9%	10.43	20.03	24.75	8.93	6.09	
Total Fixed	20-30%	25%	15,632,341	26.8%	4.21	10.36	14.86	9.38	7.76	7.78
Real Estate	8-14%	11%	5,868,149	10.1%	10.02	20.36	7.58	(6.37)	(4.07)	1.31
Alternative Investments	0-8%	5%	-	0.0%						
Cash	0-3%	0%	14,925	0.0%	0.50	0.99	1.22	1.20	2.04	2.71
TOTAL OPERF Regular Account		100%	\$ 58,326,231	100.0%	6.44	20.87	18.71	1.75	1.56	4.92
OPERF Policy Benchmark					6.27	19.65	16.13	2.10	2.08	5.20
Value Added					0.17	1.22	2.58	(0.35)	(0.52)	(0.28)
TOTAL OPERF Variable Account			\$ 973,028		6.57	29.18	22.68	(0.44)	(2.50)	1.71

Asset Class Benchmarks:

Russell 3000 Index	8.30	27.04	25.10	1.67	(0.47)	3.76
MSCI ACWI Ex US IMI Net	5.14	30.75	20.91	(2.02)	(0.78)	4.56
MSCI ACWI IMI Net	6.42	28.96	22.50	(0.59)	(0.96)	3.85
Russell 3000 Index + 300 bps--Quarter Lagged	12.39	20.40	26.40	2.25	3.73	6.58
Oregon Custom FI Benchmark	2.81	5.97	7.64	6.47	6.33	6.46
NCREIF Property Index--Quarter Lagged	4.62	13.11	(3.02)	(4.18)	0.47	3.51
91 Day T-Bill	0.08	0.16	0.16	0.48	1.31	2.08

TOTAL OPERF NAV
(includes variable fund assets)
One year ending May 2011
(\$ in Millions)



¹OIC Policy 4.01.18, as revised April 2011.

²Includes impact of cash overlay management.

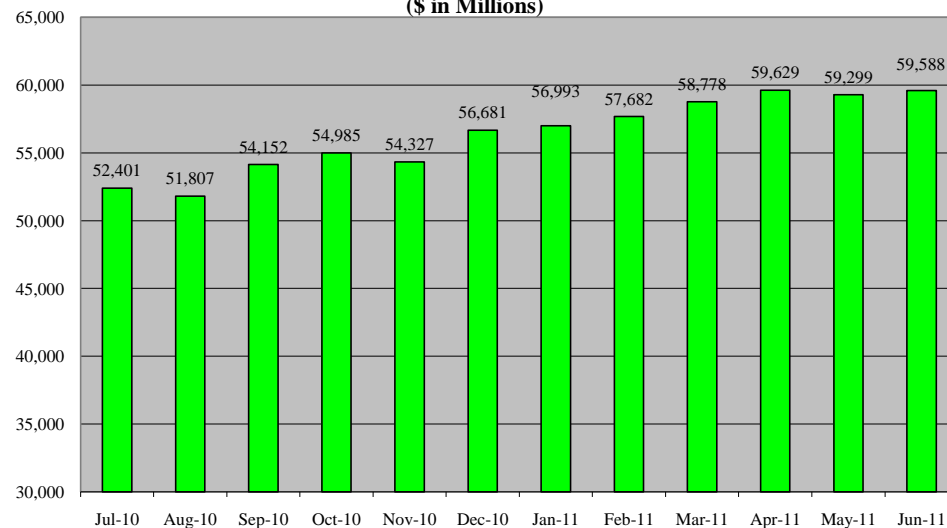
³For mandates beginning after January 1 (or with lagged performance), YTD numbers are "N/A". Performance is reflected in Total OPERF.

OPERF	Regular Account				Historical Performance (Annual Percentage)					
	Policy ¹	Target ¹	\$ Thousands ²	Actual	Year-To-Date ³	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
Public Equity	38-48%	43%	\$ 22,844,688	39.0%	4.99	32.16	22.72	1.97	(1.23)	3.22
Private Equity	12-20%	16%	13,273,044	22.6%	13.95	21.40	24.82	4.97	5.61	9.40
Total Equity	54-64%	59%	36,117,732	61.6%						
Opportunity Portfolio			1,132,556	1.9%	11.25	22.50	25.47	9.05	5.41	
Total Fixed	20-30%	25%	15,265,118	26.0%	3.87	8.77	13.53	9.59	7.83	7.66
Real Estate	8-14%	11%	6,112,694	10.4%	12.09	20.82	9.53	(4.64)	(3.39)	0.92
Alternative Investments	0-8%	5%	-	0.0%						
Cash	0-3%	0%	8,103	0.0%	0.52	0.98	1.08	1.09	1.93	2.63
TOTAL OPERF Regular Account		100%	\$ 58,636,203	100.0%	7.51	22.26	19.61	3.65	1.82	4.98
OPERF Policy Benchmark					7.04	20.36	17.93	4.12	2.29	5.15
Value Added					0.47	1.90	1.68	(0.47)	(0.47)	(0.17)
TOTAL OPERF Variable Account			\$ 951,366		4.84	31.13	21.85	1.86	(2.41)	1.36

Asset Class Benchmarks:

Russell 3000 Index	6.35	32.37	23.76	4.00	(0.45)	3.35
MSCI ACWI Ex US IMI Net	3.52	30.26	20.51	0.32	(1.37)	4.25
MSCI ACWI IMI Net	4.66	31.00	21.71	1.74	(1.28)	3.54
Russell 3000 Index + 300 bps--Quarter Lagged	20.43	20.89	37.39	7.77	5.02	6.82
Oregon Custom FI Benchmark	2.55	4.21	7.08	6.48	6.38	6.37
NCREIF Property Index--Quarter Lagged	8.14	16.03	2.42	(3.63)	0.41	3.45
91 Day T-Bill	0.09	0.16	0.16	0.42	1.21	2.00

TOTAL OPERF NAV
(includes variable fund assets)
One year ending June 2011
(\$ in Millions)



¹OIC Policy 4.01.18, as revised April 2011.

²Includes impact of cash overlay management.

³For mandates beginning after January 1 (or with lagged performance), YTD numbers are "N/A". Performance is reflected in Total OPERF.



Oregon

John A. Kitzhaber, M.D. Governor

Item A.2.c.

Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
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Tigard, OR 97281-3700
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July 29, 2011

TO: Members of the PERS Board
FROM: Kyle J. Knoll, Business Operations Manager
SUBJECT: July 2011 Budget Report

2009-11 BUDGET UPDATE

Operating expenditures for May 2011 were \$3,302,739, and preliminary expenditures for June 2011 are \$6,241,376. Final 2009-11 expenditures close in the Statewide Financial Management System (SFMS) December 31, 2011, and updates on those expenditures will be included in the Budget Reports to the Board through January, 2012.

- To date, through 24 months (100%) of the 2009-11 biennium, the Agency has expended a total of \$75,082,720, or 90.18% of PERS' 2009-11 operating budget.
- PERS currently maintains a projected positive budget variance of \$4,432,307, or approximately 5.3% of the 2009-11 operating budget of \$83,261,952.
 - \$255,860 of that projected positive variance is in the RIMS Conversion Project (RCP) budget.
 - It's also important to note that this projected variance is based on remaining projected 2009-11 expenditures of approximately \$3.75 million currently anticipated to be posted through December 31, 2011.

2011-13 BUDGET UPDATE

House Bill (HB) 5039, PERS' 2011-13 operating budget for \$76,999,319, was signed by Governor Kitzhaber on June 23, 2011.

- The 2011-13 budget includes a statewide reduction of 6.5% in Services & Supplies, a PERS' staffing decrease of 4 positions, and an overall 7.4% decrease from PERS' 2009-11 Legislatively Approved Budget (LAB).
- Adjustments will be made to the operating budget based on additional legislative bills impacting PERS' budget, and an update on the 2011-13 budget limitation will be included in the September Budget Report to the Board.

2009-11 Agency-wide less RCP - Budget Execution
Summary Budget Analysis
For the Month of: June 2011 (prelim)

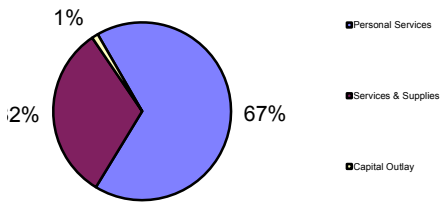
Biennial Agency-wide Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2009-11 LAB	Variance
Personal Services	50,337,611	176,070	50,513,682	52,751,494	2,237,812
Services & Supplies	23,873,560	2,981,255	26,854,815	29,916,870	3,062,055
Capital Outlay	871,549	589,600	1,461,149	593,588	(867,561)
Special Payments					
Total	75,082,720	3,746,925	78,829,645	83,261,952	4,432,307

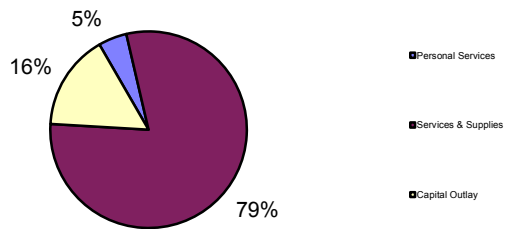
Less RCP projected variance: 255,860

Net projected Agency-wide variance less RCP: 4,176,447

Actual Expenditures

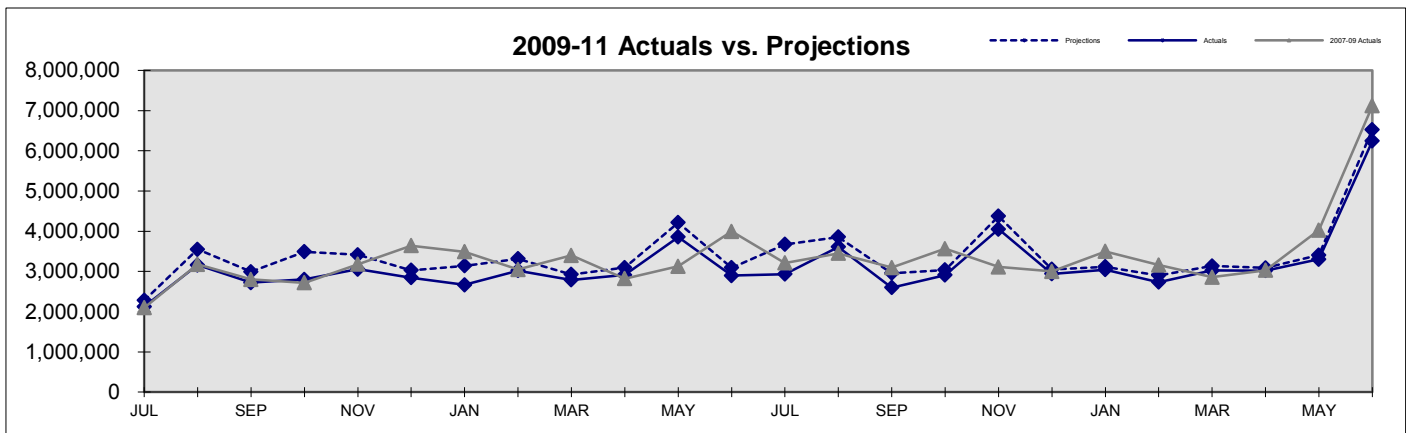


Projected Expenditures



Monthly Summary less RCP

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.
Personal Services	2,352,230	2,323,656	(28,574)	2,097,400
Services & Supplies	3,699,576	3,991,341	291,765	994,732
Capital Outlay	189,570	210,000	20,430	36,315
Special Payments				
Total	6,241,376	6,524,997	283,621	3,128,447



2007-09 Biennium Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2007-09 LAB	Variance
Personal Services	48,706,234		48,706,234	52,446,639	3,740,405
Services & Supplies	15,738,908		15,738,908	14,448,629	(1,290,279)
Capital Outlay	129,484		129,484	355,301	225,817
Special Payments					
Total	64,574,626		64,574,626	67,250,569	2,675,943



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July 29, 2011

TO: Members of the PERS Board

FROM: Yvette Elledge, Customer Services Division Administrator

SUBJECT: Online Member Services / Data Verification Update

ONLINE MEMBER SERVICES

With the recent deployment of our new system, the PERS Online Member Services (OMS) application will soon be available to retirees and members. Activities that retirees and members will be able to do online in a secure environment include:

Retirees:

- View personal information
- View check information including tax deductions and 1099Rs
- Update address information

Active and inactive members:

- View personal information
- View all account information (employment, service credit, salary, Tier One/Tier Two account balances)
- Request a data verification
- Create a retirement benefit estimate
- Submit a withdrawal (inactive members only)
- Update an address (inactive members only)

Both groups will also be able to use the secure website to correspond with PERS staff.

OMS will be available to retirees beginning August 1, 2011 and to active and inactive members this fall. We have included information in the August 2011 issue of the *Perspectives* newsletter and will be updating our website to inform members of this new service.

DATA VERIFICATION PROCESS

The new data verification process began July 1, 2011. Currently, the form is available to download on our website and once OMS is available for active and inactive members, they will be able to complete the request process completely online.

As of July 18, 2011, 41 data verification requests have been received. The process is running smoothly; the staff is ambitious and working with high morale on the new process. Beginning in August 2011, all members who receive a data verification will be invited to complete a survey about the service they received, with the opportunity to provide information on how PERS could improve the process. Management is also continuously gathering feedback and questions to clarify the process and update frequently asked questions posted online as needed.

To help us monitor the workload, we are tracking website hits to the data verification webpage and form. To date we have received 795 hits to the main informational page and 153 hits to the data verification form.



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July 29, 2011

TO: Members of the PERS Board
FROM: Steven Patrick Rodeman, Deputy Director
SUBJECT: July Pension Roll Incident Review

PERS deployed the final stage of its RIMS Conversion Project in June 2011, and ran the July 1, 2011 pension roll out of the new jClarety system. That pension roll did not accurately contain the deposit information for the vast majority of our members who receive benefit payments via direct deposit, which is processed through the Automated Clearing House (ACH).

Attached is a “Lessons Learned” report that we commissioned from Provaliant Retirement LLC, who is the contracted program and project management firm on the RIMS Conversion Project. The report explains the errors and omissions in our processes that led to the inaccurate deposit information and provides information on the steps we’ve taken to ensure the August 1, 2011 and subsequent pension rolls are accurate and process improvements for similar future efforts.

We would like to acknowledge the efforts of all of our staff and partners, such as the Oregon Treasury, US Bank, the hundreds of receiving financial institutions, and HP Enterprise Services, who stepped up once the problem was identified to minimize the consequences of this event to our members. The fact that those efforts were necessary, of course, is keenly felt and deeply regretted by all of us.

Attachment 1: Provaliant report on ACH Lessons Learned





ACH LESSONS LEARNED

Overview

Oregon Public Employees Retirement System (PERS) went live on June 21, 2011 with the deployment of the final piece of jClarety functionality for the replacement of its legacy system.

This deployment marks the final deployment of a two-phase, multi-year project to implement an enterprise-wide technology architecture, the goal of which was to create an integrated platform for providing pension administration services across all retirement plans.

Phase I of this implementation was the House Bill 2020 (HB2020) Pension Administration System Implementation Project. Phase II of this implementation was the RIMS Conversion Program (RCP). The purpose of RCP was to extend and further customize the jClarety application template developed in Phase I. The scope of RCP included the retirement plan administration components needed to administer the PERS Chapter 238 Plan, its associated desktop applications, and manual processes.

With the completion of this project PERS now has an integrated platform for providing member services and benefits across all retirement plans, which is known within PERS as the Oregon Retirement Information On-line Network (ORION).

The purpose of this document is to discuss the lessons learned that resulted from an Automated Clearing House (ACH) issue encountered during the first payroll run after the June 21, 2011 deployment.

ACH Issue

Background

All PERS direct deposit benefit recipient payments for July 1, 2011, were erroneously directed to the recipients' savings accounts.

The issue was the result of a single field in the new jClarety system being "null" or unpopulated due to the field not having been migrated from RIMS. When creating the July 1, 2011, pension ACH file, the jClarety system automatically defaulted all of the "null" values to "S" for savings, rather than the appropriate setting, most of which should have been "C", for checking. Of the 108,651 ACH recipients from the June 1st Pension Roll, PERS saw 102,141 go to checking accounts and only 6,510 go to savings accounts and would have expected similar counts for July 1.

Reasons the Issue Occurred

After the June 21st deployment, the Account Prefix Text field in jClarety that housed this information was all "null" values¹. As result of this field being set to null during the July 1st pension run the jClarety system, as designed, defaulted the Account Prefix Text for all PERS recipients to "S", which was the recipients' savings account.

There were three separate issues that combined to cause the ACH issue to occur. The three issues are as follows:

¹ "Null" refers to the absence of any value in a database field.



Issue #1: Data Not Migrated From RIMS.

From the beginning of RCP, one of the projects was to migrate existing data from RIMS to jClarety. This was done by migrating data from RIMS to an intermediary SQL database and then converting the data from the SQL database to the jClarety database. While there was no cleansing of the data, this was still a very complicated project as the two systems use very different database structures and naming conventions. The Data Migration team went through every table and decided which fields were to be migrated and how to migrate the data.

The data to differentiate Savings and Checking accounts existed in RIMS. In a meeting on August 24th, 2009, it was decided to not migrate this data to jClarety, thus the field resulted in a “null” value being placed into jClarety. Minutes are spotty on this meeting, as are memories, and it is not known why this was actually decided. The documentation was QCped (Quality Check Point) on September 4th, 2009 and again on June 6th, 2011. There was no concern raised in either of these QCPs about the Account Prefix Text field.

Issue #2: jClarety Defaulting “Nulls” To Savings.

In both RIMS and jClarety, the Account Prefix Text fields are required data when entering a new ACH record in order to populate a like “trans code” field in a complete industry-accepted and -compliant ACH file. In RIMS, the absence of information in this field would result in paper checks being sent until the field was populated. In jClarety, with this field being left “null”, upon running the pension roll to create an ACH file, the jClarety system was set to automatically default all of the “null” values to “S” for savings.

jClarety is a COTS (commercial off the shelf system) system that came to PERS as a solution framework, which was then extensively altered and updated as part of the RCP program. The functionality to change any “null” to “S” for savings is part of the base framework functionality of the jClarety system.

This particular feature of the jClarety base functionality was not noticed or addressed during RCP as its correlation to the Stakeholder Needs related to this functionality was not clearly connected throughout the project life and as it related to other project components. If jClarety had instead been programmed with the base logic to change “null” values to “C” for checking accounts, rather than “S” for savings, the issue would still have occurred, but on a much smaller scale (6,510 accounts versus 102,141). The only clear way to have avoided the problem was to have the field correctly populated, based on the data coming over from RIMS.

Issue #3: Testing Did Not Detect The Ramifications Of The Problem.

PERS performed extensive testing for the data migrations as well as system functionality, both for business functional testing (BFT) and user acceptance testing (UAT).

During each of the 26 mock data migrations, the PERS development team would run the pension roll out of RIMS and turn it over to HP, who would run the pension roll out of jClarety with the migrated data. The results of the RIMS and jClarety pension roll runs would then be validated, which included ensuring that a number of the fields, but not all, matched up. Most of this was done on high impact items such as routing and account numbers, total payments and total monetary amount and did not get down to Account Prefix Text details, thus the Account Prefix Text field was not checked.

The BFT of the new jClarety functionality, which was performed by HP, was done early in the Construction phase of Stage 2B – around September, 2009. In BFT any test data is created and



thus more than likely would have had either an “S” or “C” in the Account Prefix Text field, where migrated data would have the Account Prefix Text field “null”. So BFT tested that the functionality worked, but did not test with the actual migrated data. The first time the Stage 2B data was migrated from RIMS to jClarety was with Mock Data Migration #7 in January, 2010.

During the Mock Data migration, performed by PERS, in June of 2010 (and again immediately following another mock deployment a year later) it was noted that the Account Prefix Text field was “null”, but was not identified as a PPCR (Pre-Production Change Request) to be corrected. So jClarety was implemented as the requirements stated including the requirement that this particular data field was not to be migrated.

During UAT, some zero dollar pre-notes files were sent to Treasury for new benefit payments to validate that the process did produce an ACH transaction. Note that the pre-note is not a test or validation of the system data, but only confirms that the account and routing information exists and the receiving financial institution. However, in jClarety, a pre-note cannot be sent on an existing ACH arrangement. The arrangement can be manually removed and then re-entered, but then the jClarety rules would force the user to pick either Savings or Checking. This is all manual – there is no global functionality to automatically end and re-set ACH arrangements.

Steps Taken Once the Issue was Discovered

Starting in the evening of Tuesday, June 28th, the Pension Roll ran with the normal batch process. At that point, jClarety automatically defaulted all the Account Prefix Text fields that were “null” to “S”, savings (actually an ACH transaction code of “32” per industry requirements), as it created the ACH file. This was sent to Treasury and validated as a confirmed file at approximately 8:00 a.m. on Wednesday, June 29th. The file was then forwarded to US Bank at approximately 9:00 a.m., and ultimately out to the ACH system and to individual receiving banks.

On Thursday morning, June 30th, Treasury received notification from a small local financial institution that problems with the file existed – notably that the transaction code was set to “32” (savings) for all accounts. Treasury contacted many of the bigger banks (Bank of America, Wells Fargo, etc.), as well as PERS, about the issue and began to work with banks regarding potential solutions. This resolution work continued throughout Friday, July 1st, with significant contact between Treasury, financial institutions, and PERS. PERS began crafting a notice to send to financial institutions and post on its website, as well as adding front-end messaging to its call center. By mid- afternoon, US Bank, at Treasury’s request, posted information to the NACHA (ACH) communication network to give financial institutions official direction regarding the files.

The receiving financial institutions took one of several actions after this file was received: some left the money in the incorrectly designated account, others moved the money into the account that should have been designated (at the request of members or at the request of Treasury and PERS and with the official direction via the NACHA network), and a few rejected the erroneous transactions outright. These actions took place at various points in this time line, so some members were completely unaffected, while others did not have the funds available to them until later, when the receiving financial institution deposited the payment to either their checking or savings account.

By Tuesday morning, July 5th (Monday being a holiday), an internal all PERS announcement to inform employees at the Agency went out and the bulk of the returned ACH payments started coming in. The bulk of these rejects related to the savings/checking transaction code issue. The ACH rejections were as follows, for a total of 302 rejects:

- 5 on Friday, July 1st



- 150 on Tuesday, July 5th
- 144 on Wednesday, July 6th
- 3 on Thursday, July 7th

In addition, PERS received a substantial number of NOCs (Notices of Change) from financial institutions that could have rejected transactions but manually posted or otherwise redirected the funds to the intended accounts per member or Treasury and PERS direction. PERS must address those NOCs by the August 1 payroll run by correcting the issues that they reflect.

PERS immediately realized that with the rejection of the ACH records that some of the recipients may incur fees for non-sufficient funds in their checking accounts. FSD (Fiscal Services Division) and PPLAD (Policy, Planning, Legal and Administrative Division) immediately set-up a Risk Management Precautionary Claim File to account for these and notified PERS Customer Service to offer members a route to send requests for refunds to our attention here at PERS. A letter to all PERS benefit recipients who were paid through the incorrect ACH file (approximately 108,000 people) explaining the mistake and apologizing for the inconvenience was mailed the following week.

Validating That the Next Pension Roll to Ensure Everything is Correct

In order to ensure that everything is fixed, there are a number of steps being taken

1. Correct the jClarety database. Since the correct Account Prefix Text information was migrated from RIMS to the intermediary SQL database, a DCR (Database Change Request) was run on the jClarety database on Friday, July 1st to correctly update this field. Because security issues prevent testing against the Production system, a copy of Production was made early the following week and the total numbers of Checking and Savings in the Production copy was validated against the RIMS database.
2. FSD and ISD (Information Services Division) are creating a control report that will contain a number of fields, such as the number of ACH recipients, the number of Checking vs. Savings accounts, the total amount, etc. This report will then be compared against similar reports run against the May and June RIMS Pension Roll as well as the July Pension Roll. Any inconsistencies will be addressed immediately.
3. As is standard operation procedures, PERS is sending out zero dollar Pre-Note ACH to Treasury and, ultimately, the ACH network on all new benefit inceptions. This is routed to the identified recipient financial institutions and any account that does not exist or match up correctly is returned.
4. The Production Pension Roll file will be sent to Treasury during the batch run on the evening of July 27th. As is normal process, Treasury will wait for validation direction from PERS before sending the file to US Bank the next morning. PERS will test a back-up file against pre-defined criteria before providing that validation to Treasury.
5. PERS has undertaken to assign a senior member of the PERS Project Management Office to look into all existing and potential issues for the August 1st Pension Roll and ensure that PERS and HP address each one beforehand.

Going forward, we should not run into this problem again. The original issue stemmed from the migration and deployment of RIMS to jClarety, which has now been completed. The lifespan of jClarety is in the order of decades, so PERS will not have another system replacement for many years.



The possibility of a recurrence of this particular issue in August or the coming months is extremely low. The problem has been discovered, fixed, and tested. While security controls prevent testing of the file in the Production environment, it has been fully tested in an exact copy of the Production environment. Further, there are plans to run a final report on the back-up production file once it is run and before Treasury processes it.

Lessons Learned Conclusion

Although this specific issue was the result of the RIMS system replacement with jClarety, which another system replacement will not occur for decades, there are several processes that can be improved upon that have been identified by performing this lessons learned. The following processes are those that were identified:

QCP Process:

While it is difficult to know why the decision was made not to migrate the Account Prefix Text from RIMS to jClarety, the decision was documented and sent to the QCP participants (PERS staff and HP contractors) twice to be validated. There were numerous QCPs activated both times with numerous technical documents in each, and only 7 days to review. This is where that decision to not migrate the data should have been discovered and reported.

Testing:

Once the missing data made it through QCP, it likely should have been picked up in testing. Unfortunately, focus was not put on this specific field. In BFT, there were 358 Test Cases and 20,000 Verification Points with another 6,000 Verification Points in UAT, resulting in 5,000 PPCRs throughout Stage 2B alone. This item was simply not caught.

Communication

Many different entities were involved in the entire process (PERS developers, HP business analysts and developers, PERS FSD and BPD BPOs, SMEs (subject matter experts), and testers, Project Management, Data Migration, Executives, Treasury, etc.). There were many times where decisions were made and not adequately communicated or where one group worked in a silo without necessary input, or where information was shared early in the process but the relevant parties changed over the considerable length of the project and information was not revalidated or confirmed. In a system as complex as PERS, there can never be “too much” communication, both internally and externally, so the culture should be to error on the side of over-communicating at all key decision points.



Lessons Learned Approach

In order to produce this Lessons Learned document, Provaliant working with PERS Executive Team felt it necessary to contact as many of the key personnel involved in the entire process as possible. It was made clear that this was not a search for who was at fault but to improve PERS' processes so that that this type of situation does not occur again. This allowed each individual, who was interviewed on a one-on-one basis, to speak openly and candidly. The lessons learned approach was to begin with a defined set of questions as follows:

- What was the problem?
- What process should have caught this?
- Why didn't the process catch the issue?
- What should have been done to correct this?
- What can be done in the future to ensure this doesn't happen again and then expand on these based on the discussion?

Once the first round of interviews was completed, a rough draft was developed to document the findings of the interviews and went back to many of the original interviewees, as well as other leads that arose, to get a more holistic picture. This document was then presented to the PERS Executives for discussion and validation.

The following is the list of personnel that were interviewed as part of this lessons learned:

James Allen	HP	Project Manager
Rhonda Bachmann	Treasury	Senior Relationship Management Consultant
Sally Boyd	PERS	QA Team Member
Karen Chavez	PERS	MERS Manager and former Data Migration Business Process Owner
Jon Dufrene	PERS	FSD Administrator
Mary Dunn	PERS	FSD Business Process Owner
Yvette Elledge	PERS	CSD Administrator
Destiny Fogarty-Olivas	PERS	Data Migration Project Manager
Scott Grant	Provaliant	former Data Migration Project Manager
Brian Harrington	PERS	BPD Administrator
Jagadees Kumaravelu	HP	Development Manager
Srinivas Nittala	HP	Data Migration Business Analyst
Cora Parker	Treasury	Director of Finance
George Schellenberg	PERS	Developer
Lynne Staton	PERS	FSD
Mary Strutz	PERS	BPD Intake Team Lead
Heather Thiel	PERS	BPD and Data Migration Business Process Owner
Kathy Wright	HP	Business Analyst



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July 29, 2011

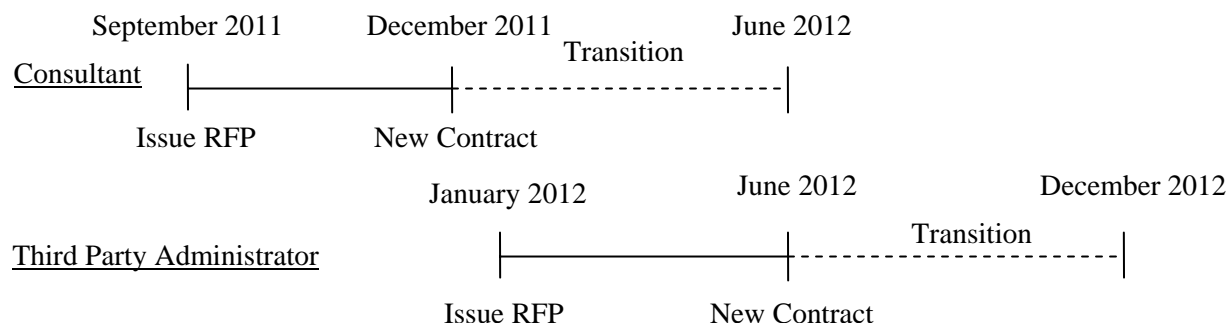
TO: Members of the PERS Board
FROM: Jon DuFrene, CFO
SUBJECT: Retiree Health Insurance Administrator and Consultant Contracts

OVERVIEW

PERS contract with BenefitHelp Solutions, Inc. for the PERS Health Insurance Retiree Third-Party Administrator services was set to expire June 30, 2011. Additionally, the Retiree Health Care Consultant Agreement with Butler Partners & Associates will expire December 31, 2011.

Oregon Revised Statutes 238.410 authorizes the PERS Board to directly contract for health care insurance for retirees, and for advisory personnel and administrative services to support these contracts and is not subject to ORS 279 Public Contracting provisions. This authority is further defined in Oregon Administrative Rule (OAR) 459-035-0200. The Board and PERS Procurement are committed to using an open, competitive procurement process. Therefore, Requests for Proposals (RFPs) for both services will be issued in the next 12 months.

RFP TIMELINE



Based on the above time line, the BenefitHelp Solutions Contract was extended from July 1, 2011 through December 31, 2012. In November, 2011 PERS Procurement will assess the progress of the Consultant Services RFP and determine if an extension to the Butler Partners & Associates Contract is warranted.





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July 29, 2011

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Deputy Director

SUBJECT: Adoption of Self-Directed Brokerage Option Rules
459-050-0037, *Trading Restrictions*
459-050-0077, *Loan Program*
459-050-0120, *Self-Directed Brokerage Option*
459-050-0150, *Unforeseeable Emergency Withdrawal*
459-050-0300, *Required Minimum Distribution Requirements*

OVERVIEW

- Action: Adopt new rule and permanent rule modifications relating to the OSGP's new Self-Directed Brokerage Option.
- Reason: Adoption is necessary to implement the option.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

At its February 23, 2011 meeting, the Oregon Investment Council (OIC) approved the addition of a Self-Directed Brokerage Option (SDBO) to the Oregon Savings Growth Plan (OSGP). New administrative rules to implement the option need to be adopted, as well as modifications to existing OSGP rules to reflect this new option.

PROPOSED RULES

A new rule, OAR 459-050-0120, was developed at Treasury's request to impose some restrictions on the use of the SDBO. The rule provides that a participant's account balance must be at least \$20,000 to begin participating in the SDBO and, at any time, the amount of the trade may not exceed 50% of the participant's OSGP account balance on the date of the trade. Also, subsequent trades cannot be made if the trade would cause the participant's balance in the SDBO to exceed 50% of the participant's OSGP account balance on the day of the trade.

In addition, Dwight Asset Management, which manages the Stable Value Option fund for OSGP, requires a restriction to be placed on transfers to the SDBO in the same manner as it currently applies to the Short Term Fixed and Intermediate Bond options. As such, the trading restrictions in OAR 459-050-0037 are proposed to be modified to specify that no trade may move monies directly from the Stable Value Option to the SDBO.

A participant's funds in the SDBO are not available for loans, unforeseeable emergency withdrawals, or distributions, including Required Minimum Distributions. Therefore, proposed modifications to OAR 459-050-0077, 459-050-0150 and 459-050-0300 address this.

Unrelated to the SDBO option but while the rule is open for rulemaking, modifications are proposed to OAR 459-050-0150 to eliminate the requirement that the unforeseeable emergency occur within a defined period before or after application for the emergency withdrawal.

SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

Minor, non-substantive edits were made in three rules:

OAR 459-050-0037: Section (2) was restructured and edited for clarity.

OAR 459-050-0120: Subsection (3)(b) was edited for clarity.

OAR 459-050-0300: Subsection (3)(a) was edited to correct the section citation of OAR 459-050-0120 from (4) to (5).

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on June 28, 2011 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended on July 1, 2011 at 5:00 p.m. No public comment was received.

LEGAL REVIEW

The attached draft rules were submitted to the Department of Justice for legal review and any comments or changes are incorporated in the rules as presented for adoption.

IMPACT

Mandatory: No.

Impact: The rules will allow participants to use the SDBO as approved by the OIC at its February 23, 2011 meeting

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

RULEMAKING TIMELINE

April 15, 2011	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
May 1, 2011	<i>Oregon Bulletin</i> published the Notice. Notice was mailed to employers, legislators, and interested parties. Public comment period began.
May 26, 2011	PERS Board notified that staff began the rulemaking process.
June 28, 2011	Rulemaking hearing held at 2:00 p.m. in Tigard.
July 1, 2011	Public comment period ended at 5:00 p.m.
July 29, 2011	Board may adopt the new rules and permanent rule modifications.

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt new rules and permanent rule modifications relating to the Self-Directed Brokerage Option, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: A new rule and revisions to four other rules are required to implement this new option in OSGP.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board’s policy direction if the Board determines that a change is warranted.

B.1. Attachment 1 – 459-050-0037, *Trading Restrictions*

B.1. Attachment 2 – 459-050-0077, *Loan Program*

B.1. Attachment 3 – 459-050-0120, *Self-Directed Brokerage Option*

B.1. Attachment 4 – 459-050-0150, *Unforeseeable Emergency Withdrawal*

B.1. Attachment 5 – 459-050-0300, *Required Minimum Distribution Requirements*



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

1 **459-050-0037**

2 **Trading Restrictions**

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

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

12 (a) “Investment Option” means an investment alternative made available under
13 ORS 243.421.

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

16 (2) Restrictions.

17 (a) The following restrictions apply to all participants:

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

19 [(b)] (B) A purchase that is attributable to a trade may not be redeemed from the
20 International Stock Option for a period of 30 days following the date of the trade.

1 ~~[(c)]~~ **(C)** No trade may move monies directly from the Stable Value Option to the
2 Short-Term Fixed Income Option, ~~[or]~~ the Intermediate Bond Option, or the Self-
3 Directed Brokerage Option.

4 **(b) Trades to the Self-Directed Brokerage Option are subject to subsection**
5 **(a) of this section and the limitations established in OAR 459-050-0120.**

6 (3) The Deferred Compensation Manager, if necessary to comply with trading
7 restrictions imposed by a participating mutual fund or the Securities and Exchange
8 Commission, may establish additional temporary trading restrictions.

9 (4) The Deferred Compensation Manager, in the event of extraordinary market
10 conditions, may temporarily suspend any or all trading restrictions established by this
11 rule.

12 (5) Any action taken by the Deferred Compensation Manager under sections (3)
13 or (4) of this rule must be presented to the Board at its next scheduled meeting. The
14 Board may take action as authorized by ORS 243.401 to 243.507. If the Board does not
15 act, the action(s) taken by the Deferred Compensation Manager shall expire on the first
16 business day following the date of the meeting.

17 (6) The provisions of this rule are not applicable to trades attributable to the
18 operation of an automatic account rebalancing function offered by the Program.

19 (7) The trading restrictions provided in this rule are not exclusive. The Board may
20 establish additional restrictions or sanctions as authorized by ORS 243.401 to 243.507.

21 *[(8) The effective date of this rule is December 5, 2008.]*

22 Stat. Auth.: ORS 243.470

23 Stats. Implemented: ORS 243.401 - 243.507

**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) “Deferred compensation account” means the account described in OAR**
7 **459-050-0001(9), but does not include any amount in the Self-Directed Brokerage**

8 **Option.**

9 ~~[(b)]~~ **(c)** “Loan balance” means the outstanding principal and accrued interest due on
10 the loan.

11 ~~[(c)]~~ **(d)** “Participant Loan” means a loan that only affects the deferred
12 compensation account of a participant.

13 ~~[(d)]~~ **(e)** “Promissory note” means the agreement of loan terms between the Program
14 and a participant.

15 ~~[(e)]~~ **(f)** “Third Party Administrator (TPA)” means the entity providing record
16 keeping and administrative services to the Program.

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

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

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

3 (b) If a participant is deceased [*prior to*] before the disbursement of the proceeds of
4 a loan, the participant's loan application shall be void as of the date of death.

5 (4) Loan Types:

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

9 (b) Residential loan -- a loan made for the purpose of acquiring a principal residence,
10 which is, or within a reasonable time shall be, the principal residence of the participant.

11 Residential loans must be repaid over a non-renewable repayment period of up to 15
12 years. A refinancing does not qualify as a residential loan. However, a loan from the
13 Program that will be used to repay a loan from a third party will qualify as a residential
14 loan if the loan would qualify as a residential loan without regard to the loan from the
15 third party.

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

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

22 (7) Loan Limitations:

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

1 (A) \$50,000; or
2 (B) One-half of the value of the participant's deferred compensation account on the
3 date the loan is made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (11) Tax Reporting.

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

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

16 (c) If a participant dies *[prior to]* before the loan balance being repaid, and the
17 participant's beneficiary does not repay the loan balance in a single payment within 90
18 days of the participant's death, the loan balance will be reported as a taxable distribution
19 to the estate of the participant.

20 (d) If a participant is eligible to receive a distribution under the Program, the
21 reporting of a loan balance as a taxable distribution under this section will cancel the loan
22 at the time the taxable distribution is reported. A canceled loan is a distribution and is no
23 longer outstanding in a participant's account.

1 (e) If a participant is not eligible to receive a distribution under the Program, a loan
2 balance reported as a taxable distribution under this section will be a deemed distribution
3 for tax reporting purposes. A loan deemed distributed may not be canceled until the loan
4 balance is repaid or the participant becomes eligible to receive a distribution. The loan
5 balance will remain outstanding in the participant's account and will continue to accrue
6 interest until repaid or canceled.

7 (12) Default.

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

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

12 (c) If a participant with a loan in default resumes loan payments by payroll deduction
13 before the end of the cure period, the default will be cured. The participant must pay any
14 missed payments and accrued interest before the end of the loan repayment period.

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

19 *[(13) The effective date of this rule is May 1, 2007.]*

20 Stat. Auth.: ORS 243.470

21 Stats. Implemented: ORS 243.401 - 243.507

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

1 459-050-0120

2 Self-Directed Brokerage Option

3 (1) For purposes of this rule:

4 (a) “Core Investment Option” means an investment alternative made available
5 under ORS 243.421, but does not include the Self-Directed Brokerage Option.

6 (b) “Self-Directed Brokerage Option” means an investment alternative made
7 available under ORS 243.421 that permits a participant to establish a brokerage
8 account and participate in investment products other than core investment options.

9 (c) “Trade” has the same meaning as in OAR 459-050-0037.

10 (2) A participant may initiate participation in the Self-Directed Brokerage
11 Option only by a trade from core investment options.

12 (a) The participant’s deferred compensation account balance must be at least
13 \$20,000 on the date of the trade.

14 (b) The amount of the trade may not exceed 50 percent of the participant’s
15 deferred compensation account balance on the date of the trade.

16 (3) A participant in the Self-Directed Brokerage Option may not:

17 (a) Contribute to the Self-Directed Brokerage Option by any means other than
18 a trade from a core investment option.

19 (b) Make a trade from a core investment option to the Self-Directed Brokerage
20 Option if:

21 (A) The participant’s balance in the Self-Directed Brokerage Option exceeds
22 the balance in the participant’s core investment options on the date of the trade; or

1 (B) The trade would cause the participant’s balance in the Self-Directed
2 Brokerage Option to exceed the participant’s balance in the core investment options
3 on the date of the trade.

4 (4) The Self-Directed Brokerage Option may not be included in any automatic
5 account rebalancing function offered by the Program.

6 (5) Notwithstanding OAR 459-050-0080, funds in the Self-Directed Brokerage
7 Option are not available for distribution.

8 (a) Funds in the Self-Directed Brokerage Option must be traded to a core
9 investment option to be available for distribution under OAR 459-050-0080.

10 (b) A participant, beneficiary, or alternate payee subject to Required Minimum
11 Distributions, as described in OAR 459-050-0300, must maintain a balance in the
12 core investment options that will accommodate the timely distribution of the
13 required amount.

14 (c) A participant, beneficiary, or alternate payee who fails to comply with
15 subsection (b) of this section is solely responsible for any tax, penalty, or cost
16 imposed by reason of a delayed or partial required minimum distribution.

17 (6) The Deferred Compensation Manager, if necessary to comply with
18 restrictions imposed by a participating mutual fund, a contracted broker, or the
19 Securities and Exchange Commission, may establish additional temporary
20 restrictions for the Self-Directed Brokerage Option.

21 (7) Any action taken by the Deferred Compensation Manager under section (6)
22 of this rule must be presented to the Board at its next scheduled meeting. The Board
23 may take action as authorized by ORS 243.401 to 243.507. If the Board does not act,

1 the action(s) taken by the Deferred Compensation Manager shall expire on the first
2 business day following the date of the meeting.

3 (8) The restrictions provided in this rule are not exclusive. The Board may
4 establish additional restrictions or sanctions as authorized by ORS 243.401 to
5 243.507.

6 Stat. Auth.: ORS 243.470

7 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0150**

2 **Unforeseeable Emergency Withdrawal**

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

6 (1) Definitions. **For purposes of this rule:**

7 **(a) “Deferred compensation account” means the account described in OAR 459-**
8 **050-0001(9), but does not include any amount in the Self-Directed Brokerage**
9 **Option.**

10 **(b) “Emergency withdrawal” means a payment to the participant from the**
11 **participant’s deferred compensation account in an amount directly related to and**
12 **reasonably necessary to satisfy a financial obligation attributable to an**
13 **unforeseeable emergency.**

14 *[(a)](c)* “Unforeseeable emergency” or “Unforeseen emergency” means a severe
15 financial hardship to a participant resulting from a sudden and unexpected illness or
16 accident of the participant or of a dependent of the participant as defined in 26 CFR
17 1.152-1, a loss of the participant’s property due to casualty or other similar extraordinary
18 and unforeseeable circumstance beyond the control of the participant.

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

1 *[(c) “Emergency withdrawal” means a payment to the participant from the*
2 *participant’s deferred compensation account in an amount directly related to and*
3 *reasonably necessary to satisfy an immediate need of an unforeseeable emergency, but in*
4 *no case shall the amount exceed the balance of a participant’s deferred compensation*
5 *account.]*

6 (2) Eligibility for emergency withdrawals. Only a participant who established a
7 deferred compensation account as an eligible employee and has not terminated from
8 employment with their plan sponsor may apply to receive an unforeseeable emergency
9 withdrawal. An alternate payee of a participant shall not be eligible to receive an
10 emergency withdrawal.

11 (3) A participant must, if eligible, apply for a loan under the provisions of OAR 459-
12 050-0077 *[prior to]* before application for an unforeseen emergency withdrawal unless,
13 as determined by the Deferred Compensation Manager, the participant would suffer
14 additional financial hardship by complying with the loan application requirement.

15 (4) Circumstances that do not constitute an unforeseeable emergency. An emergency
16 withdrawal shall not be approved for any reason other than an unforeseeable emergency.
17 Circumstances that do not constitute an unforeseeable emergency include, but are not
18 limited to:

19 (a) Participant or dependent school expenses;

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

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

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

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

4 (f) Expenses associated with establishing or managing a personal business;

5 (g) Recreational expenses;

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

7 (i) Usual and customary tax obligations.

8 (5) Limitations on amount of emergency withdrawal. The amount of an emergency

9 withdrawal may not exceed the balance of the participant's deferred compensation

10 account. The maximum amount that may be approved as an emergency withdrawal shall

11 be limited to what is reasonably needed to satisfy the immediate financial obligation

12 related to the unforeseeable emergency, including taxes anticipated on the distribution.

13 The amount of the emergency withdrawal shall be limited to the extent that the financial

14 obligation can or may be satisfied by:

15 (a) Reimbursement or compensation by insurance or otherwise;

16 (b) Liquidation of the participant's assets, to the extent the liquidation of such assets

17 would not itself cause severe unforeseeable emergency; or

18 (c) Cessation of participant contributions to the Deferred Compensation Program.

19 (6) Application for an emergency withdrawal. A participant must submit a

20 completed emergency withdrawal application and financial information and related

21 documentation sufficient to satisfy the provisions of this rule. The emergency withdrawal

22 application may be returned if incomplete or if insufficient financial information or

23 related documentation is submitted.

1 (a) The application form may be obtained from the Deferred Compensation Program
2 or the third party administrator (TPA) retained to administer a portion of the Deferred
3 Compensation Program.

4 (b) The completed application, financial information, and related documentation
5 shall be submitted by use of the United State Postal Service or by private carrier as
6 defined in ORS 293.660(2) for initial review.

7 (7) Cancellation of future contributions. Contributions by a participant to the
8 Deferred Compensation Program shall immediately be cancelled upon receipt of an
9 application for an emergency withdrawal from the participant.

10 (a) A participant who receives approval for an emergency withdrawal shall be
11 prohibited from making elective deferrals and contributions to the Deferred
12 Compensation Program for a period of six consecutive months from the date of
13 distribution.

14 (b) A participant who receives a denial for an emergency withdrawal may enroll to
15 make elective deferrals and contributions to the Deferred Compensation Program at any
16 time.

17 (8) Approval or denial notification. The Deferred Compensation Manager or an
18 authorized designee shall approve or deny a request for an emergency withdrawal within
19 three working days after receipt of an accepted application. The participant will be
20 notified by mail within ten days after a decision is made.

21 (9) Release of payment upon approval of an emergency withdrawal. The Deferred
22 Compensation Manager or an authorized designee shall determine the method of

1 payment[, *based on the immediate need*]. The Deferred Compensation Program shall
2 immediately notify the TPA to release the requested funds.

3 (10) A participant may appeal a denial of an emergency withdrawal to the
4 Unforeseeable Emergency Withdrawal Appeals Committee as provided in OAR 459-050-
5 0040. The appeal shall be in writing and must include:

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

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

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

11 (11) Number of emergency withdrawal requests. The number of times a participant
12 may apply for an emergency withdrawal is unlimited and is unaffected by previous
13 applications.

14 Stat. Auth: ORS 243.470

15 Stats. Implemented: ORS 243.401 - 243.507



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

1 **459-050-0300**

2 **Required Minimum Distribution Requirements**

3 (1) Definitions. The following definitions apply for the purposes of this rule:

4 *[(a) “Required Beginning Date” means April 1 of the calendar year following the*
5 *later of:]*

6 *[(A) The calendar year in which the participant reaches 70-1/2 years of age; or]*

7 *[(B) The calendar year in which the participant retires.]*

8 *[(b) “Required Commencement Date” means the date that the deferred*
9 *compensation plan must begin to distribute all or part of an account to a surviving*
10 *beneficiary.]*

11 *[(c)]*(a) “Designated Beneficiary” means:

12 (A) A natural person designated as a beneficiary by the participant, alternate payee,
13 or surviving beneficiary as provided in OAR 459-050-0060; or

14 (B) If a trust is designated as a beneficiary, the individual beneficiaries of the trust
15 will be treated as designated beneficiaries if the trust satisfies the requirements in section
16 (2) of this rule and applicable Treasury Regulations, including but not limited to
17 Proposed Treasury Regulation Section 1.401(a)(9)-1, Q&A-D-5.

18 (C) If the beneficiary is not a person or a trust satisfying these requirements, the
19 participant, alternate payee, or surviving beneficiary will be deemed to have no
20 designated beneficiary only for purposes of required minimum distributions under IRC
21 409(a)(9) and distribution shall be made in accordance with section (11) of this rule.

1 ~~[(d)]~~**(b)** “Life Expectancy” means the length of time a person of a given age is
2 expected to live as set forth in Treasury Regulation Section 1.72-9. Required minimum
3 distributions shall be calculated so as to satisfy the requirements of Section 401(a)(9)
4 using the life expectancy tables provided in Treasury regulations. Life expectancies shall
5 not be recalculated after the initial determination, except as otherwise required under
6 Oregon or federal law.

7 **(c) “Required Beginning Date” means April 1 of the calendar year following the**
8 **later of:**

9 **(A) The calendar year in which the participant reaches 70-1/2 years of age; or**

10 **(B) The calendar year in which the participant retires.**

11 **(d) “Required Commencement Date” means the date that the deferred**
12 **compensation plan must begin to distribute all or part of an account to a surviving**
13 **beneficiary.**

14 (2) A trust as beneficiary. If a trust is designated as a beneficiary, the individual
15 beneficiaries of the trust will be treated as designated beneficiaries as defined in
16 paragraph (1)(c)(B) if by December 31 of the calendar year following the death of a
17 person who designated a trust as beneficiary, the trust satisfies the following conditions:

18 (a) The trust must be irrevocable, or become irrevocable by its terms at the time of
19 the person’s death;

20 (b) The trust’s beneficiaries must be natural persons who are identifiable from the
21 trust instrument; and

22 (c) One of the following must be provided to the Deferred Compensation Program:

1 (A) A list of all beneficiaries of the trust, including contingent beneficiaries, along
2 with a description of the portion to which they are entitled and any conditions on their
3 entitlement, all corrected certifications of trust amendments, and a copy of the trust
4 instrument if requested by the Deferred Compensation Program; or

5 (B) A copy of the trust instrument and copies of any amendments after they are
6 adopted.

7 (3) Applicable law. Distributions under the Deferred Compensation Program shall be
8 made in accordance with Internal Revenue Code (IRC) Section 401(a)(9), Treasury
9 regulations, Internal Revenue Service rulings and other interpretations issued, including
10 Proposed Treasury Regulation Section 1.401(a)(9)-2. IRC Section 401(a)(9) overrides the
11 provisions of this rule and any other statute or rule pertaining to the required minimum
12 distribution requirements and any manners of distributions, if they are found to be
13 inconsistent with IRC Section 401(a)(9).

14 (a) If a participant, alternate payee, or surviving beneficiary has not begun
15 distribution or elected a minimum distribution by the beginning date or commencement
16 date required in this rule and IRC Section 401(a)(9), the Deferred Compensation Program
17 shall begin distribution of the minimum amount required as provided under OAR 459-
18 050-0080(2)(e) or, if required, the entire account. Distribution under this subsection is
19 subject to the provisions of OAR 459-050-0120(5). *[There is no exception for those*
20 *who fail to apply for or to elect a distribution of the minimum amount required in IRC*
21 *Section 401(a)(9).]*

22 (b) The required minimum distribution amount may never exceed the entire account
23 balance on the date of distribution.

1 (4) Minimum distribution requirements for participants. Distributions must begin no
2 later than the participant’s required beginning date.

3 (a) The participant’s entire account balance shall be distributed over the participant’s
4 life expectancy or over a period not extending beyond the participant’s life expectancy
5 without regard to the designated beneficiary’s age unless the designated beneficiary is a
6 spouse who is more than 10 years younger than the participant.

7 (b) If the designated beneficiary is a spouse and is more than 10 years younger than
8 the participant, the entire account balance shall be distributed over the joint lives of the
9 participant and the designated beneficiary.

10 (5) Minimum distribution requirements for alternate payees. The minimum
11 distribution requirements applicable to an alternate payee are determined by whether a
12 Qualified Domestic Relations Order (QDRO) allocates a separate account to the alternate
13 payee or provides that a portion of a participant's benefit is to be paid to the alternate
14 payee.

15 (a) If a separate account is established in the name of the alternate payee under OAR
16 459-050-0210, required minimum distributions to the alternate payee must begin no later
17 than the participant’s required beginning date. The alternate payee’s entire account
18 balance shall be distributed over the alternate payee’s life expectancy or over a period not
19 extending beyond the alternate payee’s life expectancy.

20 (b) If no separate account is established in the name of the alternate payee and the
21 alternate payee is paid a portion of a participant’s benefit, the alternate payee’s portion of
22 the benefit shall be aggregated with the amount distributed to the participant and will be

1 treated, for purposes of meeting the minimum distribution requirement, as if it had been
2 distributed to the participant.

3 (6) Manners of distribution available to surviving designated beneficiaries. A
4 surviving designated beneficiary may choose a manner of distribution and apply for a
5 distribution as provided for in OAR 459-050-0080. If the distribution to a participant or
6 alternate payee has begun in accordance with section 401(a)(9)(A)(ii) and the participant
7 dies before the entire account has been distributed or after distributions are required to
8 begin under section (4) of this rule, distributions to the surviving designated beneficiary
9 must be made at least as rapidly as under the manner of distribution used before the
10 participant's or alternate payee's death.

11 (7)(a) Distributions treated as having begun. Distributions from an individual
12 account are not treated as having begun to a participant in accordance with section
13 401(a)(9)(A)(ii) until the participant's required minimum distribution beginning date,
14 without regard to whether distributions from an individual account have been made
15 before the required beginning date.

16 (b) If distribution has been made before the required beginning date in the form of an
17 irrevocable annuity, the distributions are treated as having begun if a participant dies after
18 the annuity starting date but before the required beginning date. The annuity starting date
19 will be deemed the required minimum distribution beginning date.

20 (8) Required commencement date for a surviving designated beneficiary. If a
21 participant dies before distributions are required to begin or are treated as having begun,
22 the entire account balance must be distributed by December 31 of the calendar year
23 containing the fifth anniversary of the participant's death, unless the beneficiary makes

1 the following distribution election in the manner prescribed by the Deferred
2 Compensation Plan:

3 (a) Distributions must begin no later than December 31 of the calendar year
4 following the year of the participant's or alternate payee's death; and

5 (b) Distribution of payments over the designated beneficiary's lifetime or over a
6 period not exceeding the designated beneficiary's life expectancy.

7 (A) The beneficiary's life expectancy is calculated using the age of the beneficiary in
8 the year following the year of the participant's death, reduced by one for each subsequent
9 year.

10 (B) If the participant has more than one designated beneficiary as of December 31 of
11 the calendar year following the year of the participant's death and the account has not
12 been divided into separate accounts for each beneficiary, the beneficiary with the shortest
13 life expectancy is treated as the designated beneficiary.

14 (9) Required commencement date for a spousal beneficiary. If distributions have not
15 begun before the participant's death and if the sole designated beneficiary is the
16 participant's surviving spouse, distributions to the surviving spouse must commence on
17 or before the later of the dates set forth in subsections (a) and (b) below:

18 (a) December 31 of the calendar year immediately following the calendar year in
19 which the participant died; or

20 (b) December 31 of the calendar year in which the participant would have attained
21 70-1/2 years of age.

22 (c) The distribution period during the surviving spouse's life is the spouse's single
23 life expectancy.

1 (10)(a) Required commencement date for a surviving spouse’s beneficiary. If the
2 surviving spouse dies after the participant’s death but before distributions to the spouse
3 have begun, any death benefits payable to the surviving spouse’s beneficiary will be
4 applied as if the surviving spouse were the participant. The date of death of the surviving
5 spouse will be substituted for the date of death of the participant.

6 (b) A death benefit payable to the surviving spouse of the deceased participant’s
7 surviving spouse shall be distributed as provided in section (8) of this rule. The
8 provisions of section (9) of this rule do not apply to a death benefit payable to a surviving
9 spouse of the deceased participant’s surviving spouse.

10 (11)(a) Required commencement date if no designated beneficiary: If a participant
11 dies before the required beginning date with no designated beneficiary as defined in
12 paragraph (1)(c)(C) of this rule, the total account balance must be distributed as provided
13 for in OAR 459-050-0060, by December 31 of the calendar year containing the fifth
14 anniversary of the participant’s or alternate payee’s death.

15 (b) If a participant dies after the required beginning date with no designated
16 beneficiary as defined in paragraph (1)(c)(C) of this rule, the applicable distribution
17 period must not be longer than the participant’s life expectancy.

18 (12) Determining the designated beneficiary. The designated beneficiary will be
19 determined based on the beneficiary(s) designated as of December 31 of the calendar
20 year following the calendar year of the participant’s, alternate payee’s, or surviving
21 beneficiary’s death.

22 (a) A participant may change beneficiaries after his or her required beginning date.

1 (b) A beneficiary may be changed after a participant's death, such as by one or more
2 beneficiaries disclaiming benefits.

3 Stat. Auth: ORS 243.470

4 Stats. Implemented: ORS 243.401 - ORS 243.507



Oregon

John A. Kitzhaber, M.D., Governor

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July 29, 2011

TO: Members of the PERS Board
FROM: Steven Patrick Rodeman, Deputy Director
SUBJECT: Adoption of Combined and Concurrent Service Rules
459-010-0019, *Retirement Eligibility*
459-010-0165, *Transfer into a New Classification* (Repeal)
459-010-0170, *Employed in Two Classes of Service* (Repeal)
459-013-0050, *Combined Service*

OVERVIEW

- Action: Adopt new Combined and Concurrent Service rules and repeal obsolete rules.
- Reason: Create new rules to clarify retirement eligibility and benefit calculation for members with service as a police officer or firefighter and as other than a police officer or firefighter (combined service).
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

In both the Chapter 238 (Tier One/Tier Two) and OPSRP Pension programs, a member's retirement eligibility, benefit calculation, and other benefits may vary with the member's classification. A police officer or firefighter member may retire earlier; will have a higher statutory factor applied to their retirement benefit; and may be eligible for a supplemental death benefit or alternative disability retirement benefit. If a member has a combination of service in different classifications, some or all of these benefits may be contingent upon the member's classification at a certain time.

For example, a member employed in a police officer or firefighter and non-police officer or firefighter position at different times before retirement will have different statutory factors used in their retirement formulas that apply to those periods of employment. If a member is concurrently employed before retirement as a police officer or firefighter and non-police officer or firefighter, a single class determination is necessary to evaluate the member's eligibility for certain benefits.

A member may accrue concurrent service time through active membership in different classifications with concurrent employers or when the concurrent employers are in different actuarial groups. To accurately calculate retirement benefits and allocate retirement benefit reserves, employment concurrencies are resolved and each creditable service month is assigned to an employer.

This rulemaking proposes two new rules to capture and clarify the standards to be used in making retirement eligibility determinations and benefit calculations, and repeals two obsolete rules:

459-010-0019, Retirement Eligibility

This new rule clarifies the retirement eligibility of combined and concurrent job classes.

459-013-0050, Combined Service

This new rule provides a method for applying statutory factors to employment periods with different job classes.

459-010-165, Transfer into a New Classification

This rule is being repealed and becomes redundant with the new rule.

459-010-0170, Retirement Age and Contribution Rate of One Employed in Two Classes of Service

This rule is being repealed and becomes redundant with the new rule.

SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

OAR 459-013-0050 was amended to include an adjustment of creditable service for periods of concurrent employment or when concurrent employers are in different actuarial groups. A member is credited one month of creditable service for each concurrent service month.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on June 28, 2011 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended on July 1, 2011, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

The attached draft rules were submitted to the Department of Justice for legal review and any comments or changes are incorporated in the rules as presented for adoption.

IMPACT

Mandatory: No.

Impact: Members, beneficiaries, employers, stakeholders and staff will benefit from clear and consistent rules that clarify the administration of benefit eligibility and benefit calculations.

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

RULEMAKING TIMELINE

April 15, 2011	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
May 1, 2011	<i>Oregon Bulletin</i> published the Notice. Notice was mailed to employers, legislators, and interested parties. Public comment period began.
May 26, 2011	PERS Board notified that staff began the rulemaking process.
June 28, 2011	Rulemaking hearing held at 2:00 p.m. in Tigard.

Adoption – Combined and Concurrent Service Rules

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July 1, 2011

Public comment period ended at 5:00 p.m.

July 29, 2011

Board may adopt the new permanent rules and rule modifications.

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt new Combined Service Rules and repeal obsolete rules, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Create new rules to clarify retirement eligibility and benefit calculation for members with service as a police officer or firefighter and as other than a police officer or firefighter (combined service).

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board’s policy direction if the Board determines that a change is warranted.

B.2. Attachment 1 – 459-010-0019, *Retirement Eligibility*

B.2. Attachment 2 – 459-010-0165, *Transfer into a New Classification* (repeal)

B.2. Attachment 3 – 459-010-0170, *Employed in Two Classes of Service* (repeal)

B.2. Attachment 4 – 459-013-0050, *Combined Service*



**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 010 – MEMBERSHIP**

1 **459-010-0019**

2 **Retirement Eligibility**

3 **(1) A member's most recent qualifying position at the time of separation from**
4 **service with all participating employers establishes the member's classification for**
5 **purposes of normal and early service retirement eligibility and disability retirement**
6 **allowance calculations except:**

7 **(a) A member employed in a qualifying position as a police officer or firefighter**
8 **who reaches earliest retirement age under ORS 238.280 retains retirement eligibility**
9 **as a police officer or firefighter. A member described in this subsection who**
10 **subsequently is employed in a qualifying position as other than a police officer or**
11 **firefighter retains retirement eligibility as a police officer or firefighter.**

12 **(b) A member who separates from service in a qualifying position as a police**
13 **officer or firefighter before reaching earliest retirement age under ORS 238.280**
14 **retains classification as a police officer or firefighter provided the member does not**
15 **return to a qualifying position as other than a police officer or firefighter before**
16 **reaching earliest retirement age under ORS 238.280.**

17 **(c) A member employed in a qualifying position as other than a police officer or**
18 **firefighter who reaches earliest retirement age under ORS 238.280 retains**
19 **retirement eligibility as other than a police officer or firefighter.**

20 **(2) A member who is employed by one employer in qualifying positions as a**
21 **police officer or firefighter and as other than a police officer or firefighter is a police**
22 **officer or firefighter for purposes of this rule.**

1 (3) A member who is concurrently employed by two or more employers in
2 qualifying positions as a police officer or firefighter and as other than a police
3 officer or firefighter is a police officer or firefighter for purposes of this rule.

4 Stat. Auth.: ORS 238.650

5 Stats. Implemented: ORS 238.280, 238.300, 238.320

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 010 – MEMBERSHIP**

1 **[459-010-0165**

2 ***Transfer into a New Classification***

3 *(1) An employee who transfers from one classification of employment in the Public*
4 *Employees Retirement System to another classification shall be considered, for the*
5 *purpose of contribution rate, compulsory retirement, voluntary retirement, disability*
6 *retirement or withdrawal, as are all others in the same classification in which the*
7 *employee is employed at the time of his termination, except that an employee who at the*
8 *time of his termination was temporarily employed in a classification other than his usual*
9 *one during a time when he was not required to work in his regular employment, shall be*
10 *considered as though in his usual classification.*

11 *(2) A policeman or fireman who works in the police or fire classification until age 55*
12 *or over, then transferring to a miscellaneous classification, shall retain all rights and*
13 *benefits earned as a policeman or fireman. He shall contribute at the miscellaneous rate*
14 *applicable to the age at which he last established membership. Benefits earned thereafter*
15 *as a miscellaneous employee shall be payable in addition to those earned as a policeman*
16 *or fireman and shall be computed as are the benefits of any miscellaneous employee.*

17 *(3) A miscellaneous employee who works in a miscellaneous classification until age*
18 *55 or over, then transferring to a policeman or fireman classification, shall retain all*
19 *rights and benefits earned as a miscellaneous employee. He shall contribute at the*
20 *policeman and fireman rate applicable to the age at which he last established*
21 *membership. Benefits earned thereafter as a policeman or fireman shall be payable in*

1 *addition to those earned as a miscellaneous employee and shall be computed as are the*
2 *benefits of any policeman or fireman.*

3 *Stat. Auth.: ORS 238.650*

4 *Stats. Implemented:]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 010 – MEMBERSHIP**

1 ***[OAR 459-010-0170***

2 ***Retirement Age and Contribution Rate of One Employed in Two Classes of Service***

3 *(1) A member of the system concurrently employed in two classes of service for one*
4 *employer shall be deemed to have the voluntary retirement age and the contribution rate*
5 *of the class in which the major fraction of his working time is required.*

6 *(2) A member of the system concurrently employed in two classes of service for more*
7 *than one employer shall be deemed to have the voluntary retirement age and the*
8 *contribution rate of each class as though that were his sole employment.*

9 *Stat. Auth.: ORS 237*

10 *Stats. Implemented:]*

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 013 – RETIREMENT BENEFITS

1 459-013-0050

2 Combined Service

3 (1) For purposes of this rule:

4 (a) “Combined service” means periods of active membership in two or more
5 different classifications.

6 (b) “Concurrent service” means active membership for the same period with
7 two or more different employers in two or more different classifications or actuarial
8 groups.

9 (2) A member who has combined service shall have their service retirement or
10 disability retirement allowance calculated as provided in ORS Chapter 238 and this
11 rule. The benefit calculations may include:

12 (a) Account balance, and final average salary as of the effective retirement date;

13 (b) Creditable service as provided under OAR 459-010-0014;

14 (c) Prorated creditable service for periods of concurrent service;

15 (d) All calculation methods applicable to the member under ORS 238.300 or
16 238.320;

17 (e) The optional forms of retirement allowance selected by the member under
18 ORS 238.305 or 238.325;

19 (f) For early and normal retirement eligibility, the rules as described in OAR
20 459-010-0019;

21 (g) A statutory factor applicable for the classification of the member during
22 each period of creditable service;

- 1 (h) A single early retirement factor, if applicable;
- 2 (i) The actuarial equivalency factor tables in effect on the effective retirement
- 3 date; and
- 4 (j) A variable adjustment for members who participated in the Variable
- 5 Annuity Program on and after January 1, 1982.
- 6 Stat. Auth.: ORS 238.650
- 7 Stats. Implemented: ORS 238.260, 238.280, 238.300, 238.305, 238.320, 238.325





Oregon

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July 29, 2011

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Deputy Director

SUBJECT: Adoption of Social Security Rules
 459-020-0005, *Remitting of Employer and Employee Contributions* (Repeal)
 459-020-0010, *Annual Report of Earnings* (Repeal)
 459-020-0012, *Quarterly Reconciliation of Social Security Reporting* (Repeal)
 459-020-0015, *Collection of Pro Rata Share of Administrative Expenses*
 459-020-0020, *Due Date for Administrative Expenses* (Repeal)
 459-020-0025, *Penalty* (Repeal)
 459-020-0030, *Information and Records from Employer*
 459-020-0035, *Employer's Records Shall Be Available to Board* (Repeal)
 459-020-0040, *Determination of Employee Status* (Repeal)
 459-020-0045, *Extras Valued for Salary Contributions* (Repeal)
 459-020-0050, *Application for Inclusion*
 459-020-0055, *All Prior Rules Superseded* (Repeal)

OVERVIEW

- Action: Adopt modifications to Social Security rules.
- Reason: Align Social Security rules with current practice; repeal obsolete rules.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

ORS 237.410 to 237.515 govern the extension of Social Security benefits to employees of the state and certain political subdivisions. Under these statutes, the Public Employees Retirement Board administers the state of Oregon's responsibilities under the Social Security coverage agreement. As such, the PERS Board has promulgated rules detailing its administration of the program; those rules have not been reviewed or modified in quite awhile, but are now being updated through this rulemaking process.

PROPOSED RULE MODIFICATIONS

First, several rules are being repealed or modified to conform to a change in the program's scope of responsibilities. Previously, the State Social Security Administration collected Social Security contributions for all covered state and local government employees. Federal law changed to transfer responsibility for collecting those contributions to the IRS. Staff proposes repealing those rules that are now obsolete after that change: OARs 459-020-0010, -0020, -0025, -0035, -0040, -0045, and -0055.

Also, staff proposes to modify OAR 459-020-0015 to reflect the current process under which the program's administrative fees are collected. OAR 459-020-0030 would be updated to clarify the information and records PERS may request from employers and to replace outdated terms. OAR 459-020-0050 was rewritten to clarify guidelines for inclusion of public agencies in the Board's coverage agreement.

SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

The rules have not changed since being presented at the PERS Board's May 26, 2011 meeting.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on June 28, 2011 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended on July 1, 2011, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

The attached draft rules were submitted to the Department of Justice for legal review and any comments or changes are incorporated in the rules as presented for adoption.

IMPACT

Mandatory: No.

Impact: The updated rule language and repeal of obsolete provisions will provide needed clarification of the program's current administration for employers and staff.

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

RULEMAKING TIMELINE

April 15, 2011	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
May 1, 2011	<i>Oregon Bulletin</i> published the Notice. Notice was mailed to employers, legislators, and interested parties. Public comment period began.
May 26, 2011	PERS Board notified that staff began the rulemaking process.
June 28, 2011	Rulemaking hearing held at 2:00 p.m. in Tigard.
July 1, 2011	Public comment period ended at 5:00 p.m.
July 29, 2011	Board may adopt the permanent rule modifications.

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt modifications to the Social Security rules, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Align Social Security rules with current practice; repeal obsolete rules.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board’s policy direction if the Board determines that a change is warranted.

- B.3. Attachment 1 - 459-020-0005, *Remitting of Employer and Employee Contributions* (Repeal)
- B.3. Attachment 2 - 459-020-0010, *Annual Report of Earnings* (Repeal)
- B.3. Attachment 3 - 459-020-0012, *Quarterly Reconciliation of Social Security Reporting* (Repeal)
- B.3. Attachment 4 - 459-020-0015, *Collection of Pro Rata Share of Administrative Expenses*
- B.3. Attachment 5 - 459-020-0020, *Due Date for Administrative Expenses* (Repeal)
- B.3. Attachment 6 - 459-020-0025, *Penalty* (Repeal)
- B.3. Attachment 7 - 459-020-0030, *Information and Records from Employer*
- B.3. Attachment 8 - 459-020-0035, *Employer's Records Shall Be Available to Board* (Repeal)
- B.3. Attachment 9 - 459-020-0040, *Determination of Employee Status* (Repeal)
- B.3. Attachment 10 - 459-020-0045, *Extras Valued for Salary Contributions* (Repeal)
- B.3. Attachment 11 - 459-020-0050, *Application for Inclusion*
- B.3. Attachment 12 - 459-020-0055, *All Prior Rules Superseded* (Repeal)



**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 ***[459-020-0005***

2 ***Remitting of Employer and Employee Contributions***

3 *(1) Unless otherwise agreed upon between the Retirement Board and the employer,*
4 *the employer shall transmit the amount of employee and employer social security*
5 *contributions together with Remittance Advice to the Retirement Board as follows (date*
6 *postmarked by U.S. Postal Service is deemed date received if sent through the U.S. Postal*
7 *Service).*

8 *For Pay Dates -- Send so That Total Contributions will be Received Not Later Than:*
9 *1st through 15th -- 22nd of that month;*
10 *16th through month -- end 7th of following month.*

11 *(2) Should the due date occur on a legal Oregon holiday, a Saturday or Sunday, the*
12 *due date will be the next business day.*

13 *(3) The provisions of this rule apply only to calendar years prior to 1987.*

14 *Stat. Auth.: ORS 237.460 & ORS 237.470*

15 *Stats. Implemented:]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 ***[459-020-0010***

2 ***Annual Report of Earnings***

3 *(1) Unless agreed upon between the Retirement Board and the employer, the*
4 *employer shall transmit to the Retirement Board in acceptable format, one copy of an*
5 *annual wage report/listing and the designated copy Form W-3 S&L (furnished by the*
6 *board), original and duplicate, so that they shall be received not later than 31 days*
7 *following the end of the calendar year.*

8 *(2) Unless agreed upon between the retirement board and the employer, the*
9 *employer shall file pursuant to Federal Regulations Form W-2 and W-3 S&L by*
10 *February 28 following the end of each calendar year. Failure to meet this deadline shall*
11 *cause the delinquent employer to be subject to penalties as otherwise provided in Oregon*
12 *statutes and administrative rules.*

13 *(3) The provisions of this rule apply only to calendar years prior to 1987.*

14 *Stat. Auth.: ORS 237.470 & ORS 237.480*

15 *Stats. Implemented:]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 ***[459-020-0012***

2 ***Quarterly Reconciliation of Social Security Reporting***

3 *(1) Unless otherwise agreed upon between the Retirement Board and the employer,*
4 *the employer shall transmit on forms furnished by the Board (PERS 45910-13) the Social*
5 *Security Quarterly Reconciliation, original and duplicate, so it shall be received not later*
6 *than 25 days following the end of the calendar quarter.*

7 *(2) The provisions of this rule apply only to calendar years prior to 1987.*

8 *Stat. Auth.: ORS 237 .470 & ORS 237 .480*

9 *Stats. Implemented:]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 **459-020-0015**

2 **Collection of Pro Rata Share of Administrative Expenses**

3 **(1) [The Board shall collect from e]Each [participating] public agency, as defined**
4 **in ORS 237.410, must pay to the Board an amount determined by the Board to be**
5 **the public agency’s obligation for administrative expenses incurred by the Board in**
6 **the administration of ORS 237.410 to 237.515.**

7 **(2) The Board will determine administrative expenses for a period of 12**
8 **calendar months beginning July 1 of each year and allocate the expenses to each**
9 **public agency in proportion to the number of employees reported to the Board by**
10 **the public agency. The Board will invoice each public agency for:**

11 **(a) A minimum amount of \$15.00; and**

12 **(b) The public agency’s pro rata share of administrative expenses, to the extent**
13 **that amount exceeds \$15.00.** *[its respective pro rata share of expenses incurred in*
14 *administering this Act (ORS 237.410 to 237.520, inclusive). For purposes of this recovery*
15 *of expenses, the fiscal period shall be the calendar quarter and all expenses paid during*
16 *a calendar quarter shall be prorated to each employer on the basis of the number of*
17 *employees reported on the employer’s quarterly report form for the quarter. For this*
18 *purpose, the scheduled payments for amortizing the amounts loaned to the department*
19 *from the general fund of the State of Oregon and from the Public Employees Retirement*
20 *System shall be considered to have been made during a quarter.]*

21 **(3) Administrative expenses charged to a public agency must be paid to the**
22 **Board no later than 30 days after the date the invoice is issued.**

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1 Stat. Auth.: ORS ~~[238.650]~~ 237.470

2 Stats. Implemented: ORS 237.500

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 ***[459-020-0020***

2 ***Due Date for Administrative Expenses***

3 *Payment of the administrative expenses shall be due the Retirement Board no later*
4 *than 75 days after the end of the calendar quarter for which the invoice is rendered and*
5 *will be delinquent thereafter.*

6 *Stat. Auth.: ORS 237*

7 *Stats. Implemented:]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 ***[459-020-0025***

2 ***Penalty***

3 *(1) Failure of any public agency to submit reports, remittances of contributions, or*
4 *remittances of administrative expense, within the time limit specified, will make the*
5 *agency liable for penalties at the rate of one percent for each month or fraction thereof*
6 *during which the agency is delinquent. The total contributions due on a delinquent*
7 *report, or the total amount of a delinquent remittance, whichever is the greater, shall be*
8 *subject to such penalty.*

9 *(2) Such penalty may be waived by the Board upon the agency petition*
10 *demonstrating unavoidable delay or unintentional error.*

11 *(3) Such penalty shall not be waived by the Board repeatedly for any agency except*
12 *upon a showing of highly unusual circumstances evidencing no agency responsibility for*
13 *the delay or error.*

14 *Stat. Auth.: ORS 237*

15 *Stats. Implemented:]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 **459-020-0030**

2 ***[Board May Request]* Information and Records from Employer**

3 **(1) *[As may be found necessary,]* Upon request from the Board, *[in writing or on*
4 *printed form, may request from]* an employer **must provide to the Board records and**
5 **information, including: *[that may aid in determining OASI benefits,]*****

6 **(a) Personnel information*[amount of tax due,];***

7 **(b) [p]Possible exclusions from coverage*[,];***

8 **(c) [correct] Employer’s legal name and status*[,];***

9 **(d) [Social Security account] Federal employer identification number*[,];***

10 **(e) [e]Employee-employer relationship*[,];* or**

11 **(f) [i]Information requested by the [Federal Bureau] Commissioner of Social**
12 **Security.**

13 **(2) [After] If 30 days have elapsed from the date of the *[first]* **Board’s** request *[for*
14 *information]*, the *[Director of the]* Board may, without further notice, send a *[field*
15 *examiner]* **staff member** to the *[headquarters of the]* employer’s **premises** to **examine**
16 **the employer’s records and obtain the necessary reports.***[secure the information, and]***

17 **The employer shall make its records available to the Board’s staff during normal**
18 **business hours.** *[t]***T**he entire cost of such examination shall be paid by the employer.

19 *[(Public Law 96-88)]*

20 Stat. Auth.: ORS 237.**470**

21 Stats. Implemented: **ORS 237.480**

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 ***[459-020-0035***

2 ***Employer's Records Shall Be Available to Board***

3 *When an employer fails to remit or report to the Retirement Board in the manner*
4 *specified, the Board may without notice send an auditor to the office of the employer to*
5 *examine the records and to obtain the necessary reports and remittances. The employer*
6 *shall make its books and records available for such purpose during normal business*
7 *hours. The entire cost of such examination shall be paid by the delinquent employer.*

8 *Stat. Auth.: ORS 237*

9 *Stats. Implemented:]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 ***[459-020-0040***

2 ***Determination of Employee Status***

3 *In determining whether or not a person was or is an employee of a participating*
4 *employer, the Retirement Board will consider the following factors:*

5 *(1) Who had or has the authority to select and engage the employee.*

6 *(2) Who had or has the power of dismissal.*

7 *(3) Who had or has the authority and responsibility for directing and supervising the*
8 *employee's work and for controlling the employee's conduct at work.*

9 *(4) From whom did or does the employee receive his compensation.*

10 *Stat. Auth.: ORS 237*

11 *Stats. Implemented:]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 *[459-020-0045*

2 *Extras Valued for Salary Contributions*

3 *(1) Living quarters, board, lodging, fuel, laundry, and other advantages furnished an*
4 *employee in return for their services shall be taken into account and valued for salary*
5 *contribution purposes only as determined by the Board and as certified to by the*
6 *employer.*

7 *(2) In no case shall such account include items of traveling expense or other expense*
8 *paid by an employee which is subject to reimbursement.*

9 *(3) The provisions of this rule apply only to calendar years prior to 1987.*

10 *Stat. Auth.: ORS 237 .460 & ORS 237 .470*

11 *Stats. Implemented:]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 **459-020-0050**

2 *[Governmental Unit Contracting With Board Must Have Legal Status]*

3 **Application for Inclusion**

4 **A public agency, as defined in ORS 237.410, may apply to the Board for**

5 **inclusion in the agreement under ORS 237.440 by submitting to the Board:**

6 **(1) A resolution by the agency’s legislative or governing body requesting**

7 **inclusion in the agreement entered into by the Board under ORS 237.414; and**

8 **(2) A completed Social Security coverage Application and Agreement. [A**

9 *political subdivision, instrumentality, or agency, as to which an agreement with the*

10 *Department of Health and Human Services may be executed by the Public Employees*

11 *Retirement Board, is an entity that has legal being and exercises some of the*

12 *governmental powers or discharges some of the governmental functions of the State of*

13 *Oregon.]*

14 Stat. Auth.: ORS *[238.650]* **237.470**

15 Stats. Implemented: **ORS 237.440**

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 020 – OLD-AGE AND SURVIVORS INSURANCE**

1 *[459-020-0055*

2 *All Prior Rules Superseded*

3 *These rules supersede all rules of the Public Employees Retirement Board, relating*
4 *to the Old-Age and Survivors Insurance Division, heretofore filed with the Secretary of*
5 *State.*

6 *Stat. Auth.: ORS 238.650*

7 *Stats. Implemented:]*





Oregon

John A. Kitzhaber, M.D., Governor

Public Employees Retirement System

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July 29, 2011

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Deputy Director

SUBJECT: Notice of Rulemaking for Disability Rules:
459-015-0001, *Definitions*
459-015-0005, *Eligibility for Disability Retirement Allowances*
459-015-0020, *Application Required*
459-015-0045, *Return to Work*
459-015-0050, *Periodic Reviews*
459-076-0000, *Purpose (Repeal)*
459-076-0001, *Definitions*
459-076-0005, *Eligibility for Disability Benefits*
459-076-0020, *Application Required*
459-076-0025, *Application Processing -- Independent Examinations and Appeals*
459-076-0050, *Periodic Reviews*
459-076-0055, *Payment of Disability Benefit*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Clarify the standards set forth in the administrative rules for eligibility for disability retirement at the recommendation of internal audit findings.
- Policy Issue: For a member who is receiving a disability retirement allowance and has returned to work, what criteria should PERS apply to discontinue the allowance?

BACKGROUND

In 2005, PERS adopted changes to its administrative rules governing the disability retirement program for Tier One and Tier Two members, as well adopted new rules for the administration of OPSRP Disability Benefits. PERS' internal auditors, in Report #2011-03, dated October 12, 2010, reviewed the agency's periodic review and contested case process for the Tier One/Two disability program and recommended further clarifications to the administrative rules. Staff is also proposing rule modifications to the OPSRP Disability rules to align the rules, where applicable.

POLICY ISSUE

For a member who is receiving a disability retirement allowance and has returned to work, what criteria should PERS apply to discontinue the allowance?

The audit noted concerns with the interplay between the standard for initially receiving a disability and for those members who return to work while receiving a disability allowance. ORS 238.320 establishes the standard for receiving a disability retirement allowance: the member must be unable to perform any work for which the member is qualified. OAR 459-015-0005 elaborates on that standard to clarify that total, not partial, disability is required.

Alternatively, ORS 238.330(3) establishes what's called the "income offset." Under this statute, the member's disability retirement allowance and their earned income for a month cannot exceed the member's monthly salary at disability. In practice, that earned income is reported to PERS and we reduce the member's disability benefit to that threshold.

So, on the one hand, the standard to receive a disability allowance is to be unable to perform any work; on the other hand, the statutes recognize that members may return to part-time employment either as a bridge to recovery or as a supplemental activity. To recognize this interplay, the administrative rules should establish criteria for when this earned income demonstrates that the member has sufficiently recovered from their disability to no longer meet the eligibility standard.

Staff considered what criteria could be used. For example, OPSRP has a "black and white" standard: A member who returns to any work is discontinued. However, OPSRP does not have the offset provisions of ORS 238.330(3), so that standard would not be consistent with the statutory requirement. Rather, staff tried to develop criteria that could be consistently applied to determine whether the member had returned to work at a level that demonstrated they were no longer unable to perform any work for which qualified.

Formerly, OAR 459-015-0045(2) provided that if a person returned to work for six months, the disability retirement allowance is terminated on the seventh month. This provision was found to be too stringent and was removed from the OAR in 2005, but no other standard was adopted.

The proposed modifications to OAR 459-015-0045(1)(d) provide that a member whose earned income is "similar in compensation" to their last month's income before disability for three calendar months in six consecutive calendar months shall be discontinued. "Similar in compensation" is defined elsewhere as having earned income of at least 80% of that monthly salary, excluding overtime. Any member whose earned income exceeds this criteria would be considered to be able to perform any work for which they are qualified and their disability retirement allowance would be discontinued.

Staff recommends the current proposed language, based on this historic concept. That criteria provides consistent treatment for members receiving disability retirement who return to work and provides for termination of disability retirement allowances of those members who demonstrate that they are able to perform any work for which they are qualified.

SUMMARY OF PROPOSED RULE CHANGES

OAR 459-015-0001, Definitions

Redundant or unnecessary definitions were deleted. New definitions were added: “earned income,” “effective date of disability retirement,” and “total disability.” Clarifying edits were made to the definitions of “date of disability,” “date of separation from service,” “date of termination,” “other income,” “performance of duty,” and “pre-existing condition.”

OAR 459-015-0005, Eligibility for Disability Retirement Allowances

Section (1) was edited to clarify the requirement of total disability for an extended duration. Subsection (1)(b) was moved to OAR 459-015-0045, *Return to Work*, to simplify the eligibility requirements. Sections (3) and (4) were edited to clarify the eligibility requirements for duty and non-duty disability.

OAR 459-015-0020, Application Required

Sections (1) and (2) were reordered for clarification purposes. Section (6) was edited for clarity in the filing requirements for a disability application.

OAR 459-015-0045, Return to Work

Subsection (1)(a)(A) was edited to clarify that when a disability retirement allowance is suspended, any supplemental benefits, e.g., unit account benefits, are also suspended. Language was added to subsection (1)(c) to resolve inconsistencies and clarify provisions for return to work in a non-PERS position. Subsection (1)(d) reflects the recommended resolution of the policy issue presented in this memo. An edit to subsection (9)(a) clarifies that a variable account transfer elected at the time of disability retirement will remain in the regular account if a member’s disability retirement is discontinued after they return to work.

OAR 459-015-0050, Periodic Reviews

Section (2) was edited to clarify the requirements during periodic review at the recommendation of the internal audit.

Also, OAR Division 076 was renamed *OPSRP Disability Benefits*, which is appropriate with statute implemented, ORS 238A.235 *Disability Benefit*. Edits were made to Division 76 to align the legal criteria with Division 15 whenever applicable. Lastly, OAR 459-076-0000, *Purpose*, was repealed because it is redundant.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held on August 23, 2011, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends on September 1, 2011 at 5:00 p.m.

LEGAL REVIEW

The attached draft rules were 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.

Impact: Members, their attorneys, administrative law judges, and staff will benefit from clear and consistent rules that address the complexities of the Disability Retirement Allowance and OPSRP Disability Benefits program when it comes to administering disability retirements and disability benefits.

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

RULEMAKING TIMELINE

June 15, 2011	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 1, 2011	<i>Oregon Bulletin</i> published the Notice. Notice was mailed to employers, legislators, and interested parties. Public comment period began.
July 29, 2011	PERS Board notified that staff began the rulemaking process.
August 23, 2011	Rulemaking hearing to be held at 2:00 p.m. in Tigard.
September 1, 2011	Public comment period ends at 5:00 p.m.
September 30, 2011	Staff will propose adopting the permanent rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A hearing will be held on August 23, 2011 at PERS Headquarters in Tigard. The public comment period ends on September 1, 2011. The rules are scheduled to be brought before the PERS Board for adoption at the September 30, 2011 Board meeting.

B.4. Attachment 1 – 459-015-0001, *Definitions*

B.4. Attachment 2 – 459-015-0005, *Eligibility for Disability Retirement Allowances*

B.4. Attachment 3 – 459-015-0020, *Application Required*

B.4. Attachment 4 – 459-015-0045, *Return to Work*

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**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 015 – DISABILITY RETIREMENT ALLOWANCES**

1 **459-015-0001**

2 **Definitions**

3 The words and phrases used in this division have the same meaning given them in
4 ORS Chapter 238 and OAR 459-005-0001. Additional terms are defined as follows unless
5 the context requires otherwise.

6 (1) “Any work for which qualified” means a job, not necessarily the last or usual job,
7 which the applicant for a disability retirement allowance:

8 (a) Is physically and psychologically capable of performing; and

9 (b) Has, or may obtain with reasonable training the knowledge, skills and abilities, to
10 perform the job.

11 (2) “Certified vocational consultant” means a person who satisfies the criteria set forth
12 under either of the following:

13 (a) A Master’s Degree in vocational rehabilitation, and one year of experience in
14 performing vocation evaluations or developing individualized return-to-work plans; or a
15 Bachelor’s Degree and two years of such experience. All degrees must have been earned at
16 an accredited institution; or

17 (b) Accredited as a Certified Rehabilitation Counselor (CRC) by the Commission on
18 Rehabilitation Counselor Certification; as a Certified Disability Management Specialist
19 (CDMS) by the Certification of Disability Management Specialists Commission; or a
20 Certified Vocational Evaluation Specialist (CVE) or a Certified Work Adjustment
21 Specialist (CWA) by the Commission on Certification of Work Adjustment and Vocational
22 Evaluation Specialists.

(3) “Confidential information” means information of a personal nature such that disclosure would constitute an unreasonable invasion of privacy as defined by state law.

(4) “Date an application for disability retirement is filed” means the receipt date as determined pursuant to OAR 459-005-0220.

~~[(4)]~~ (5) “Date of disability” means the later of:

(a) The ~~[day]~~ date an active member ceased to work because of inability to perform any work for which qualified due to injury or disease;

~~[(b) The date an inactive member separated from employment if the inactive member applies for a disability retirement allowance within five years from date of separation and the disability has been continuous from the date of separation;] or~~

~~[(c)]~~(b) The date an inactive member ~~[was disabled]~~ became unable to perform any work for which qualified ~~[if] provided~~ such ~~[disability]~~ inability occurred within six months ~~[from]~~ after the date of separation from service.

~~[(5)]~~ (6) “~~[Date of termination]~~ Date of separation from service” means ~~[the date a member terminates from employment such that an employee/employer relationship no longer exists];~~ the later of: the last day worked ~~[(physically on the job),]~~ or the last day of paid leave~~[, or the last day of an official leave of absence, whichever is the later]~~ with a PERS participating employer.

(7) “Date of termination” means the date a member terminates from employment such that an employee/employer relationship no longer exists.

(8) “Earned income” shall have the same meaning as “other income;”

(9) “Effective date of disability retirement” means the first day of the month following the date of disability in which all of the following has been met:

(a) The member is paid no salary from a participating employer, and

1 **(b) The member does not receive paid leave from a participating employer except**
2 **for any lump sum payment for accrued vacation leave or compensatory time.**

3 ~~[(6)]~~ **(10)** “Extended duration” means a period of not less than 90 consecutive
4 calendar days, unless the disability is expected to result in the death of the disabled
5 member in less than 90 days.

6 ~~[(7)]~~ **(11)** “Granted service” means that portion of creditable service used solely to
7 calculate a disability retirement allowance under ORS 238.320 that is not performed or
8 earned.

9 ~~[(8)]~~ **(12)** “Independent medical exam” means an exam or exams conducted by a
10 physician chosen by PERS for purposes other than treatment which results in the issuance
11 of a report or reports based on those exams, giving an opinion regarding the claimed injury
12 or disease.

13 ~~[(9)]~~ **(13)** “Material contributing cause” means the efficient, dominant, and proximate
14 cause of the disability, without which the member would not be disabled.

15 ~~[(10)]~~ **(14)** “Monthly salary” means “salary” as defined in ORS 238.005~~[(21)(a)]~~ that
16 is earned in the last full calendar month of employment, and includes employer payments
17 under ORS 238~~A.[205]~~ **335** ~~[. This includes a]~~and differential wage payments~~s~~ as defined
18 in OAR 459-005-0001.

19 (a) Retroactive payments or payments made due to clerical errors, paid in accordance
20 with ORS 238.005~~[(21)(b)(C)]~~, are allocated to the period the salary was earned or should
21 have been earned.

22 (b) Payments of salary paid within 31 days of separation are allocated to the period the
23 salary was earned and should be considered as paid on the last date of employment.

1 ~~[(11)]~~ **(15)** “Monthly salary received” means the greater of the monthly salary paid for
2 the last full calendar month of:

- 3 (a) Employment before the date of disability; or
- 4 (b) Differential wage payments made before the date of disability. This subsection is
5 effective January 1, 2009.

6 ~~[(12)]~~ **(16)** “Normal retirement age” means the age at which a member can retire
7 without a reduced benefit as set forth under ORS 238.005 and 238.280.

8 ~~[(13)]~~ **(17)** “Other income” means income that includes, but is not limited to:

- 9 (a) Salary or wages received as an employee;
- 10 (b) Self-employment income from:
 - 11 (A) Services industry;
 - 12 (B) Sales;
 - 13 (C) Assembly or manufacturing;
 - 14 (D) Consulting;
 - 15 (E) Property management;
 - 16 (F) Hobby income; or
 - 17 (G) Book advances.

18 (c) “Other income” does not include:

- 19 (A) Investment income;
- 20 (B) Rent; and
- 21 (C) Royalties.

22 **(d) Other income is deemed to be received by the member on the date it is issued**
23 **by the payer.**

1 [(14)] (18) “Performance of duty” means *[mental or physical incapacitation arising*
2 *out of and in the course of duty and is not intentionally self-inflicted. The injury or disease*
3 *must be initially caused, aggravated or accelerated to cause incapacitation by the*
4 *performance of the member’s duties in the employment of a participating public employer.*
5 *The job must be the material contributing cause of the injury or disease. Performance of*
6 *duty includes] whatever an employee may be directed, required or reasonably expected to*
7 *do in connection with his or her employment, and not solely the duties [peculiar]*
8 **particular** to his or her position.

9 [(15)] (19) “Periodic review” means a review of a member receiving a disability
10 retirement allowance to determine whether or not a continued allowance is warranted.

11 [(16)] (20) “Physician” means a medical doctor, a doctor of osteopathy, a doctor of
12 oral surgery, a chiropractic doctor, a naturopathic doctor, or a doctor of psychology
13 practicing only within the purview of their license issued by the designated authority of a
14 state.

15 [(17)] (21) “Pre-existing condition” means a condition that was *[not]* sustained *[in*
16 *actual performance of duty] **prior to employment in a qualifying position** with *[the] a*
17 *[current employer] **participating employer**.**

18 [(18)] (22) “Protected health information” means health information created or
19 received by a health care provider, health plan, or health care clearinghouse, where an
20 individual has a reasonable belief that the information can identify the individual, which
21 relates to:

- 22 (a) The past, present, or future physical or mental health of an individual;
23 (b) The provision of health care to an individual; or

1 (c) The past, present, or future payment for the provision of health care to an
2 individual.

3 *[(19) "Separation from all service entitling the member to membership in the system"*
4 *means the last day worked (physically on the job), the last day of paid leave, or the last*
5 *day of an official leave of absence, whichever is the later.]*

6 *[(20)] (23)* "Similar in compensation" means salary or other income, excluding
7 overtime, equaling at least 80% of the monthly salary. *[, as defined in section (10) of this*
8 *rule.]*

9 *[(21) "Similar location: A position in the same general area of the applicant's*
10 *residence or last employment location.]*

11 (24) "Total disability" means the inability to perform any work for which
12 qualified for an extended duration due to physical or mental incapacitation.

13 *[(22)] (25)* "Training or vocational rehabilitation program" means a comprehensive,
14 coordinated program, usually state or federally funded, to train and assist individuals with
15 disabilities in securing gainful employment commensurate with their abilities and
16 capabilities.

17 *[(23)] (26)* "Vocational evaluation" means an evaluation conducted by a certified
18 vocational consultant, to determine the ability of an applicant to perform any work for
19 which they are qualified.

20 *[(24)] (27)* "Work related stress" means conditions or disabilities resulting from, but
21 not limited to:

22 (a) Change of employment duties;

23 (b) Conflicts with supervisors;

24 (c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;

- 1 (d) Relationships with supervisors, coworkers, or the public;
 - 2 (e) Specific or general job dissatisfaction;
 - 3 (f) Work load pressures;
 - 4 (g) Subjective perceptions of employment conditions or environment;
 - 5 (h) Loss of job or demotion for whatever reason;
 - 6 (i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
 - 7 (j) Objective or subjective stresses of employment; or
 - 8 (k) Personnel decisions.
- 9 Stat. Auth.: ORS 238.650
- 10 Stats. Implemented: ORS 238.320 - 238.345 [*& 238.435(5)*]

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 015 – DISABILITY RETIREMENT ALLOWANCES**

1 **459-015-0005**

2 **Eligibility for Disability Retirement Allowances**

3 (1) *[Total, not partial disability, for an extended duration is required and eligibility*
4 *for a disability retirement allowance requires that:*

5 (a) *A member be disabled to such an extent that the member is unable to perform*
6 *any work for which qualified; and*

7 (b) *Is unable to generate any income that is similar in compensation as of date of*
8 *disability.] **A member must be totally, not partially, disabled and unable to perform***
9 ***any work for which qualified for an extended duration to be eligible for a disability***
10 ***retirement allowance.***

11 (2) In determining a member’s eligibility for a disability retirement allowance, the
12 burden of proof is upon the applicant. The Board is not required to prove whether the
13 applicant is or is not eligible for a disability retirement allowance.

14 (3) Eligibility requirements for duty disabilities.

15 (a) *[Applicants with less than 10 years of PERS employment must establish that they*
16 *are members of PERS and were disabled while in the actual performance of duty.] **To be***
17 ***eligible for a duty disability a member must prove:***

18 **(A) The mental or physical incapacitation arose out of and in the course of**
19 **duty;**

20 **(B) Was not intentionally self-inflicted; and**

21 **(C) The on the job injury must be the material contributing cause of the**
22 **disability.**

1 (b) If [A] a member [who] has a pre-existing condition, the member must prove
2 that the material contributing cause of the disability was sustained while in actual
3 performance of duty.

4 (c) *[Work related stress will not be considered as the material contributing cause of*
5 *a duty disability unless the applicant establishes all of the following:] For work related*
6 *stress to be considered the material contributing cause of the disability all of the*
7 *following criteria must be met:*

8 (A) The employment conditions producing the work-related stress exist in a real and
9 objective sense;

10 (B) The employment conditions producing the work-related stress are conditions
11 other than conditions generally inherent in every working situation or reasonable
12 disciplinary, corrective or job performance evaluation actions by the employer, or
13 cessation of employment or employment decisions attendant upon ordinary business or
14 financial cycles;

15 (C) There is a diagnosis of a mental or emotional disorder which is generally
16 recognized in the medical or psychological community; and

17 (D) There is evidence that the work-related stress arose out of and in the course of
18 employment.

19 (4) Eligibility requirements for non-duty disabilities. [Eligible applicants] A
20 member applying for non-duty disability retirement must have a minimum of 10
21 years of employment in a PERS qualifying position as calculated pursuant to ORS
22 238.320(6).

23 (5) A member's disability retirement allowance shall be calculated based on:

- 1 (a) Creditable service; and
- 2 (b) Granted service if the member had not attained:
 - 3 (A) Age 55 if the last qualifying position was as a police officer or a firefighter.
 - 4 (B) Age 58 if the last qualifying position was as other than a police officer or
 - 5 firefighter.
- 6 (6) Granted service is:
 - 7 (a) Not included in the calculation of increased benefits payable under ORS 238.380.
 - 8 (b) Included in the calculation of increased benefits payable under ORS 238.385.
- 9 (7) Termination of membership. Disability retirement allowances are available only
- 10 to PERS members. *[PERS membership is terminated by either loss of membership or*
- 11 *withdrawal of the member account balance as provided in ORS 238.095. Therefore,]*
- 12 *[f]Former PERS members who have terminated their membership [through loss of*
- 13 *membership or withdrawal] pursuant to ORS 238.095 are not eligible to receive PERS*
- 14 disability retirement allowances.
- 15 Stat. Auth.: ORS 238.650 *[& 238.095]*
- 16 Stats. Implemented: ORS 238.320 - 238.345

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 015 – DISABILITY RETIREMENT ALLOWANCES**

1 **459-015-0020**

2 **Application Required**

3 (1) *[No disability retirement allowance will be paid unless the member files a timely*
4 *and complete application.*

5 (2) Applications must be made on forms *[prescribed]* **provided** by PERS. PERS
6 may require the member to provide any information that PERS considers necessary to
7 determine the applicant’s eligibility for a disability retirement allowance.

8 **(2) No disability retirement allowance will be paid unless the member files a**
9 **timely and complete application.**

10 (3) Application *[may]* **must** be made by a member or the member’s authorized
11 representative. A representative must submit to PERS written proof of the
12 representative’s authority; such as, a power of attorney, guardianship or conservatorship
13 appointment.

14 (4) Upon the filing of an application for a disability retirement allowance, PERS will
15 notify the applicant’s current or most recent employer of the filing. Additionally, PERS
16 may request of an employer information pertaining to current or previous employment.

17 (5) When an employee member is disabled due to injury or disease, the member may
18 make application immediately after the last day worked even though the member may be
19 on a paid leave or on an official leave of absence without pay. No application will be
20 accepted that predates the last day the member was actually on the job.

21 (6) An application will be considered filed in a timely manner when received by
22 PERS as follows:

1 (a) For a member who is **totally** disabled due to injury or disease *[and has*
2 *terminated]* **prior to terminating** employment from all PERS *[covered service]*
3 **qualifying positions and has not withdrawn the amount credited to the account of**
4 **the member in the system**, the member must file an application for a disability
5 retirement allowance within five calendar years of the date of termination. The disabling
6 condition must be continuous from the date of termination to the date the application is
7 filed.

8 (b) For a member who is **totally** disabled due to injury or disease after terminating
9 employment from all PERS *[covered service]* **qualifying positions** and has not
10 withdrawn the amount credited to the account of the member in the system, the member
11 must file an application for a disability retirement allowance within six months **(180**
12 **days)** after the date of *[termination]* **separation from service**.

13 *[(A)]* The disabling condition must be continuous from the date of *[onset]* **disability**
14 to the date *[of]* **the application is filed**.

15 *[(B) The separation must be continuous from the date of termination to the date the*
16 *application is filed.]*

17 *[(C) The member must have a minimum of 10 years of employment as calculated*
18 *pursuant to ORS 238.320(6).]*

19 **(c) A member cannot apply for disability retirement before their date of**
20 **disability.**

21 (7) In determining the effective date of a disability retirement allowance, PERS may
22 allow up to 60 months of benefits retroactive from the date the application is filed with

1 PERS, but in no case earlier than the first day of the month following the date of
2 termination.

3 (8) When making application for a PERS disability retirement allowance, PERS will
4 request the applicant authorize any physician, health practitioner, hospital, clinic,
5 pharmacy, employer, employment agency, or government agency to release and disclose
6 to PERS, or independent physicians and vocational consultants retained by PERS, any
7 information within their records or knowledge, including that information otherwise
8 protected under federal or state law, regarding the applicant’s health and employment
9 which PERS determines relates to the applicant’s claim of disability and inability to
10 perform any work for which qualified.

11 (9) When filing an application for disability retirement allowance, if the applicant
12 wishes to authorize release and disclosure of protected health information, as defined in
13 OAR 459-015-0001(17), the applicant must complete and sign a consent form which
14 specifically authorizes the release and disclosure of such information.

15 (a) This authorization is voluntary. Because PERS is not a covered entity as defined
16 in 45 C.F.R., Parts 160 and 164, the protected health information is not subject to federal
17 and state health information privacy laws, but *[is]* may be protected under Oregon State
18 Public Record disclosure laws.

19 (b) This authorization may be revoked in writing at any time, except to the extent the
20 entities named on the authorization form(s) have taken action in reliance of the
21 authorization.

1 (c) If the applicant refuses to give or revokes authorization to disclose to PERS
2 medical information that PERS determines it needs to evaluate the application, eligibility
3 for a disability retirement allowance may be affected.

4 Stat. Auth.: ORS *[183.310 - 183.550, 237.171, 237.191, 237.263 & 45 CFR Parts*
5 *160 & 164]* 238.650

6 Stats. Implemented: ORS 238.320 - 238.345

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 015 – DISABILITY RETIREMENT ALLOWANCES

1 **459-015-0045**

2 **Return to Work**

3 (1) The Public Employees Retirement Board allows a member who is receiving a
4 disability allowance to return to work as follows:

5 (a) Returning to work in a PERS qualifying position. A member who has not been
6 medically released for any work for which qualified, may return to work in a PERS qualifying
7 position, as defined by OAR 459-010-0003, for a 90-day trial period without losing disability
8 retirement status. While the member is working during this trial period:

9 (A) The [D]disability retirement allowance [benefits] and supplemental benefits will
10 be suspended.

11 (B) Any wages earned during the trial period are excluded from the definition of salary
12 for purposes of computing PERS contributions or determining PERS retirement benefits unless
13 the member continues the employment beyond 90 days. If the member continues beyond the
14 90 days, the period will be considered qualifying as of the first day the member returned to
15 work and retroactive contributions, without interest, are required.

16 (b) Returning to work in a PERS non-qualifying position. A member who has not been
17 medically released for any work for which qualified, may return to work with a PERS
18 participating employer in a position not qualifying for PERS active membership, as defined
19 by OAR 459-010-0003. Unless the member has reached normal retirement age, the monthly
20 disability retirement will be adjusted by any *[earned]* other income issued during that
21 month which, when added to the disability retirement allowance, exceeds the gross monthly
22 salary earned at the *[time]* date of *[retirement for]* disability.

1 (c) Returning to work in a non-PERS position. A member who has not been medically
2 released for any work for which qualified, may be employed by other than a PERS
3 participating employer in a position that is not similar in compensation. Unless the member
4 has reached normal retirement age, the monthly disability retirement allowance shall be
5 adjusted by any *[wages]* other income issued during that month which, when added to the
6 disability retirement allowance, exceeds the gross monthly salary earned at the *[time]* date of
7 *[retirement for]* disability.

8 (d) If a member is able to generate income that is similar in compensation for a
9 period of three calendar months in six consecutive calendar months, they shall be
10 deemed to be performing any work for which qualified and their disability retirement
11 allowance will be terminated.

12 (2) A member's disability retirement allowance will be terminated if the member has been
13 medically released for any work for which qualified, whether the member returns to work or
14 not, and PERS will invoice the member for, or recover under ORS 238.715, any overpayment
15 of benefits.

16 (3) If a member returns to work as provided in sections (1) or (2) of this rule, the member
17 must:

18 (a) Notify PERS in writing of the reemployment within 30 days of such reemployment;
19 and

20 (b) Report monthly to PERS the amount of any *[earned]* other income issued.

21 (4) PERS may contact other public or private agencies, such as the Oregon Employment
22 Department, the Oregon Department of Revenue, or the U.S. Internal Revenue Service to
23 obtain employment information.

1 (5) Upon request by PERS, a member must provide PERS with a copy of the member's
2 federal income tax returns, together with copies of IRS forms W-2.

3 (6) The Board may require medical examination reports or vocational evaluations for any
4 member receiving a disability retirement allowance who is reemployed.

5 (7) If the member is reemployed under section (1) of this rule and is unable to continue
6 employment due to the disabling injury or disease as confirmed by medical documentation, the
7 member or employer must notify PERS. If medical documentation substantiates that the
8 disability prevents the completion of the trial period, the disability retirement allowance will
9 be reinstated at the end of the 90 day period, or as of the date the member leaves the trial
10 employment, whichever is sooner.

11 (8) A disability retirement allowance shall not be discontinued solely by reason of the
12 retired member entering a training or vocational rehabilitation program as defined in OAR
13 459-015-0001(22).

14 (9) Restoration of member account after return to work. If a member returns to PERS
15 covered employment after the 90-day trial period, or is medically released at any time for any
16 work for which they are qualified, the disability claim will be closed. *[and t]*

17 (a) The member's regular and variable PERS account(s) will be restored to the dollar
18 amount of the account as of the effective date of disability retirement. If a variable account
19 transfer was elected at the time of disability retirement, the amounts transferred from
20 the variable account to the regular account will remain in the regular account.

21 (b) Earnings crediting will resume as of the first of the month following the last
22 month for which a disability retirement allowance was paid.

1 (10) Creditable service. A member does not receive creditable service while drawing [a](#)
2 disability [retirement allowance](#) *[benefits]*. If, however, the member returns to PERS covered
3 employment, their disability claim is closed, and they subsequently retire under a service
4 retirement, service time for the period of disability will be restored as follows:

5 (a) For duty disabilities, creditable service will be granted to the member at no cost to the
6 member.

7 (b) For non-duty disabilities, creditable service may be purchased by the member under
8 the provisions of ORS 238.175.

9 Stat. Auth.: ORS *[238.320, 238.335, 238.330,]* 238.650 *[& 238.715]*

10 Stats. Implemented: ORS 238.175, *[& 238.330]* [238.320 – 238.345 & 238.715](#)

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 015 – DISABILITY RETIREMENT ALLOWANCES**

1 **459-015-0050**

2 **Periodic Reviews**

3 (1) Members receiving a disability retirement allowance are subject to periodic reviews of
4 their disabled status until the member reaches normal retirement age or staff determines that
5 periodic reviews are no longer warranted.

6 (2) Periodic reviews will be used to determine that continued disability retirement
7 allowances are warranted. In recommending the continuance or discontinuance of a disability
8 retirement allowance, PERS will follow the criteria established under OAR 459-015-
9 0005(1) for the original approved disability or a new medical condition^{[,].} PERS will also
10 consider the Return to Work provisions of OAR 459-015-0045. *[PERS will follow the*
11 *criteria established under OAR]* Specialist criteria established under 459-015-0010 will be
12 required at PERS' discretion.

13 (3) For duty disability, the periodic review will not revisit the original determination that
14 the injury or disease was duty caused, unless there is evidence of misrepresentation or fraud.

15 (4) PERS will establish review dates for each member subject to a periodic review
16 depending on type of disability, extent of disability, and medical reports unique to each
17 individual case.

18 (a) The reviews may be medical or vocational in nature, or both.

19 (b) Upon review, PERS may accept or require:

20 (A) New treating or consulting physician or specialist reports;

21 (B) Updated physician or specialist reports;

22 (C) Independent medical or vocational examinations; or

1 (D) Employment and wage information, including but not limited to, tax returns or
2 information from the State Employment Department.

3 (c) PERS may immediately discontinue the disability retirement allowance of any person
4 who refuses to provide current medical evidence or refuses to submit to an examination.

5 (A) If the disability claim is discontinued, the staff shall issue an Intent to Discontinue
6 letter by regular and certified mail, return receipt requested. The discontinuation letter shall
7 advise the applicant that additional information to substantiate the claim, or a request for an
8 extension of 30 days to present additional information, may be submitted to the staff in writing
9 within 30 days of the date of the Intent to Discontinue letter.

10 (B) Following the issuance of an Intent to Discontinue letter, staff will review any
11 additional information which is submitted within 30 days.

12 (i) If the additional information results in a recommendation to approve the application,
13 staff shall resubmit the application to the Director, or the Director’s designee, with the
14 recommendation.

15 (ii) If the additional information does not result in a recommendation to approve the
16 application, PERS will issue a final discontinuation letter by regular and certified mail, return
17 receipt requested.

18 (C) If no additional information is received within 30 days, PERS will issue a final
19 discontinuation letter by regular and certified mail, return receipt requested.

20 (D) The final discontinuation letter will provide the applicant with notification of the right
21 to request a contested case hearing as provided for in OAR 459-015-0030 and 459-001-0035.

22 (5) The member has the burden to prove continuing eligibility for a disability retirement
23 allowance.

1 (6) The Director, or the Director's designee, *[is authorized to]* may approve or deny the
2 continuance of a disability retirement allowance.

3 Stat. Auth.: ORS 238.650

4 Stats. Implemented: ORS 238.320 & 238.335

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 76 – OPSRP DISABILITY BENEFIT**

1 **[459-076-0000**

2 ***Purpose***

3 *(1) The Legislative Assembly has established within the Oregon Public Service*
4 *Retirement Plan (OPSRP) Pension Program a program for a disability benefit. The*
5 *disability benefit program is solely intended to provide benefits to those members who*
6 *have not reached normal retirement age as defined in OAR 459-076-0001(11) and who*
7 *are unable to work because they are disabled and cannot perform any work for which*
8 *they are qualified. A disability benefit is not in addition to a service retirement allowance*
9 *and is payable until the member:*

10 *(a) Is no longer disabled; or*

11 *(b) Reaches normal retirement age as defined in OAR 459-076-0001(11); or*

12 *(c) Dies.*

13 *(2) A member who is no longer receiving a disability benefit due to conditions set*
14 *forth under section (1)(a) or (b) and has not applied for a service retirement benefit after*
15 *reaching normal retirement age will be considered an inactive member as defined in ORS*
16 *238A.005(8).*

17 *Stat. Auth.: ORS 238A.450*

18 *Stats. Implemented: ORS 238A.235]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 076 – OPSRP DISABILITY BENEFIT**

1 **459-076-0001**

2 **Definitions**

3 The words and phrases used in this division have the same meaning given them in
4 ORS Chapter 238A and OAR 459-070-0001. Additional terms are defined as follows
5 unless the context requires otherwise.

6 (1) “Any work for which qualified”[:] means [A] a job, not necessarily the last or
7 usual job, which the applicant for disability benefits:

8 (a) Is physically and psychologically capable of performing; and

9 (b) Has, or may obtain with reasonable training, the knowledge, skills and abilities,
10 to perform the job.

11 (2) “Certified vocational consultant”[:] means [A] a person who satisfies the
12 criteria set forth under either of the following:

13 (a) A Master's Degree in vocational rehabilitation, and one year of experience in
14 performing vocation evaluations or developing individualized return-to-work plans; or a
15 Bachelor's Degree and two years of such experience. All degrees must have been earned
16 at an accredited institution; or

17 (b) Accredited as a Certified Rehabilitation Counselor (CRC) by the Commission on
18 Rehabilitation Counselor Certification; as a Certified Disability Management Specialist
19 (CDMS) by the Certification of Disability Management Specialists Commission; or a
20 Certified Vocational Evaluation Specialist (CVE) or a Certified Work Adjustment
21 Specialist (CWA) by the Commission on Certification of Work Adjustment and
22 Vocational Evaluation Specialists.

1 (3) “Confidential information”[:] **means [I]** information of a personal nature such
2 that disclosure would constitute an unreasonable invasion of privacy as defined by state
3 law.

4 **(4) “Date an application for a disability benefit is filed” means the receipt date**
5 **as determined pursuant to OAR 459-005-0220.**

6 ~~[(4)]~~ **(5) “Date of disability”[:] **means [T]****the ~~[day]~~ **date** an active member ceased
7 to work because **of inability to perform any work for which qualified due to [of]**
8 injury or disease.

9 **(6) “Date of separation from service” means the later of: the last day worked or**
10 **the last day of paid leave with a PERS participating employer.**

11 **(7) “Date of Termination” means the date a member terminates from**
12 **employment such that an employee/employer relationship no longer exists.**

13 ~~[(5)]~~ **(8) “Effective date of disability benefit”[:] **means [T]****the first **day** of the
14 month following the **date of disability, in which:**

- 15 **(a) The member is paid no salary from a participating employer, and**
- 16 **(b) The member does not receive paid leave from a participating employer,**
- 17 **except for any lump sum payment for accrued vacation leave or compensatory time.**

18 *[later of:*

19 *(a) The last day the member worked for a participating employer;*

20 *(b) The last day the member was on paid leave; or*

21 *(c) The last day the member received any salary or paid leave benefits from a*

22 *participating employer, exclusive of the cash pay-off for accrued vacation or*

1 *compensatory time, as long as that payment is made within the 31 days after the member*
2 *separates from PERS covered employment.]*

3 *[(6)] (9) “Extended duration”[:] means [A] a* period of not less than 90 consecutive
4 calendar days unless the disability is expected to result in the death of the disabled
5 member in less than 90 days.

6 *[(7)] (10) “Independent medical exam”[:] means [A]an* exam or exams conducted
7 by a physician chosen by PERS for purposes other than for treatment which results in the
8 issuance of a report or reports based on those exams, giving an opinion regarding the
9 claimed injury or disease.

10 *[(8)] (11) “Material contributing cause”[:] means [T]the* efficient, dominant, and
11 proximate cause of the disability, without which the member would not be disabled.

12 *[(9)] (12) “Monthly salary”[:] means [S]salary* as defined in ORS 238A.005*[(16)]*
13 that is earned in the last full calendar month of employment and includes a differential
14 wage payment, as defined in OAR 459-005-0001.*[:]*

15 (a) Retroactive payments or payments made due to clerical errors, paid in accordance
16 with ORS 238A.005*[(16)(b)(E)]*, are allocated to the period the salary was earned or
17 should have been earned.*[:]*

18 (b) Payments of salary paid within 31 days of separation are allocated to the period
19 the salary was earned and should be considered as paid on the last date of employment.

20 *[(10)] (13) “Monthly salary received” [i]means* the greater of the salary paid*[, as*
21 *defined in section (9) of this rule]* for the last full calendar month of:

22 (a) Employment before the date of disability; or

1 (b) Differential wage payments made before the date of disability. This subsection is
2 effective January 1, 2009.

3 *[(11) Normal retirement age: The age at which a member can retire without a*
4 *reduced benefit as set forth under ORS 238A.160.]*

5 *[(12)]* **(14)** “Other income”: *I* includes, but is not limited to:

6 (a) Salary or wages received as an employee;

7 (b) Self-employment income from:

8 (A) Services industry;

9 (B) Sales;

10 (C) Assembly or manufacturing;

11 (D) Consulting;

12 (E) Property management;

13 (F) Hobby income; or

14 (G) Book advances.

15 (c) “Other income” does not include:

16 (A) Investment income;

17 (B) Rent; and

18 (C) Royalties.

19 **(d) Other income is deemed to be received by the member on the date it is**
20 **issued by the payer.**

21 *[(13) Physician: A medical doctor, a doctor of osteopathy, a doctor of oral surgery,*
22 *a chiropractic doctor, a naturopathic doctor, or a doctor of psychology practicing only*
23 *within the purview of their license issued by the designated authority of a state.]*

1 (15) “Performance of duty” means whatever an employee may be directed,
2 required or reasonably expected to do in connection with his or her employment,
3 and not solely the duties particular to his or her position.

4 *[(14)] (16) “Periodic review”[:] means [A] a review of a member receiving a*
5 *disability benefit to determine whether or not a continued benefit is warranted.*

6 (17) “Physician” means a medical doctor, a doctor of osteopathy, a doctor of
7 oral surgery, a chiropractic doctor, a naturopathic doctor, or a doctor of psychology
8 practicing only within the purview of their license issued by the designated
9 authority of a state.

10 *[(15) Performance of duty: Mental or physical incapacitation arising out of and in*
11 *the course of duty and is not intentionally self-inflicted. The injury or disease must be*
12 *initially caused, aggravated or accelerated to cause incapacitation by the performance of*
13 *the member's duties in the employment of a participating public employer. The job must*
14 *be the material contributing cause of the injury or disease. Performance of duty includes*
15 *whatever an employee may be directed, required or reasonably expected to do in*
16 *connection with his or her employment, and not solely the duties peculiar to his or her*
17 *position.]*

18 *[(16)] (18) “Pre-existing condition”[:] means [A] a condition that was [not]*
19 *sustained [in actual performance of duty] prior to employment in a qualifying position*
20 *with [the] a [current employer] participating employer .*

21 *[(17)] (19) “Protected health information”[:] means [H]hhealth information created*
22 *or received by a health care provider, health plan, or health care clearinghouse, where an*

1 individual has a reasonable belief that the information can identify the individual, which
2 relates to:

3 (a) The past, present, or future physical or mental health of an individual;

4 (b) The provision of health care to an individual; or

5 (c) The past, present, or future payment for the provision of health care to an
6 individual.

7 *[(18) Qualifying position: One or more positions with a participating employer, in a*
8 *participating class, which requires performance of 600 or more hours in a calendar*
9 *year.]*

10 *[(19) Separation from all service: The date a member terminates from employment*
11 *such that an employee/employer relationship no longer exists; the last day worked*
12 *(physically on the job), the last day of paid leave, or the last day of an official leave of*
13 *absence, whichever is the later.]*

14 *[(20) Similar in compensation: Salary or income, excluding overtime, equaling at*
15 *least 80 percent of the monthly salary, as defined in section (9) of this rule.]*

16 *[(21) Similar location: A position in the same general area of the applicant's*
17 *residence or last employment location.]*

18 **(20) “Total disability” means the inability to perform any work for which**
19 **qualified for an extended duration due to physical or mental incapacitation.**

20 *[(22)] (21) “Vocational evaluation”[:] means [A]an evaluation conducted by a*
21 *certified vocational consultant, to determine the ability of an applicant to perform any*
22 *work for which they are qualified.*

1 ~~[(23)]~~ (22) “Work related stress”~~[:]~~ means [C]conditions or disabilities resulting
2 from, but not limited to:

- 3 (a) Change of employment duties;
- 4 (b) Conflicts with supervisors;
- 5 (c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;
- 6 (d) Relationships with supervisors, coworkers, or the public;
- 7 (e) Specific or general job dissatisfaction;
- 8 (f) Work load pressures;
- 9 (g) Subjective perceptions of employment conditions or environment;
- 10 (h) Loss of job or demotion for whatever reason;
- 11 (i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
- 12 (j) Objective or subjective stresses of employment; or
- 13 (k) Personnel decisions.

14 Stat. Auth.: ORS 238A.450

15 Stats. Implemented: ORS 238A.235

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 76 – OPSRP DISABILITY BENEFIT**

1 **459-076-0005**

2 **Eligibility for Disability Benefits**

3 (1) *[Only disabilities arising while the member is an active member of the OPSRP*
4 *Pension Program and are expected to last for an extended duration qualify for the*
5 *disability benefit under ORS Chapter 238A. Members with disabilities arising after a*
6 *member has terminated employment from a qualifying position(s) are not eligible for a*
7 *disability benefit.] An active member must be totally, not partially, disabled and*
8 *unable to perform any work for which qualified for an extended duration to be*
9 *eligible for a disability benefit.*

10 (2) *[A member fails to meet the eligibility criteria for an OPSRP disability benefit:*
11 *(a) If the member is able to perform any work for which qualified; and*
12 *(b) Is able to generate other income that is similar in compensation, as defined in OAR*
13 *459-076-0001(20), as of date of disability.] A member with disabilities arising after*
14 *the member’s date of termination from a qualifying position(s) is not eligible for a*
15 *disability benefit.*

16 (3) In determining a member's eligibility for disability benefits, the burden of proof
17 is upon the applicant. The Board is not required to prove whether the applicant is or is not
18 eligible for disability benefits.

19 (4) Eligibility requirements for duty disabilities.

20 (a) *[Applicants with less than ten years of OPSRP retirement credit must establish*
21 *that they are active members of OPSRP and were disabled while in the actual*

1 *performance of duty, as defined in OAR 459-076-0001(15)]. To be eligible for a duty*
2 *disability a member must prove:*

3 *(A) The mental or physical incapacitation arose out of and in the course of*
4 *duty;*

5 *(B) Was not intentionally self-inflicted; and*

6 *(C) The on the job injury must be the material contributing cause of the*
7 *disability.*

8 (b) *[A] If a member [who] has a pre-existing condition, [(as defined in OAR 459-*
9 *076-0001(16))] the member must prove that the material contributing cause [(as defined*
10 *in OAR 459-076-0001(8))] of the disability was sustained while in actual performance of*
11 *duty.*

12 (c) *[Work related stress, as defined in OAR 459-076-0001(23), will not be*
13 *considered as the material contributing cause, as defined in OAR 459-076-0001(8), of a*
14 *duty disability unless the applicant establishes all of the following] For work related*
15 *stress to be considered the material contributing cause of the disability all of the*
16 *following criteria must be met:*

17 (A) The employment conditions producing the work related stress exist in a real and
18 objective sense;

19 (B) The employment conditions producing the work related stress are conditions
20 other than conditions generally inherent in every working situation or reasonable
21 disciplinary, corrective or job performance evaluation actions by the employer, or
22 cessation of employment or employment decisions attendant upon ordinary business or
23 financial cycles;

1 (C) There is a diagnosis of a mental or emotional disorder which is generally
2 recognized in the medical or psychological community; and

3 (D) There is evidence that the work related stress arose out of and in the course of
4 employment.

5 (5) Eligibility requirements for non-duty disabilities. A member applying for non-
6 duty disability benefit must meet the 10 or more years of service requirements
7 pursuant to ORS 238A.235(2)(a) or (b).

8 *[(a) Members, other than members who are school employees as defined by ORS*
9 *238A.140, must have a minimum of ten years of OPSRP retirement credit as calculated*
10 *pursuant to ORS 238A.140, and the disability must arise while the applicant is an active*
11 *member of the OPSRP Pension Program.*

12 *(b) Members, who are school employees as defined by ORS 238A.140, must have*
13 *been active members in ten or more calendar years and the disability must arise while*
14 *the applicant is an active member of the OPSRP Pension Program.]*

15 (6) Termination of OPSRP membership. Disability benefits are available only to
16 active OPSRP Pension Program members. *[OPSRP membership is terminated by*
17 *withdrawal under ORS 238A.120 or forfeiture of retirement credit under ORS 238A.145.*
18 *Therefore, f] Former OPSRP Pension Program members who have *[withdrawn or*
19 *forfeited] terminated membership pursuant to ORS 238A.110 are not eligible to*
20 receive OPSRP disability benefit.*

21 (7) Return to work. If a member who is receiving a disability benefit becomes
22 employed or receives other income, the member's disability benefit will be terminated,
23 effective the first of the month following employment or issuance of other income.

1 PERS will invoice the member for, or recover under ORS 238.715, any overpayment of
2 benefits.

3 (8) PERS may contact other public or private agencies, such as the Oregon
4 Employment Department, the Oregon Department of Revenue, or the U.S. Internal
5 Revenue Service to obtain employment information.

6 (9) Upon request by PERS, a member must provide PERS with a copy of the
7 member's federal income tax returns, together with copies of IRS forms W-2.

8 Stat. Auth.: ORS *[238A.120 &]* 238A.450

9 Stats. Implemented: ORS *[238A.140 &]* 238A.235

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 076 – OPSRP DISABILITY BENEFIT**

1 **459-076-0020**

2 **Application Required**

3 (1) *[No disability benefit will be paid unless the member files a timely and complete*
4 *application with PERS.] Application must be made on forms provided by PERS.*

5 PERS may require the member to provide any information that PERS considers
6 necessary to determine the member’s eligibility for a disability benefit.

7 (2) No disability benefit will be paid unless the member files a timely and
8 complete application with PERS.

9 (3) Application must be made by a member or the member’s authorized
10 representative. A representative must submit to PERS written proof of the
11 representative’s authority; such as, a power of attorney, guardianship or
12 conservatorship appointment.

13 (4) A member must file a timely application for disability benefits:

14 (a) An active member may file the application immediately after the last day
15 worked even though the member may be on a paid leave or on an official leave of
16 absence without pay. No application will be accepted that predates the last day the
17 member was actually on the job.

18 *[(a)] (b)* An inactive member who was totally disabled *[disabled]* due to injury or
19 disease while the applicant was an active member and *[is not separated from]* has not
20 terminated membership, must file an application for a disability benefit within five
21 calendar years of the *[last day worked; even though the member may continue on a paid*
22 *leave or on an official leave of absence without pay]* date of separation from service.

1 The disabling condition must have arisen while the applicant was an active member and
2 be continuous from the date the member last worked to the date the application is filed[;]

3 :

4 **(c) A member cannot apply for disability benefits before their date of disability.**

5 *[(b) Members who become disabled due to injury or disease after the date of*
6 *separation from all service entitling the member to active membership in the system, are*
7 *not eligible for a disability benefit under ORS Chapter 238A.]*

8 *[(2) Applications will be made on forms prescribed by PERS. PERS may require the*
9 *member to provide any information that PERS considers necessary to determine the*
10 *applicant's eligibility for a disability benefit.]*

11 *[(3) Application must be made by a member or the member's authorized*
12 *representative. A representative must submit to PERS written proof of the*
13 *representative's authority; such as, a power of attorney, guardianship or conservatorship*
14 *appointment.]*

15 *[(4) A member may make application immediately after the last day worked even*
16 *though the member is on a paid leave or on an official leave of absence without pay. No*
17 *application will be accepted that predates the last day the member was actually on the*
18 *job.]*

19 (5) In determining the effective date of a disability benefit PERS may allow up to 60
20 months of benefits retroactive from the date the application is filed with PERS, but in no
21 case earlier than the first day of the month following the date of termination.

1 (6) Upon the filing of an application for a disability benefit, PERS will notify the
2 applicant's current or most recent employer of the filing. Additionally, PERS may request
3 of an employer information pertaining to current or previous employment.

4 (7) When making application for a PERS disability benefit, PERS will request the
5 applicant authorize any physician, health practitioner, hospital, clinic, pharmacy,
6 employer, employment agency, or government agency to release and disclose to PERS,
7 or independent physicians and vocational consultants retained by PERS, any information
8 within their records or knowledge, including that information otherwise protected under
9 federal or state law, regarding the applicant's health and employment which PERS
10 determines relates to the applicant's claim of disability and inability to perform any work
11 for which qualified.

12 (8) When filing an application for disability benefit, if the applicant wishes to
13 authorize release and disclosure of protected health information [*as defined in OAR 459-*
14 *015-0001(17),*] the applicant must complete and sign a consent form which specifically
15 authorizes the release and disclosure of such information.

16 (a) This authorization is voluntary. Because PERS is not a covered entity as defined
17 in 45 CFR Parts 160 and 164, the protected health information is not subject to federal
18 and state health information privacy laws, but [*is*] may be protected under Oregon State
19 Public Record disclosure laws.

20 (b) This authorization may be revoked in writing at any time, except to the extent the
21 entities named on the authorization form(s) have taken action in reliance of the
22 authorization.

1 (c) If the applicant refuses to give or revokes authorization to disclose to PERS
2 medical information that PERS determines it needs to evaluate the application, eligibility
3 for a disability benefit may be affected.

4 Stat. Auth.: ORS 238A.450 [*& 45 CFR Parts 160 & 164*]

5 Stats. Implemented: ORS 238A.235

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 76 – OPSRP DISABILITY BENEFIT**

1 **459-076-0025**

2 **Application Processing -- Independent Examinations and Appeals**

3 (1) Following the timely filing of a completed application, PERS may, at its
4 discretion, request an independent medical exam or a vocational evaluation. If PERS
5 requests one or more of these exams or evaluations, PERS will pay the reasonable
6 associated expenses.

7 (a) For independent medical exams, PERS will inform the applicant in writing and
8 postmarked not less than ten days prior to a scheduled examination, of the identity of the
9 physician(s) selected to examine applicant, together with location, date and time.

10 (b) For vocational evaluations, the vocational consultant or locator service shall
11 inform the applicant of the location, date and time of the scheduled examination.

12 (c) If the applicant fails to meet the scheduled appointment or fails to reschedule the
13 examination within five days of notification, PERS will not reschedule an examination at
14 PERS' expense unless the applicant can demonstrate good cause for having failed to meet
15 the scheduled appointment or reschedule the appointment as required.

16 (d) Good cause includes, but is not limited to:

17 (A) Physical or mental incapacitation preventing the member from meeting or
18 rescheduling the examination;

19 (B) Failure of PERS or the vocational consultant or locator service to send the
20 member notice as described above; or

21 (C) A death in the member's immediate family.

22 (e) Good cause does not include:

- 1 (A) A member's refusal to attend the scheduled appointment;
 - 2 (B) A member's failure to meet the appointment with no reason provided; or
 - 3 (C) A member's failure to make appropriate transportation arrangements.
- 4 (2) When PERS requires an applicant to travel to be examined by a physician,
- 5 vocational consultant, or other professional, PERS will reimburse the applicant's
- 6 reasonable transportation costs based on the least costly alternative and on availability.
- 7 Travel by private vehicle will be compensated at the rate applicable to travel by
- 8 unrepresented state employees on state business. Transportation by taxi, bus, rail, or other
- 9 public carrier will be paid only upon presentation of receipts from the providers. Lodging
- 10 and subsistence will be allowed only when a stop-over is necessary and will be paid at the
- 11 rate applicable to unrepresented state employees traveling on state business.
- 12 Reimbursements will be reduced by the amount of any penalty assessed PERS because of
- 13 a member's failure to meet a scheduled appointment.
- 14 (3) In the event a member fails to meet a scheduled examination in accordance with
- 15 section (1) of this rule, and PERS is assessed a penalty by the service provider for the
- 16 failure to meet the scheduled appointment, the disability applicant will bear the cost of
- 17 the penalty as follows:
- 18 (a) If the disability application is not approved, by making direct payment to the
 - 19 service provider who assessed the penalty; or
 - 20 (b) If the disability application is approved:
 - 21 (A) By making direct payment to the service provider who assessed the penalty; or

1 (B) By having the amount of the penalty deducted from the monthly disability
2 benefit, as provided for under ORS 238.715, payable to the member until the invoice is
3 satisfied.

4 (4) The Director, or the Director's designee, is hereby authorized to approve or deny
5 a disability benefit application. Upon receipt and review of all necessary documentation,
6 staff will present applicant's claim to the Director, or the Director's designee, with a
7 recommendation to approve or to deny a disability benefit. The Director, or the Director's
8 designee, may accept or reject the staff's recommendation, or refer the application back to
9 staff for further documentation and review.

10 (a) If the disability claim is approved, the staff will notify the applicant and the
11 applicant's employer of such approval.

12 (b) If the disability claim is denied, the staff will issue an Intent to Deny letter by
13 regular and certified mail, return receipt requested. The Intent to Deny letter will advise
14 the applicant that additional information to substantiate the claim, or a request for an
15 extension of 30 days to present additional information, may be submitted to the staff in
16 writing within 30 days of the date of the Intent to Deny letter.

17 (5) Following the issuance of an Intent to Deny letter, staff will review any
18 additional information submitted within 30 days from the issuance of the Intent to Deny
19 letter.

20 (a) If the additional information results in a recommendation to approve the
21 application, staff will resubmit the application to the Director with the recommendation.

1 (b) If the additional information does not result in a recommendation to approve the
2 application, PERS will issue a final denial letter by regular and certified mail, return
3 receipt requested.

4 (c) If no additional information is received, PERS will issue a final denial letter by
5 regular and certified mail, return receipt requested.

6 (6) The final denial letter will provide the applicant with notification of the right to
7 request a contested case hearing as provided for in OAR 459-015-0030 and 459-001-
8 0035.

9 **(7) A contested case hearing on the denial of disability benefits shall be**
10 **conducted according to OAR 459-015-0030, 459-015-0035, and 459-015-0040.**

11 ~~[(7)]~~ **(8)** PERS will notify the most recent employer of the approval or the denial of
12 an application for a disability benefit, a request for review of the Director's determination,
13 and the Director's final action. Such notification will not contain any confidential
14 information as defined in OAR 459-076-0001(3).

15 Stat. Auth.: ORS ~~[183.310 - 183.550 &]~~ 238A.450

16 Stats. Implemented: ORS 238A.235

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 76 – OPSRP DISABILITY BENEFIT**

1 **459-076-0050**

2 **Periodic Reviews**

3 (1) Members receiving a disability benefit are subject to periodic reviews of their
4 disabled status until the member reaches normal retirement age or staff determines that
5 periodic reviews are no longer warranted.

6 (2) Periodic reviews will be used to determine that continued disability benefits are
7 warranted. In recommending the continuance or discontinuance of a disability benefit,
8 PERS will follow the criteria established under OAR 459-015-0005(1) for the original
9 approved disability or a new medical condition[,][*PERS will follow the criteria*
10 *established under*]. Specialist criteria established under OAR 459-015-0010 will be
11 required at PERS' discretion.

12 (3) For a duty disability, the periodic review will not revisit the original
13 determination that the injury or disease was duty caused, unless there is evidence of
14 misrepresentation or fraud.

15 (4) PERS will establish review dates for each member subject to a periodic review
16 depending on type of disability, extent of disability, and medical reports unique to each
17 individual case:

18 (a) The reviews may be medical or vocational in nature, or both;

19 (b) Upon review, PERS may accept or require:

20 (A) New treating or consulting physician or specialist reports;

21 (B) Updated physician or specialist reports;

22 (C) Independent medical or vocational examinations; or

1 (D) Employment and wage information, including but not limited to, tax returns or
2 information from the State Employment Department.

3 (c) PERS may immediately discontinue the disability benefit of any person who
4 refuses to provide current medical evidence or refuses to submit to an examination:

5 (A) If the disability claim is discontinued, the staff shall issue an Intent to
6 Discontinue letter by regular and certified mail, return receipt requested. The
7 discontinuation letter shall advise the applicant that additional information to substantiate
8 the claim, or a request for an extension of 30 days to present additional information, may
9 be submitted to the staff in writing within 30 days of the date of the Intent to Discontinue
10 letter;

11 (B) Following the issuance of an Intent to Discontinue letter, staff will review any
12 additional information which is submitted within 30 days:

13 (i) If the additional information results in a recommendation to approve the
14 application, staff shall resubmit the application to the Director, or the Director's designee,
15 with the recommendation;

16 (ii) If the additional information does not result in a recommendation to approve the
17 application, PERS will issue a final discontinuation letter by regular and certified mail,
18 return receipt requested.

19 (C) If no additional information is received within 30 days, PERS will issue a final
20 discontinuation letter by regular and certified mail, return receipt requested;

21 (D) The final discontinuation letter will provide the applicant with notification of the
22 right to request a contested case hearing as provided for in OAR 459-015-0030 and 459-
23 001-0035.

1 (5) The member has the burden to prove continuing eligibility for a disability
2 benefit.

3 *[(6) In recommending the continuance or discontinuance of a disability benefit,*
4 *PERS shall follow the criteria established under OAR 459-076-0010.]*

5 *[(7)]* (6) The Director, or Director's designee, *[is hereby authorized to]* may approve
6 or deny the continuance of a disability benefit.

7 Stat. Auth.: ORS 238A.450

8 Stats. Implemented: ORS 238A[8].235

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 76 – OPSRP DISABILITY BENEFIT**

1 **459-076-0055**

2 **Payment of Disability Benefit**

3 (1) *[The payment of a]* **A** disability benefit **accrues from the effective date of**
4 **disability benefit.** *[will commence on the later of:]*

5 *[(a) The first of the calendar month in which the member files an complete*
6 *application for disability benefits with PERS; or]*

7 *[(b) The first of the month following the first full calendar month after final payment*
8 *by the employer of any wages or paid leave benefits to the member, excluding any cash*
9 *payoff of accrued vacation or compensatory time.]*

10 *[(c)]* **(2)** Notwithstanding *[subsections (a) and (b) of this]* section **(1) of this rule,**
11 **disability payments may not begin until a period of extended duration following the**
12 **date of disability has been completed.** *[, no payment shall be made prior to the end of*
13 *the period of 90 consecutive days beginning with the date of disability as defined in OAR*
14 *459-015-0001(4); and*

15 *[(d) A disability benefit will be retroactive to the effective date of disability benefit,*
16 *as defined in OAR 459-076-0001(5)].*

17 **(2)] (3)** If PERS cannot calculate the actual disability benefit payment, an estimated
18 payment will be made until PERS receives all the necessary information needed to
19 calculate the actual benefit payment. *[The payment will be made retroactive to the*
20 *effective date of disability if the benefits become due before the ninety consecutive day*
21 *period of incapacitation has elapsed.]*

1 (a) If the estimated payment results in an underpayment of \$10 or more a month, the
2 member will receive interest under the provisions of OAR 459-007-0015.

3 (b) If the estimated payment results in an overpayment of any amount, the
4 overpayments may be recovered by decreasing the monthly benefit amount until the
5 difference between the amount the member received and the amount the member should
6 have received is recovered.

7 ~~[(3)]~~ (4) If ~~[In the event]~~ a member applying for a disability benefit dies prior to the
8 Director's approval of the application[:

9 ~~(a) T]~~ the application will be considered cancelled effective on the date of the
10 member's death.

11 ~~[(b) The member will be considered as dying prior to retirement.~~

12 ~~(c) If the member was vested and married at the time of death, the spouse of the~~
13 ~~deceased member will be eligible for an OPSRP death benefit as set forth in ORS~~
14 ~~238A.230.~~

15 ~~(d) The amounts in the member's Individual Account Program (IAP) account(s), to~~
16 ~~the extent the member is vested in those accounts, will also be paid in a lump sum to the~~
17 ~~beneficiary or beneficiaries designated by the member for the purposes of the IAP.]~~

18 ~~[(4)]~~ (5) ~~[In the event a member applying for a disability benefit dies after the~~
19 ~~Director's approval of the application, the member will be considered as dying prior to~~
20 ~~retirement. If a married member is vested, the member's spouse will be eligible for an~~
21 ~~OPSRP death benefit as set forth in ORS 238A.230.]~~ If a member receiving disability
22 payments dies before retiring, the disability benefit will cease the first of the month
23 following the member's date of death.

1 *[(5) For the period during which a member is receiving a disability benefit,*
2 *retirement credit, as well as hours of service toward vesting, will be credited to the*
3 *member if:*

4 *(a) The member accrued 10 years or more of retirement credit under the OPSRP*
5 *pension Program prior to becoming disabled; or*

6 *(b) The member became disabled by reason of injury or disease sustained while in*
7 *the performance of duty.]*

8 Stat. Auth.: ORS 238A.450

9 Stats. Implemented: ORS *[238A.230 &]* 238A.235



Oregon

John A. Kitzhaber, M.D., Governor

Public Employees Retirement System

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July 29, 2011

TO: Members of the PERS Board
FROM: Steven Patrick Rodeman, Deputy Director
SUBJECT: Notice of Rulemaking for Retention of Membership by School Employees Rule (Repeal)
459-010-0205, Retention of Membership by School Employees

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: The rule is unnecessary given the specific loss of membership standard for school employees in ORS 238.095.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

Under ORS 238.095, school district employees who are not vested and inactive for a period of five consecutive years may continue membership in the system if they meet two criteria. First, after completing a school year, the member must be inactive for the next following five school years. Secondly, the member must either be reemployed by a school district in a qualifying position at the beginning of the sixth school year, or reach earliest service retirement age before the beginning of the sixth school year. These criteria are specified in nearly identical language in both ORS and in OAR 459-010-0205, therefore the OAR is unnecessary and proposed for repeal.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held on August 23, 2011 at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends on September 1, 2011 at 5:00 p.m.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Impact: Members, employers, stakeholders, and staff will benefit from removing the unneeded rule that only restates statute.

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

RULEMAKING TIMELINE

June 15, 2011	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
July 1, 2011	<i>Oregon Bulletin</i> published the Notice. Notice was mailed to employers, legislators, and interested parties. Public comment period began.
July 29, 2011	PERS Board notified that staff began the rulemaking process.
August 23, 2011	Rulemaking hearing to be held at 2:00 p.m. in Tigard.
September 1, 2011	Public comment period ends at 5:00 p.m.
September 30, 2011	Staff will propose adopting the permanent rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A hearing will be held on August 23, 2011 at PERS Headquarters in Tigard. The public comment period ends on September 1, 2011 at 5:00 p.m. The rule is scheduled to be brought before the PERS Board for adoption at the September 30, 2011 Board meeting.

B.5. Attachment 1 – 459-010-0205, *Retention of Membership by School Employees*



**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 010 – MEMBERSHIP**

1 ***[459-010-0205***

2 ***Retention of Membership by School Employees***

3 *Any school employee who completes a school year, who is then absent the next five*
4 *school years, but returns to school employment at the beginning of the sixth school year,*
5 *or reaches early voluntary retirement age prior to the beginning of the sixth school year,*
6 *shall be deemed to have retained membership in the Public Employees Retirement*
7 *System, provided, however, that this preservation of membership is contingent upon the*
8 *confirmation of this rule by the 49th Legislative Assembly.*

9 *Stat. Auth.: ORS 238.650*

10 *Stats. Implemented:]*





Oregon

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July 29, 2011

TO: Members of the PERS Board

FROM: Paul R. Cleary
Executive Director

SUBJECT: City Club of Portland PERS Study Recommendations

City Club of Portland representatives Rob Aldisert and Kathy Black will be presenting recommendations from a May 27, 2011, City Club PERS study committee report entitled "Oregon PERS: Burdened by the Past, Poised for the Future."

This presentation is for informational purposes only and there will be opportunity for questions and comments following the presentation.

Attached is the summary of recommendations from that report. The full report may be accessed at <http://www.pdxcityclub.org/>.



SUMMARY OF RECOMMENDATIONS

Lightening the Burdens of the Past:

1. The PERS Board should direct the PERS actuary to use the risk-free rate of return in calculating the Tier 1 Money Match benefit, better reflecting the guaranteed nature of the benefit and lowering the costs of an already excessive benefit. This will reduce the PERS Unfunded Actuarial Liability by \$1.7 billion.
2. The Legislature should eliminate the Individual Account Program for Tier 1 and Tier 2 members and should instead direct the \$300 million annual Tier 1 and Tier 2 employee contribution to reducing the Unfunded Actuarial Liability and funding a reserve that can be used to reduce volatility in employer rates.
3. The Legislature should eliminate the tax remedy benefit for out-of-state PERS retirees, thereby saving \$72 million per biennium and reducing PERS liabilities by \$450 million.

Positioning PERS for the Future:

4. The Legislature should require the PERS Board to establish an “employer rate stabilization reserve” to increase the stability and predictability of employer contribution rates. When PERS investment returns exceed the assumed annual earnings rate, the PERS Board must fund this reserve to a pre-defined level before providing employer rate relief. Conversely, when PERS investment returns fall short of the assumed annual earnings rate, the PERS Board must pull funds from this reserve prior to increasing employer rates.
5. The Legislature should act to bring the OPSRP pension in line with an adequate retirement benchmark of 75-80% income replacement by reducing the years-of-service multiplier by one-third, from 1.5% to 1.0% for general service employees and from 1.8% to 1.2% for police and fire fighters.

6. The Legislature should reduce the cost of the OPSRP pension by aligning OPSRP retirement ages with Social Security, both now and as Social Security evolves in the future. OPSRP retirement ages should immediately increase by two years across-the-board, to match the two-year Social Security age increase from 65 to 67 for general service employees born in 1960 or later and increasing by two years the retirement ages for police and fire employees.
7. The Legislature should improve the Individual Account Program for OPSRP employees by offering more investment options as the employees near retirement. Rather than requiring IAP accounts to be invested to achieve the overall assumed earnings rate, OPSRP employees nearing retirement should be able to choose more risk-averse investment strategies.

Respectfully submitted,

Carmel Bentley
Rob Brostoff
John Chiappetta
Joseph Lake
Patrick O'Brien
Lonnie Tucker
John Wish
Angela Wykoff
Kathy Black, lead writer
David Quisenberry, vice-chair
Robert Aldisert, chair

Clifford Droke, research adviser
Roger Eiss, research adviser
Tony Iaccarino, research and policy director

OREGON PERS

Burdened by the Past
Poised for the Future



CITY CLUB OF PORTLAND
JUNE 2010 – JUNE 2011

Our Charter



- Is there a real “PERS problem?”
- If so, what can and should we do?

Committee Members



- Robert Aldisert, chair
- David Quisenberry, vice-chair
- Kathy Black, lead writer
- Carmel Bentley
- Robb Brostoff
- John Chiappetta
- Joseph Lake
- Patrick O'Brien
- Lonnie Tucker
- John Wish
- Angela Wykoff

Study Process



- **Extensive background study**
- **Interviews with stakeholders and experts:**
 - PERS director, board chair and actuary
 - State treasurer and OIC members
 - Legislators, current and former
 - Public employee unions (AFSCME, SEIU, OEA, AFT)
 - Public employers
 - Community thought leaders

Bottom Line



- There *is* a serious “PERS problem” today
- No magic bullet
- Meaningful, substantial reforms *are* possible

PERS: The Problem



We used most recent valuation available at time of study (December, 2009):

- Assets \$43.5 billion
 - Liabilities \$56.8 billion
 - UAL \$13.3 billion
-
- UAL = “Unfunded Actuarial Liability”
 - Must be made up by investment returns (if we're lucky) or employers/taxpayers (if we're not)

PERS: The Problem



Cause and Effect

- The higher the UAL, the more employers must pay into PERS for *yesterday's* services...
- ...leaving less to pay for *today's* teachers, police officers, firefighters, etc.
- The result: layoffs and cuts in services

\$13 Billion UAL: How We Got Here



- **Not about poor investment returns:**
 - As of 2008, 20-year average returns exceeded 9%, *even including a 27% loss for the year*
- **It's about the “binge and purge” cycle:**
 - In good years, “extra” investment earnings used to reduce current employer costs, not to build reserves for bad years
 - Result: bad year = yet another PERS crisis
 - Bonus: crisis occurs during recessions, when we can least afford one

Recommendations



**Keeping all of that in mind
We made 7 recommendations,
One you can act on without requesting approval**

Recommendation #1



**Use risk-free rate of return
to annuitize Money Match benefit**

Recommendation #1



- Money Match alternatives: Lump sum or *actuarially equivalent* annuity
- PERS Board defines *actuarially equivalent* by choosing a “discount rate”
- Current choice = AER = 8%
 - Most generous possible definition
 - Locks in 8% guarantee *for life*, even for Tier II
 - Far more generous than privately available annuity of equal cost

Recommendation #1



- **Our Recommendation:**
 - Stop using AER to define actuarially equivalent annuity
 - Instead, use “risk-free” rate of return (approx 4.5%)
 - Result: reduces PERS liabilities by at least \$1.7 billion *today*
- **Key points:**
 - Members retain lump sum option; any member who believes the offered annuity isn't equivalent can take the lump sum
 - Not recommending any change to the AER itself; “de-coupling” annuitization from the AER



BACKGROUND

Basic PERS Facts



- Retirement system covering 95 % of Oregon's public employees
- 328,000 vested in PERS
- 110,000 current retirees
- 179,000 currently working members
- 40,000 vested, not working, not yet collecting pensions
- 900 PERS employers
- Assets of \$43.5 *Billion*

Basic PERS Facts



Funding sources:

- Employer contributions
- Employee contributions (“the 6%”)
- Investment earnings

Our Charter



Backdrop: Why another PERS study?

- 2008 market crash
- PERS fund losses of \$17.2 billion (27%)
- Possibility of massive employer costs through 2020, beyond
- 1995 and 2003 legislative reforms
- Supreme Court rulings

Process



- **Employer impact studies:**
 - Salem-Keizer School District
 - City of Pendleton
 - City of Eugene
 - Owyhee Irrigation District
- **Year-long process of study, discussion & debate**
- **Outcomes:**
 - Broad consensus
 - Recommendations that can make a difference

PERs: The Problem



Example:

Salem-Keizer School District

- **87% expenses go to personnel**
- **PERs payment more than triples**
- **Superintendent recommends closing 3 schools, cutting 331 teachers and 69 admin positions**
- **Cites "substantial" PERs increase as a factor**

\$13 Billion UAL: How We Got Here



- **Not about poor investment returns:**
 - As of 2008, 20-year average returns exceeded 9%, *even including a 27% loss for the year*
- **It's about the “binge and purge” cycle:**
 - In good years, “extra” investment earnings used to reduce current employer costs, not to build reserves for bad years
 - Result: bad year = yet another PERS crisis
 - Bonus: crisis occurs during recessions, when we can least afford one

Recommendations



Two Groups of Recommendations

- **How to lighten the burden of the past?**
 - Reduce existing PERS liabilities
 - Share costs equitably with employees
- **How to position PERS for the future?**
 - End “binge and purge” cycle
 - Align future benefit levels with benchmarks
 - Reduce investment risks to employees

Recommendation #2



Fix the Tax Fix

- Cease paying the “tax fix” bonus to PERS recipients who do not live in Oregon
- Result: reduce PERS liabilities by \$450 million

Recommendation #3



Tier I / II:

**Re-direct 6% employee contributions to PERS
"general fund" instead of IAP**

Recommendation #3



- Redirecting Tier I/II employee contributions to PERS "general fund" requires employees to share the costs of maintaining PERS system, while preserving generous benefits
 - Maintains Money Match option as-is
 - Maintains Full Formula option as-is
 - Maintains current IAP account balances, which continue to earn interest
- Savings to employers: \$300 million per *year*

Recommendation #4



Establish Rate Stabilization Reserve

- Extraordinary investment earnings have lowered employer contributions short term, not built reserves
- Minimizes the binge & purge cycle
- Mechanics:
 - Returns in excess of AER go into the reserve
 - Draw on the reserve when returns fail to meet AER
 - Result: more stable rates

Recommendation #5



Reduce OPSRP "Benefit Factor" by one third

- Retirement income benchmark: 75% - 80% of pre-retirement income
- Social Security income replaces 30% of pre-retirement income (conservative assumption)
- Remaining gap: 45% - 50%

Recommendation #5



Filling the Gap

- At 30 years, Tier I/II Full Formula provides 50%, filling the gap
- At 30 years, OPSRP + IAP = 60% - 65% of FAS, exceeding the gap by 15 points
- Reducing OPSRP benefit factor from 1.5% to 1.0% per year of service will match combined benefit to gap and still meet retirement income benchmark

Recommendation #6



Increase OPSRP retirement age to match Social Security

- OPSRP Normal Retirement Age = 65
- Social Security Retirement Age rising from 65 to 67 over next several years
- Result: cost savings

Recommendation #7



Establish lower-risk investment options within the IAP suitable to employees nearing retirement

- IAP will be an indispensable part of employee retirement income for OPSRP members
- Result: reduce investment risk to employees

WHAT WE DIDN'T RECOMMEND



- **Creating "Tier 4" pure defined contribution plan**
- **Eliminating required 6% contribution**
- **Changing "pickup"**
- **Changing Assumed Earnings Rate**



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July 29, 2011

TO: Members of the PERS Board

FROM: Debra Hembree, Interim Manager
Actuarial Analysis Section

SUBJECT: 2010 Experience Study Presentation – Investment Return and Demographic Assumptions

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

On July 29, 2011, Matthew Larrabee and Scott Preppernau of Mercer will present the second part of the 2010 experience study results and recommendations covering investment return and demographic assumptions. Mercer presented the results of the study pertaining to actuarial methods and other economic assumptions at the May 26, 2011 Board meeting.

Mercer will also ask the Board to adopt the investment return and demographic assumptions that will be used in conducting the December 31, 2010, and December 31, 2011 actuarial valuations.





July 29, 2011

Oregon Public Employees' Retirement System
Experience Study for December 31, 2010 and
December 31, 2011 Actuarial Valuations

- Demographic Assumptions
- Investment Return Assumptions

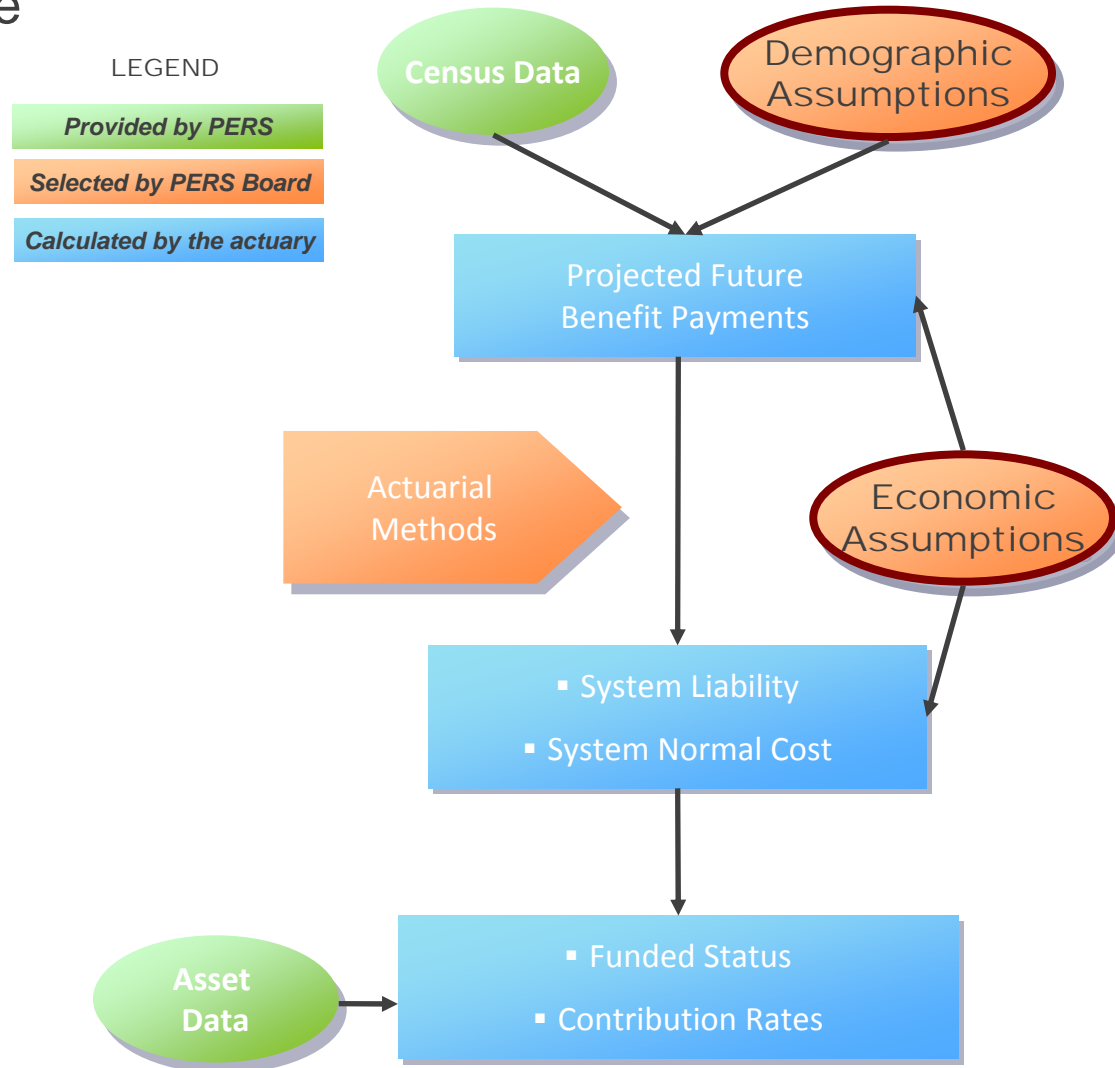
Matt Larrabee and Scott Preppernau

Introduction

Valuation Process and Timeline

PERS Board Actuarial Schedule

- May: Actuarial methods and economic assumptions
- **July: Demographic assumptions and investment return**
- September: System-wide 12/31/2010 funding results and advisory contribution rates and 2012-2013 actuarial equivalence factors
- November: Distribution of employer-specific advisory 2013-2015 contribution rates



Introduction

Valuation Process and Timeline

- Actuarial valuations are conducted annually each year-end
 - Rates are set biennially based on “odd year” actuarial valuations
 - “Even year” valuations are strictly advisory
- The rates determined by the actuarial valuation are adopted by the Board and go into effect 18 months subsequent to the valuation date

Valuation Date	Employer Contribution Rates
12/31/2009	July 2011 – June 2013
12/31/2011	July 2013 – June 2015

Assumptions selected today will be used in the 12/31/2011 valuation, which will be completed in the fall of 2012

Introduction

Objectives for Actuarial Methods and Assumptions

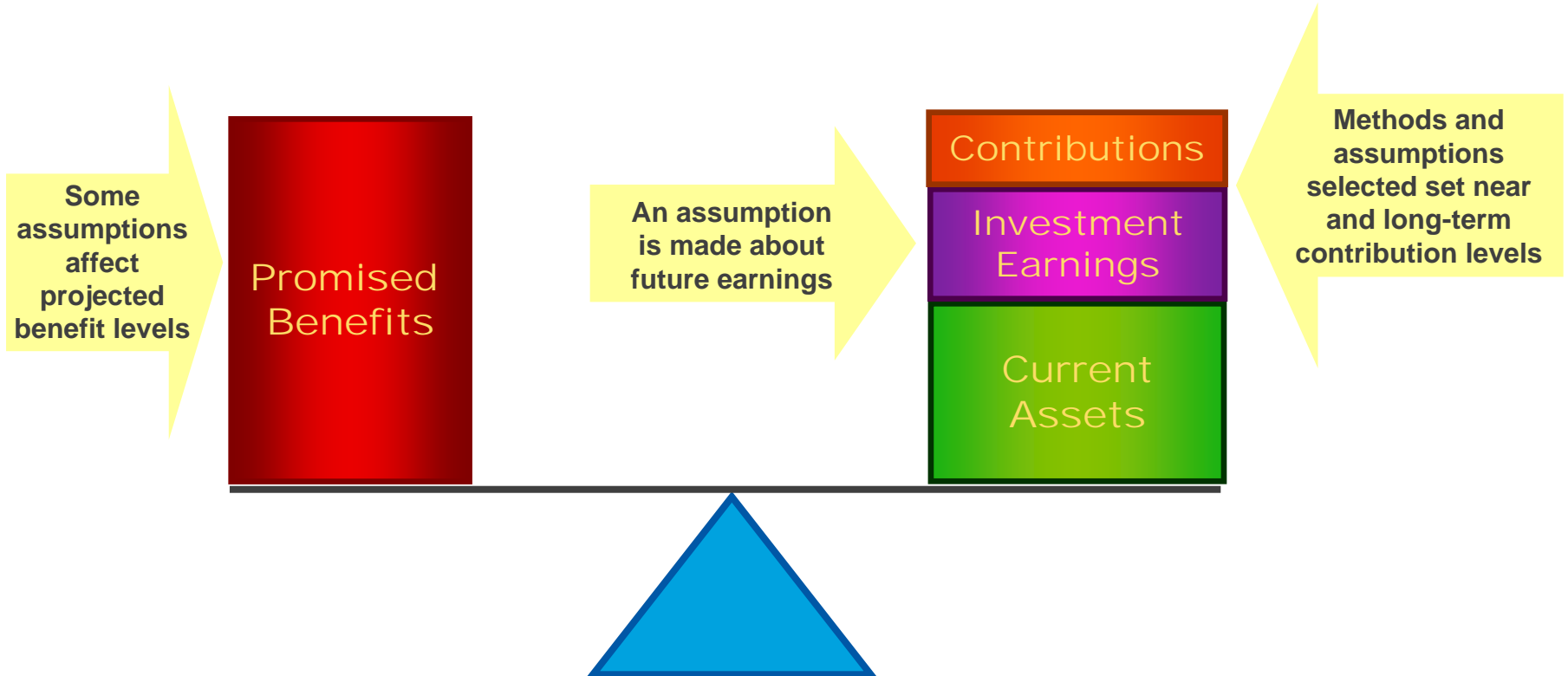
- Transparent
- Predictable and stable rates
- Protect funded status
- Equitable across generations
- Actuarially sound
- GASB compliant

Certain objectives serve as competing priorities
(Example: Predictable and stable rates; protect funded status)

Introduction

Framework for Setting Assumptions and Methods

The valuation can be viewed as a funding exercise based on long-term assumptions about an uncertain future



The long-term earnings assumption does not affect benefit levels (with a key exception) or long-term contribution levels – it only affects contribution timing

Introduction

Framework for Setting Assumptions and Methods

- If viewed as a funding exercise that uses a single assumption set about an uncertain future, the valuation answers two funding questions:
 - What is the current estimated funding shortfall for service already rendered if all assumptions are met in the future?
 - What contribution rates would be necessary to (a) eliminate the funding shortfall over a fixed time period and (b) fund benefits projected to be earned in the future years by members if all assumptions are met in the future?
- Assumptions do not affect the program's long-term cost, with the exception of future retirements under the Tier 1/Tier 2 Money Match benefit formula

Long-Term Cost = Benefits Paid - Investment Earnings = Total Contributions

Introduction

Framework for Setting Assumptions and Methods

- Assumptions and methods do affect contribution timing
- One certainty: actual future experience will vary from assumption
 - Actual future experience, not assumptions, will determine long-term cost
 - Deviations from assumptions will lead to positive or negative variations from financial projections of future contribution rates
 - Typically, the largest deviations arise from actual annual investment return experience
 - Actual experience is not affected by the return assumption selected
 - If negative variances occur repeatedly or are severe, then:
 - Funding shortfalls can increase to a high percentage of system payroll
 - Contribution rates calculated to eliminate shortfall over a generation can rise to untenable levels
 - In extreme instances, benefit security can be compromised

Long-Term Cost = Benefits Paid - Investment Earnings = Total Contributions



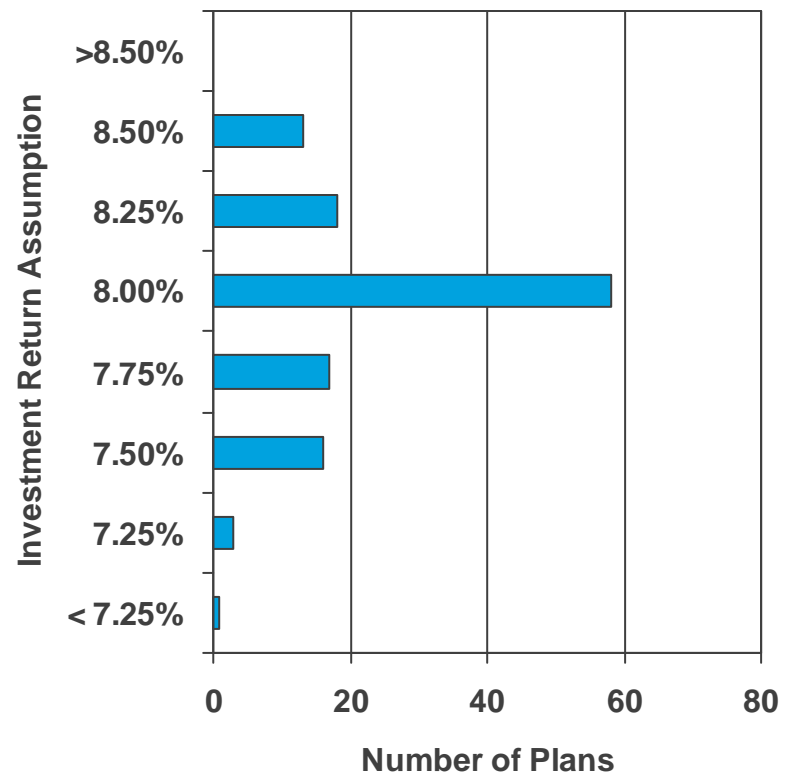
Investment Return Assumptions

Economic Assumptions

Investment Return

- In our May 26, 2011 Board presentation, we deferred a proposal on the investment return assumption until the OIC's investment consultant completed their review of capital market assumptions.
- In order to add a broader perspective to the discussion, the chart on the right shows the assumptions used by the 120 large public sector systems in the NASRA survey.
- The current assumption of 8.0% is the median and most common assumption in the survey.
- The mean (weighted average) rate selected is approximately 7.9%
- The survey covers valuation dates that range from June 2007 to January 2010

**Distribution of Investment
Return Assumptions**
2010 NASRA Survey Data



Economic Assumptions

Investment Return – Regular Account

Percentile	Mercer	SIS
25 th	5.74%	6.29%
45 th	7.48%	7.81%
50th	7.88%	8.16%
55 th	8.28%	8.51%
75 th	10.03%	10.03%

20 Year Time Horizon

- The table compares the distribution of expected annualized returns over 20 years for the regular account based on Mercer and SIS capital market assumptions.
 - Returns are net of administrative and passive investment expenses
 - No active management return is included
- A range of reasonable assumptions exists. Using a “50th percentile or lower” assumption:
 - Improves benefit security
 - Increases the probability that actual returns meet or exceed the assumption
- The current assumption of 8.0% is in the reasonable range based on current expectations
- Assumptions of 7.50%, 7.75% or 7.90% are also in the reasonable range and would increase the likelihood the assumption is met in a given year

To illustrate the estimated impact of an assumption change, the effects of a 7.75% regular account assumption are shown at the end of the presentation

Economic Assumptions

Investment Return – Variable Account – Mercer Assumptions

Percentile	Regular Account	Variable Account
25 th	5.74%	5.15%
45 th	7.48%	7.53%
50th	7.88%	8.07%
55 th	8.28%	8.62%
75 th	10.03%	11.00%

20 Year Time Horizon

- A separate assumption is used for variable account balances, which are invested solely in equities
- Using Mercer Investment Consulting assumptions the 50th percentile expected return is 7.88% for the Regular account and 8.07% for the Variable account both net of expenses and before reflecting any margin for active management.
- We assumed 5 basis points in administrative expenses and 20 basis points in passive investment expenses.
- At the 50th percentile, the variable return is expected to exceed the regular account return by approximately 20 basis points



Demographic Assumptions

Demographic Assumptions

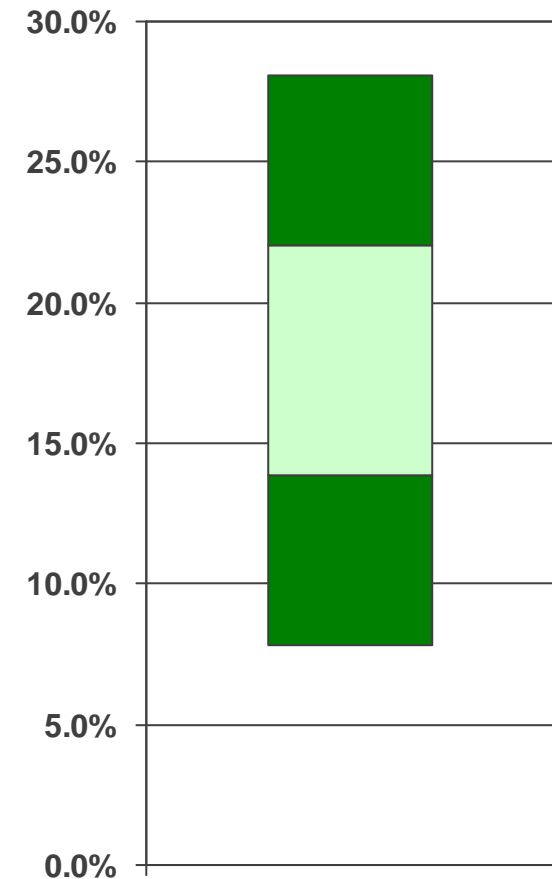
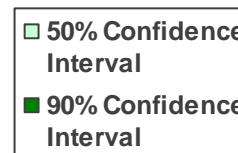
Overview

- Compared actual experience from January 1, 2007 through December 31, 2010 to expected experience based on assumptions from the December 31, 2009 actuarial valuation
- Actual experience, combined with future expectations, are used to develop proposed assumptions for December 31, 2010 and December 31, 2011 actuarial valuations
- The presentation summarizes those results, primarily for assumptions where significant changes are proposed.
- More details are available in:
 - Our forthcoming written report
 - The appendix of this presentation

Demographic Assumptions

Confidence Intervals

- We use 50% and 90% confidence intervals in our analysis.
- The 90% confidence interval represents the range around the observed rate that contains the true rate during the period of study with 90% probability
- The size of the confidence interval depends on the number of observations
- If an assumption is outside the 90% confidence interval and there is no other information to explain the observed experience, a change in assumption should be considered.



Mortality Assumptions

Summary of Proposed Assumptions

Note that “white collar” and “blue collar” are terms used in the RP 2000 mortality table to adjust levels of mortality. They are used here to identify the adjustments made and are not intended to classify any employees as either “blue collar” or “white collar.”

	Current Assumption	Proposed Changes
Healthy Retired	RP 2000, Generational Combined Active/Healthy Retired, Sex distinct	No change
<ul style="list-style-type: none"> School district male Other GS male 	White collar, set back 12 months White collar, no set back	White collar, set back 18 months Blend 25% blue collar, set back 12 months
<ul style="list-style-type: none"> P&F male 	Blend 33% blue collar, no set back	No change
<ul style="list-style-type: none"> School district female Other female 	White collar, set back 18 months Blend 33% blue collar, no set back	White collar, set back 24 months White collar, no set back
Disabled Retired	RP 2000, Static, No Collar Combined Active/Healthy Retired, Sex distinct	No change
<ul style="list-style-type: none"> Male Female 	Set forward 60 months, min of 2.25% Set forward 48 months, min of 2.25%	No change No change
Non-Retired Mortality	% of Healthy Retired Mortality	% of Healthy Retired Mortality
<ul style="list-style-type: none"> School district male Other GS male P&F male 	75% 75% 70%	No change 85% No change
<ul style="list-style-type: none"> School district female Other female 	50% 50%	60% No change

Mortality Assumptions

Healthy Retired Mortality

Healthy Retiree Mortality
Aggregate Confidence Intervals and Rates



- We analyze mortality experience for non-disabled members in five groupings
- When the current assumption lies outside of the 90% confidence interval for the aggregate mortality rate, we have proposed a change for that group
- The amount of data available in each group affects the size of the confidence interval
- Note that the aggregate mortality rate is a function of both the group mortality rates and the ages of the members in the group.
 - The groups have different average ages. This means you can not conclude, for example, that Police & Fire males have lower mortality than other groups based on the data in the graph.

Mortality Assumptions

Healthy Retired Mortality

	Exposures	Actual Deaths	Current Assumption		Proposed Assumption	
			Expected Deaths	A/E Ratio	Expected Deaths	A/E Ratio
School District Male	59,024	1,649	1,718	96%	1,634	101%
Other General Service Male*	88,837	2,778	2,936	95%	2,776	100%
Police & Fire Male	20,685	357	379	94%	379	94%
School District Female	117,027	2,668	2,815	95%	2,677	100%
Other Female*	113,764	3,356	3,475	97%	3,340	100%

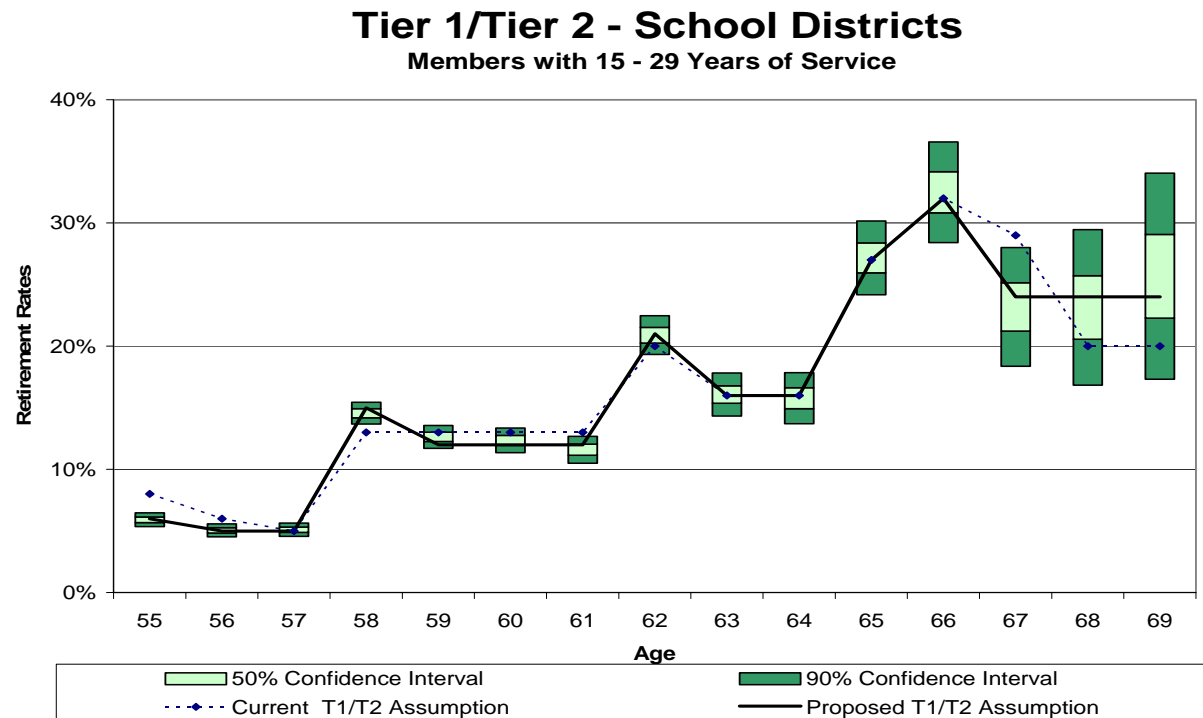
* Includes beneficiaries.

- The Actual/Expected ratio for healthy retirees under a generational table should be approximately 100% because the table has future mortality improvement built into it.
- The Actual/Expected ratio for all groups is below 100%. For 4 out of 5 groups, the aggregate mortality rate was outside of the 90% confidence interval.
 - While the Actual/Expected ratio for Police & Fire Males was 94%, the aggregate rate was within the confidence interval. We propose continued monitoring but no immediate change to the assumption for that group.
- We modified the “white collar”/“blue collar” adjustments and age set backs to adjust the current tables to match Oregon PERS experience.

Retirement Assumptions Structure

- Retirement rates vary by job classification and service levels:
 - General Service
 - Service bands at <15 years, 15 to 29 years, and 30+ years
 - First two bands distinguish between School Districts and all others
 - Police & Fire
 - Service bands at <13 years, 13 to 24 years, and 25+ years

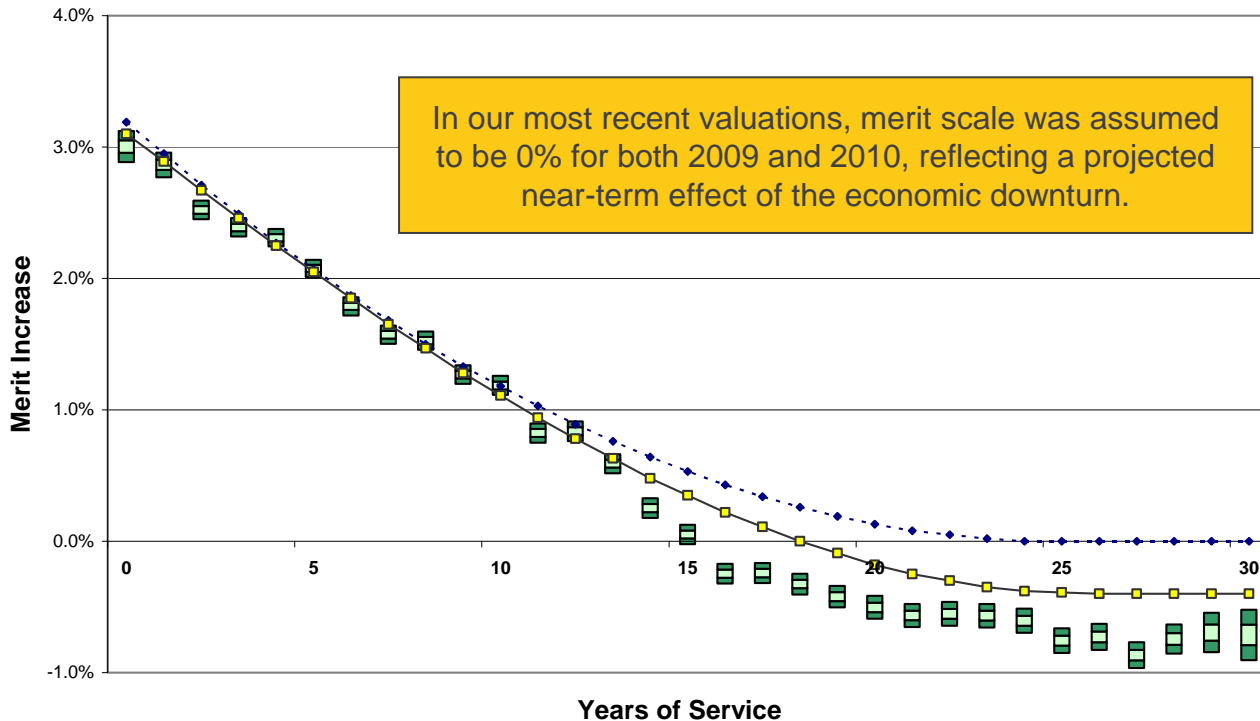
- Minor modifications were made to most assumptions to more closely match recent experience
- An example is shown at right. Charts for additional groups can be found in the appendix.



Salary Increase Assumptions

Summary of Proposed Assumptions

School Districts



50% Confidence Interval
 90% Confidence Interval
 Current
 Proposed Assumption

For the merit scale, we studied experience from 2003 through 2010.

- Merit increases are added to inflation and general productivity to arrive at a total salary increase assumption
- Current assumptions set for three groups:
 - School Districts (SD)
 - Other General Service (Other GS)
 - Police & Fire (PF)
- Proposed changes:
 - Decrease Merit Scale modestly for SD at 10+ years of service
 - Decrease Merit Scale for Other GS slightly
 - Maintain Merit Scale for PF
- Proposed rates attempt to not overreact to 2009 and 2010 experience

Termination Assumptions

Structure of Termination Assumption

- Our pre-retirement employment termination assumption is exclusively age-based for members with three or more years of service
 - For the first three years of employment, the age-based rate is increased to reflect the higher likelihood of termination in initial years of employment
 - This is called a “select and ultimate” rate structure, with the three-year select period followed by ultimate rates
- Prior valuations have used the same ultimate rates for Tier 1/Tier 2 and OPSRP
- We propose introducing a distinction between Tier 1/Tier 2 and OPSRP ultimate rates
 - Assumptions for Tier 1/Tier 2 will be based on experience for that closed group
 - Because it is closed, this group will increasingly exhibit greater average service at any age than the overall system (i.e. when OPSRP is included)
 - May lead to diverging termination experience for Tier 1/Tier 2 members compared to that of membership for the system as a whole
 - OPSRP assumptions will be based on overall system experience
- We also propose eliminating the distinction between General Service employees of SLGRP and Independent employers
 - Observed experience is similar, and the change would simplify the valuation and increase statistical credibility of the assumption

Termination Assumptions

Summary of Proposed Assumptions

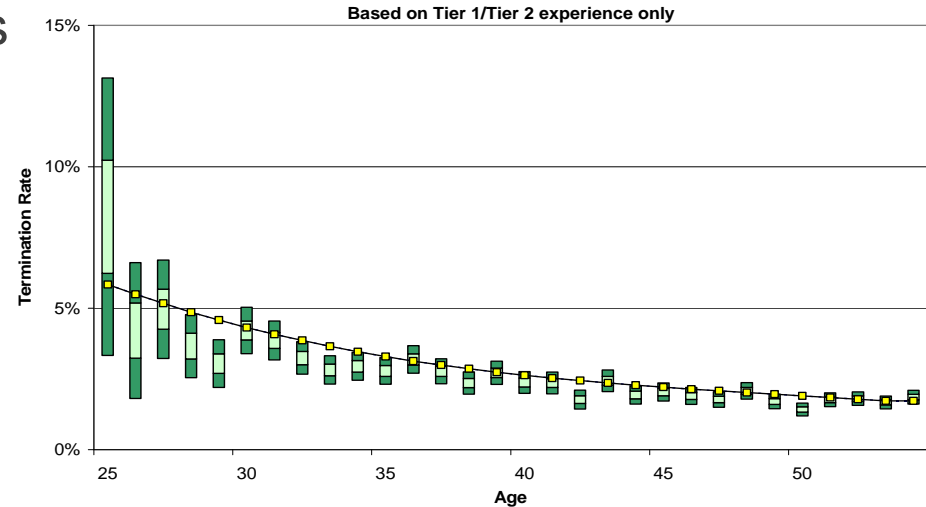
- In general, the study period data showed:
 - Tier 1/Tier 2 termination experience was at or slightly below the current assumption
 - Overall system experience (reflecting OPSRP) was above the current assumption

- Where we proposed new assumptions, we did not move rates all the way to recent experience
 - Aware that the financial crisis and its aftermath influenced experience in manner not expected for long-term

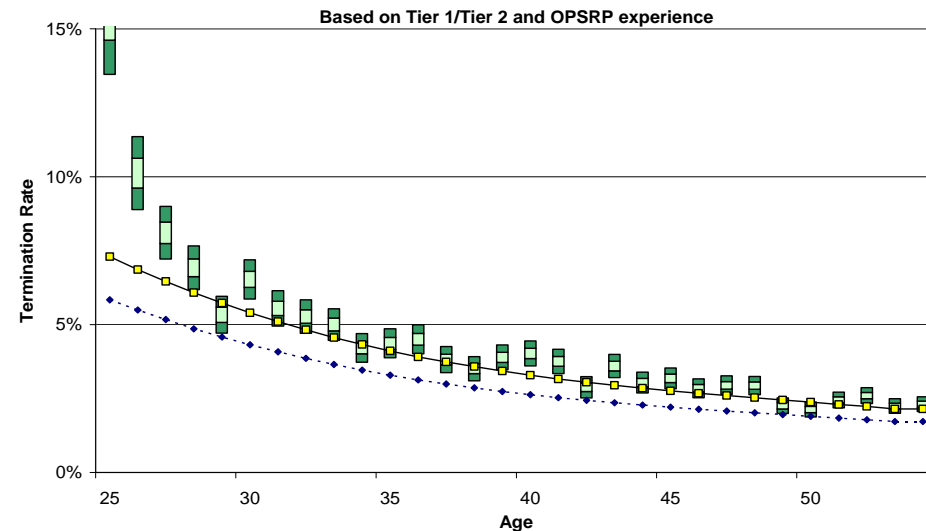
- Illustrated at right for School Districts

- See appendix for additional graphs.

School Districts - Tier 1/Tier 2



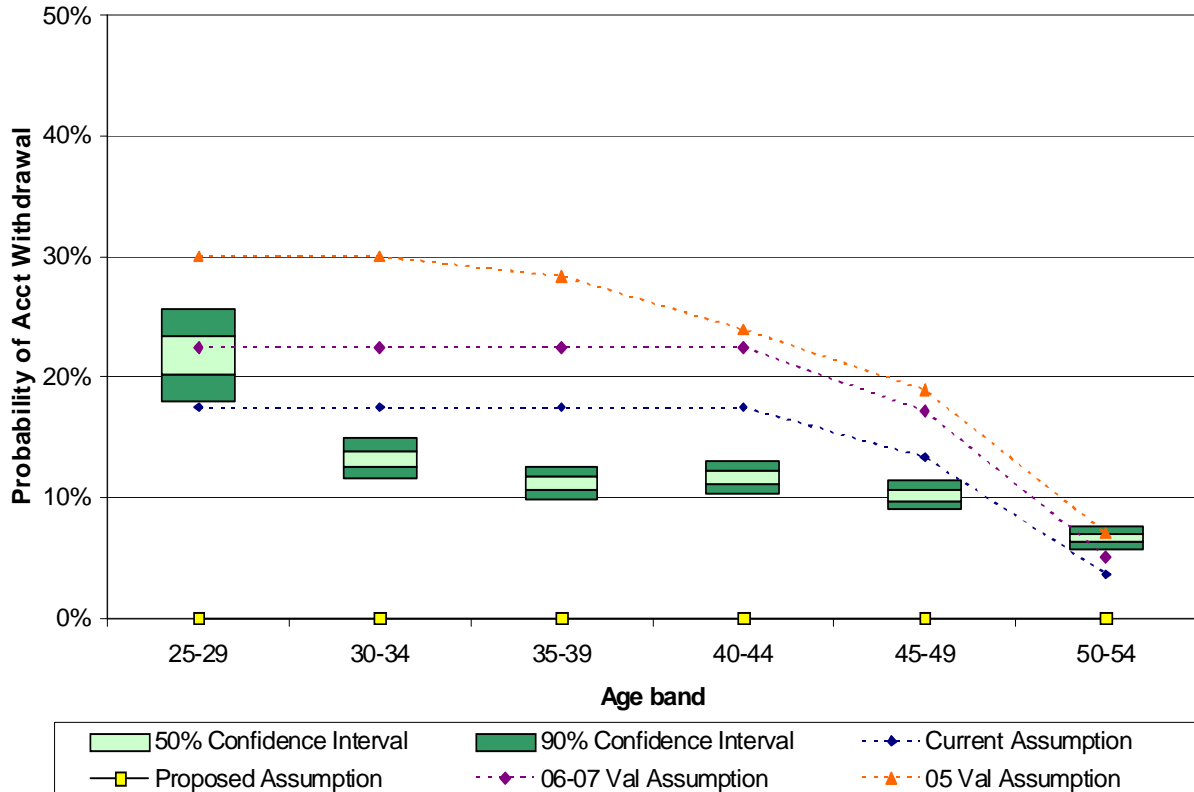
School Districts - OPSRP



Probability of Account Withdrawal Assumptions

Summary of Proposed Assumptions

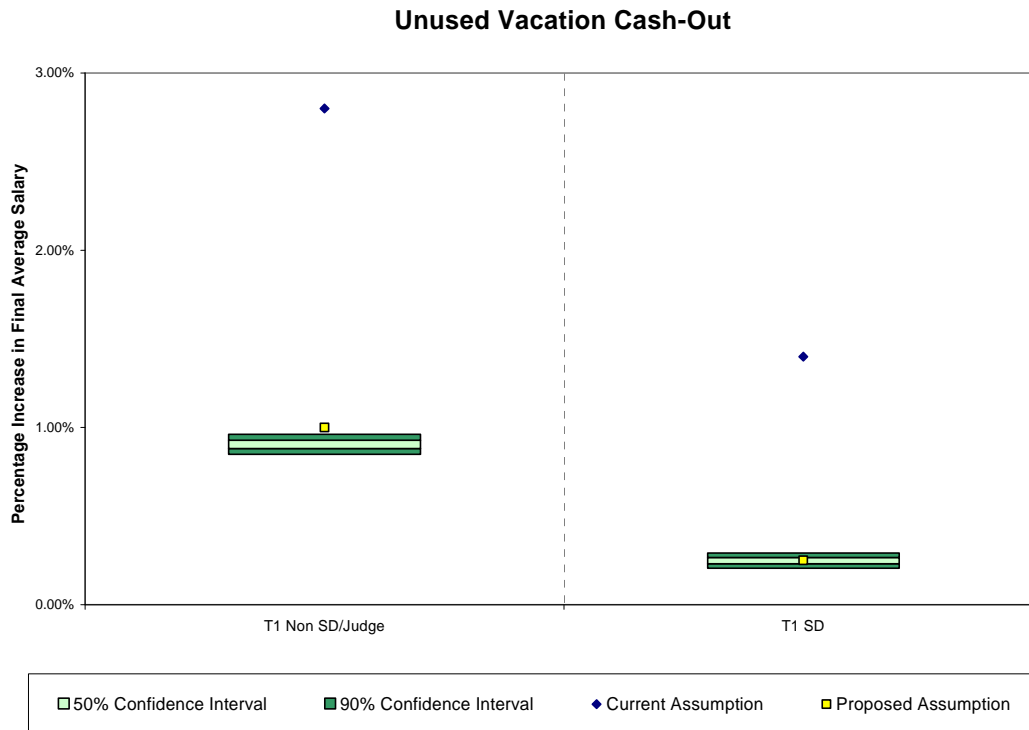
General Service



- This assumption represents the probability that a terminating Tier 1/Tier 2 member will withdraw his/her account balance from the plan before retirement
- This option is a progressively worse financial choice as time passes since member accounts get no new contributions.
- Experience shows significant downward trend
 - Latest experience suggests reducing the assumption further
- We propose assuming no account withdrawals in the future
 - The approach anticipates the future steady-state
 - Simplifies valuation
 - Does not assume financially questionable member behavior

Unused Vacation Pay Cash-Out

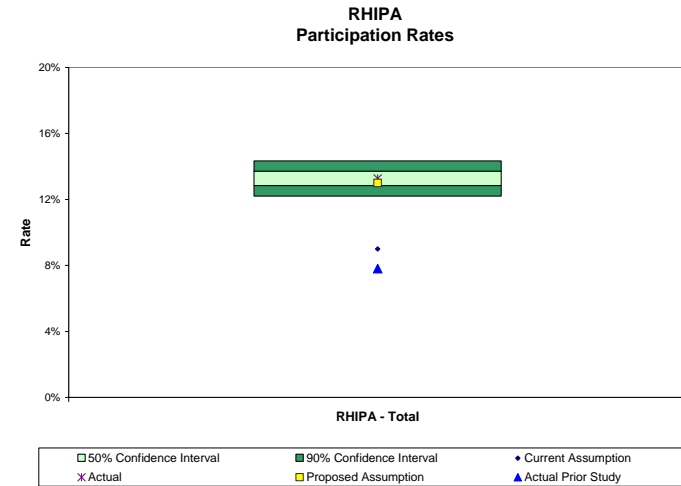
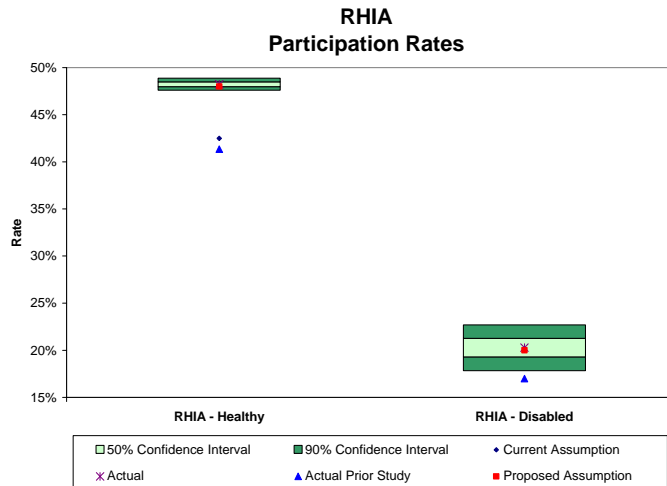
Summary of Proposed Assumptions



- The final average salary for Tier 1 members can include the effect of any unused vacation cash-out at retirement
- We assume this produces a fixed percentage increase to the final average salary
 - Our assumption separates School Districts vs. all others
 - Does not affect benefits calculated under Money Match
- Data was not available to review this assumption in past experience studies
- Data provided for the current experience study indicates the assumption should be lowered for both groups

Retiree Healthcare Assumptions

Summary of Proposed Assumptions



- Participation rates among both RHIPA and healthy RHIA participants increased (held steady among RHIA participants with disabilities)
- Participation levels may be affected by:
 - Economic conditions and cost of coverage
 - Relative attractiveness of RHIA/RHIPA programs compared to alternatives
- We propose rates near the middle of the 50% confidence interval
 - Participation experience can change quickly, and should be monitored going forward

Other Assumptions

Summary of Proposed Assumptions

	Current Assumption	Proposed Changes
Duty Disability <ul style="list-style-type: none"> ▪ Police & Fire ▪ General Service 	Percentage of the 1985 Disability Class 1 Rates <ul style="list-style-type: none"> ▪ 15% (0.005% -- 0.127%) ▪ 1.5% (0.0005% -- 0.013%) 	No Change
Ordinary Disability	50% of 1985 Disability Class 1 Rates w/ 0.20% cap (0.015% -- 0.200%)	50% of 1985 Disability Class 1 Rates w/ 0.18% cap (0.015% -- 0.180%)
Partial Lump Sum	6% for all years	No Change
Total Lump Sum	6% for 2009, declining 0.5% per year until reaching 0%	No Change
Purchase of Credited Service	Non-Money Match Retirements: 55%	Non-Money Match Retirements: 60%
Unused Sick Leave* <ul style="list-style-type: none"> ▪ School District (M) ▪ School District (F) ▪ State General (M) ▪ State General (F) ▪ Local General (M) ▪ Local General (F) ▪ State P&F ▪ Local P&F ▪ Dormant 	7.50% 6.75% 5.75% 4.25% 4.25% 3.00% 7.25% 8.25% 3.50%	8.25% 6.50% 6.25% 3.75% No change No change 5.50% 7.50% 2.50%

* For members eligible to include unused sick leave in final average salary, final average salary is increased by the percentages noted above to model the estimated effects of sick leave



Actuarial Methods

Treatment of Negative Rate Guarantee Reserve

Actuarial Methods

Treatment of Negative Rate Guarantee Reserve

- One unresolved actuarial methods issue is how to treat a negative Tier 1 Rate Guarantee Reserve (RGR) in valuation calculations
 - Reserves are earmarked for a dedicated purpose and thus not intended to be available to meet general benefit payment obligations
 - To reflect this, reserves are typically subtracted from the market value of assets in valuation calculations

$$\text{Valuation Assets} = \text{Market Value of Assets} - \text{Reserves}$$

- Unlike a typical reserve the RGR can be in deficit and thus become negative
 - In the 12/31/2009 valuation, the negative RGR was subtracted from the market value of assets
 - That approach can be justified theoretically, but an outcome of that approach is that a negative RGR is treated as an asset for valuation calculation purposes
- Our proposal is to never treat a RGR as a valuation asset, whether positive or negative
 - This would avoid valuation assets potentially exceeding market value of assets
 - In addition, this approach recognizes the dedicated nature of each of the separate reserves

This issue was discussed at length in May, and the pertinent slides from the May presentation are included in the Appendix



Decisions

Estimated Impact of Changes on Employer Rates

Effect on Uncollared Base Rate

Slide 31 of Mercer's May 2011 presentation illustrates the benefit impact of an alternative return assumption for a sample member under Money Match.

	Tier 1/Tier 2		OPSRP		RHIA/RHIPA	
	Normal Cost Rate	UAL Rate	Normal Cost Rate	UAL Rate	Normal Cost Rate	UAL Rate
Mortality	0.1%	0.4%	0.1%	0.0%	0.0%	0.0%
Other Demographic Assumptions	(0.4%)	(0.1%)	(0.2%)	0.0%	0.0%	0.0%
Treatment of Negative RGR	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%
Total	(0.3%)	0.5%	(0.1%)	0.0%	0.0%	0.0%
7.75% Regular Return	0.6%	1.0%	0.4%	0.0%	0.0%	0.0%
Total	0.3%	1.5%	0.3%	0.0%	0.0%	0.0%

- Estimated impact is shown on a systemwide basis. The impact from rate pool to rate pool (or among individual independent employers) will vary.
- The estimated impact for treatment of the negative Rate Guarantee Reserve is based on a 12/31/2010 Rate Guarantee Reserve level of negative \$199 million. Impact of alternative approaches can vary significantly in future years based on the magnitude of any potential negative Rate Guarantee Reserve.

Decisions

Summary of Proposed Assumptions– Methods and Economic Assumptions

	Current Assumption	Proposed Assumption
Regular Investment Return	8.00%	7.50% - 8.00%*
Variable Investment Return	8.50%	7.75% - 8.25%**
Health Cost Trend Rate		
▪ 2011 Trend Rate	7.00%	No Changes
▪ Ultimate Trend Rate	4.50%	
▪ Year Reaching Ultimate Trend	2029	
OPSRP Administrative Expenses	\$6.6 million	No Change
Percentage of Money Match retirements for allocation between employers	General: 50% P&F: 15%	General: 40% P&F: 10%
Treatment of Negative Tier 1 Rate Guarantee Reserve	Treat as asset	Do not treat as an asset

* Based on Mercer’s capital market assumptions, we propose an assumption in the 7.5%-8.0% range. The SIS capital market assumptions without an active management component are 0.2%-0.3% above Mercer assumptions.

** Proposed to be 20-25 basis points greater than regular investment return assumption.

Decisions

Summary of Proposed Assumptions– Demographic Assumptions

	Current Assumption	Proposed Assumption
Mortality	Generational Tables	Modest decreases to rates for most groups to reflect recent experience
Turnover	Combined T1/T2/OPSRP	Separate T1/T2 & OPSRP
Merit Salary Increases	0% for 2009 and 2010, then slightly higher ultimate rates	Slightly lower ultimate rates; No select rates
RHIA Participation Rate	Healthy: 42.5% Disabled: 20%	Healthy: 48% Disabled: 20%
RHIPA Participation Rate	9%	13%
Proposed assumptions also include all other demographic changes shown in the body of this presentation and its appendix		

Decisions

Requested Board Action

- In order to complete the December 31, 2010 actuarial valuation on schedule, we request the following actions from the Board
 - Selection of regular account investment return assumption
 - Approval of variable account investment return assumption 25 basis point greater than the regular account return assumption
 - Selection of method for treatment of Rate Guarantee Reserve
 - Approval of all proposed assumptions in this presentation (including appendix) for demographic and economic assumptions not specifically listed above

Next Steps

- May Board Meeting
 - Experience Study – Methods and Economic Assumptions
- July Board Meeting
 - Experience Study – Investment Return and Demographic Assumptions
 - Board Adoption of Methods and Assumptions for 12/31/2010 and 12/31/2011 Actuarial Valuations
- September Board Meeting
 - 12/31/2010 system-wide actuarial valuation results
 - Actuarial equivalence factors for 2012-2013
- October
 - 12/31/2010 individual employer reports



Appendix

Appendix

Important Notices

Mercer has prepared this report exclusively for the Oregon PERS Board; Mercer is not responsible for reliance upon this report by any other party. The only purposes of this report are to present results of Mercer's review of experience under the plan. This report may not be used for any other purpose; Mercer is not responsible for the consequences of any unauthorized use.

Decisions about benefit changes, granting new benefits, investment policy, funding policy, benefit security and/or benefit-related issues should not be made on the basis of this report, but only after careful consideration of alternative economic, financial, demographic and societal factors, including financial scenarios that assume future sustained investment losses.

The Oregon Investment Council (OIC) is solely responsible for selecting the plan's investment policies, asset allocations and individual investments of the Oregon PERS program. Mercer's actuaries have not provided any investment advice to Oregon PERS or OIC.

A valuation report is only a snapshot of a Plan's estimated financial condition at a particular point in time; it does not predict the Plan's future financial condition or its ability to pay benefits in the future and does not provide any guarantee of future financial soundness of the Plan. Over time, a plan's total cost will depend on a number of factors, including the amount of benefits the plan pays, the number of people paid benefits, the period of time over which benefits are paid, plan expenses and the amount earned on any assets invested to pay benefits. These amounts and other variables are uncertain and unknowable at the valuation date

Because modeling all aspects of a situation is not possible or practical, we may use summary information, estimates, or simplifications of calculations to facilitate the modeling of future events in an efficient and cost-effective manner. We may also exclude factors or data that are immaterial in our judgment. Use of such simplifying techniques does not, in our judgment, affect the reasonableness of valuation results for the plan.

To prepare the valuation report, actuarial assumptions, as described in the actuarial valuation report as of December 31, 2009, for Oregon PERS are used in a forward looking financial and demographic model to select a single scenario from a wide range of possibilities; the results based on that single scenario are included in the valuation. The future is uncertain and the plan's actual experience will differ from those assumptions; these differences may be significant or material because these results are very sensitive to the assumptions made and, in some cases, to the interaction between the assumptions.

Appendix

Important Notices

Different assumptions or scenarios within the range of possibilities may also be reasonable and results based on those assumptions would be different. As a result of the uncertainty inherent in a forward looking projection over a very long period of time, no one projection is uniquely “correct” and many alternative projections of the future could also be regarded as reasonable. Two different actuaries could, quite reasonably, arrive at different results based on the same data and different views of the future. A "sensitivity analysis" shows the degree to which results would be different if you substitute alternative assumptions within the range of possibilities for those utilized in this report. This report displays a limited-scope sensitivity analysis of alternate actuarial assumptions, as detailed in this report. At Oregon PERS request, Mercer is available to perform additional sensitivity analyses.

Actuarial assumptions may also be changed from one valuation to the next because of changes in mandated requirements, plan experience, changes in expectations about the future and other factors. A change in assumptions is not an indication that prior assumptions were unreasonable when made.

The calculation of actuarial liabilities for valuation purposes is based on a current estimate of future benefit payments. The calculation includes a computation of the "present value" of those estimated future benefit payments using an assumed discount rate; the higher the discount rate assumption, the lower the estimated liability will be. For purposes of estimating the liabilities (future and accrued) in this report, Oregon PERS selected an assumption based on the expected long term rate of return on plan investments. Using a lower discount rate assumption, such as a rate based on long-term bond yields, could substantially increase the estimated present value of future and accrued liabilities.

Because valuations are a snapshot in time and are based on estimates and assumptions that are not precise and will differ from actual experience, contribution calculations are inherently imprecise. There is no uniquely “correct” level of contributions for the coming plan year.

Valuations do not affect the ultimate cost of the Plan. Plan funding occurs over time. Contributions not made this year, for whatever reason, including errors, remain the responsibility of the Plan sponsor and can be made in later years. If the contribution levels over a period of years are lower or higher than necessary, it is normal and expected practice for adjustments to be made to future contribution levels to take account of this with a view to funding the plan over time.

Appendix

Important Notices

Data, computer coding and mathematical errors are possible in the preparation of a valuation involving complex computer programming and thousands of calculations and data inputs. Errors in a valuation discovered after its preparation may be corrected by amendment to the valuation or in a subsequent year's valuation.

To prepare this report, Mercer has used and relied on member and financial data submitted by the Oregon Public Employees Retirement System as summarized herein and in the December 31, 2009 actuarial valuation report and on investment return information as published by Oregon PERS and Oregon Investment Council (OIC). Oregon PERS is responsible for ensuring that such participant data provides an accurate description of all persons who are participants under the terms of the plan or otherwise entitled to benefits as of December 31, 2009, that is sufficiently comprehensive and accurate for the purposes of this report. Although Mercer has reviewed the data in accordance with Actuarial Standards of Practice No. 23, Mercer has not verified or audited any of the data or information provided.

Mercer has also used and relied on the plan provisions described in Oregon Revised Statutes Sections 238 and 238A and legislative amendments supplied by Oregon PERS. A summary of the plan provisions valued is presented in our report. Oregon PERS is solely responsible for the accuracy, validity and comprehensiveness of this information. If the data or plan provisions supplied are not accurate and complete the valuation results may differ significantly from the results that would be obtained with accurate and complete information; this may require a later revision of this report. Moreover, plan documents may be susceptible to different interpretations, each of which could be reasonable, and that the different interpretations could lead to different valuation results.

Assumptions used are based on the last experience study, as adopted by the Board on July 16, 2009, and alternative proposed assumptions as described herein. The Board is responsible for selecting the plan's funding policy, actuarial valuation methods, asset valuation methods and assumptions. This valuation is based on assumptions, plan provisions, methods and other parameters so prescribed and as summarized in this report. Oregon PERS is solely responsible for communicating to Mercer any changes required thereto.

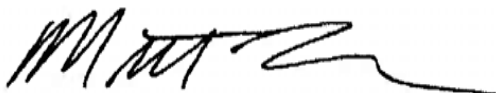
Appendix

Important Notices

Professional Qualifications

We are available to answer any questions on the material in this report or to provide explanations or further details as appropriate. The undersigned credentialed actuaries meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained in this report. We are not aware of any direct or material indirect financial interest or relationship, including investments or other services that could create a conflict of interest, that would impair the objectivity of our work.

We are available to answer any questions on the material contained in the report, or to provide explanations or further details as may be appropriate.




July 29, 2011

Matthew R. Larrabee, FSA, EA, MAAA
Enrolled Actuary No. 08-6154

Date

Mercer (US), Inc.
111 SW Columbia Street, Suite 500
Portland, OR 97201-5839
503 273 5900



July 29, 2011

Scott D. Preppernau, FSA, EA, MAAA
Enrolled Actuary No. 08-7360

Date

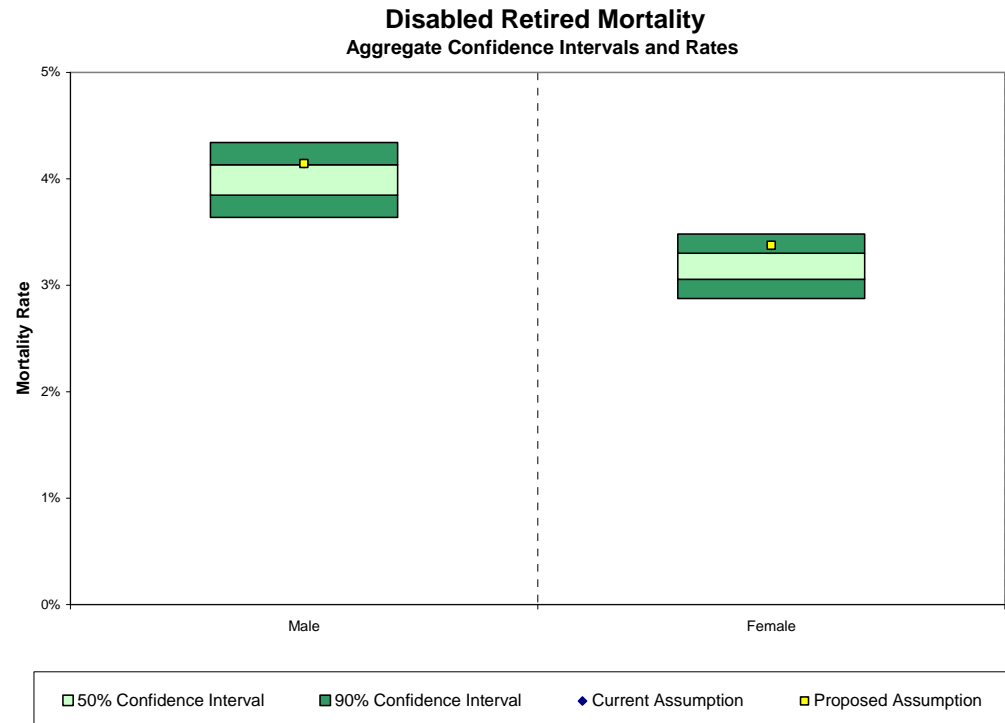
The information contained in this document is not intended by Mercer to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code that may be imposed on the taxpayer.

Appendix

Disabled Retiree Mortality

	Exposures	Actual Deaths	Current Assumption		Proposed Assumption	
			Expected Deaths	A/E Ratio	Expected Deaths	A/E Ratio
Male	8,373	334	347	96%	347	96%
Female	9,124	290	308	94%	308	94%

- Since the current rates fall within the aggregate confidence intervals, we are not proposing any changes to the disabled mortality tables.



Appendix

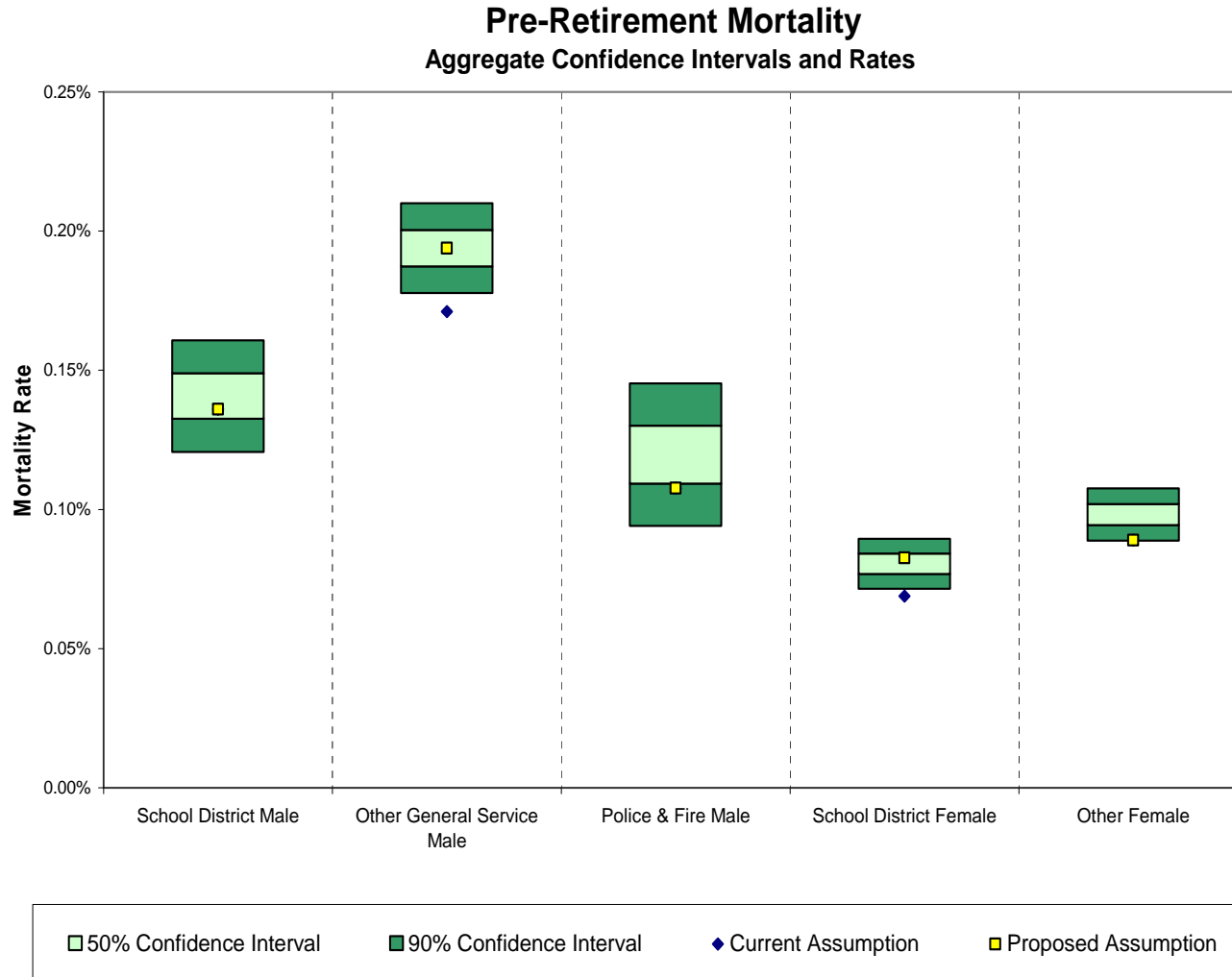
Pre-Retirement Mortality

	Exposures	Actual Deaths	Current Assumption		Proposed Assumption	
			Expected Deaths	A/E Ratio	Expected Deaths	A/E Ratio
School District Male	94,506	133	129	103%	129	103%
Other General Service Male	201,964	392	346	113%	392	100%
Police & Fire Male	49,294	59	53	111%	53	111%
School District Female	270,852	218	187	117%	224	97%
Other Female	300,557	295	267	110%	267	110%

- Pre-retirement mortality is set based on a percentage of the healthy retiree mortality rates. The “Current Assumption” is analyzed by applying the current percentage to the new proposed healthy retiree mortality rates.
- The analysis is based on experience for active employees under age 70.
- The target Actual/Expected ratio is 100%.
- Although Police & Fire Male and School District Male and Other Female are above 100%, the current rates fall within the aggregate confidence interval and thus no changes are proposed for those three groups. For the other groups, we are proposing a change to the percentage applied to the new proposed healthy retiree mortality rates.

Appendix

Pre-Retirement Mortality (continued)

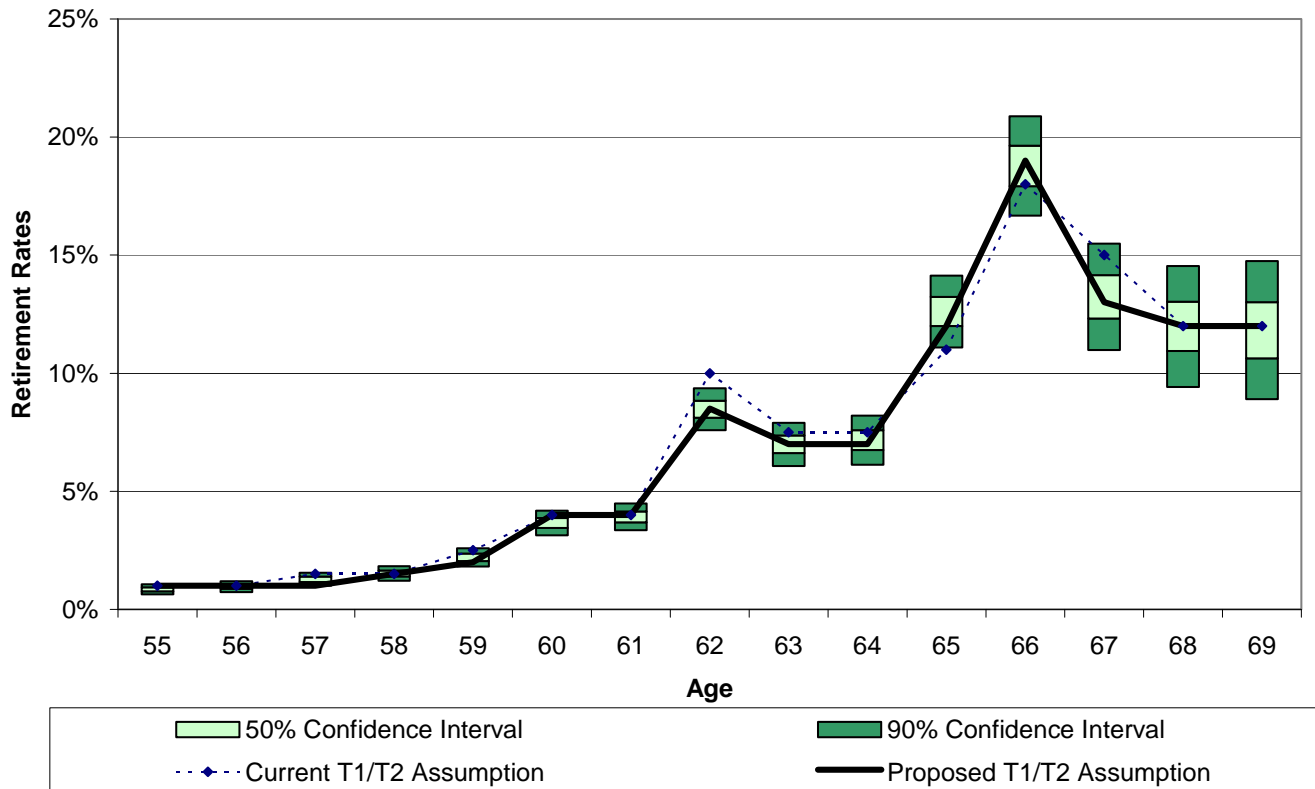


- Changes are proposed to Other GS Male and School District Female so the aggregate rate falls within the confidence interval.
- Note that the aggregate mortality rate is a function of both the group mortality rates and the ages of the members in the group.

Appendix

Retirement Rates – General Service with less than 15 Years of Service

Tier 1/Tier 2 - Other General Service Members with less than 15 Years of Service

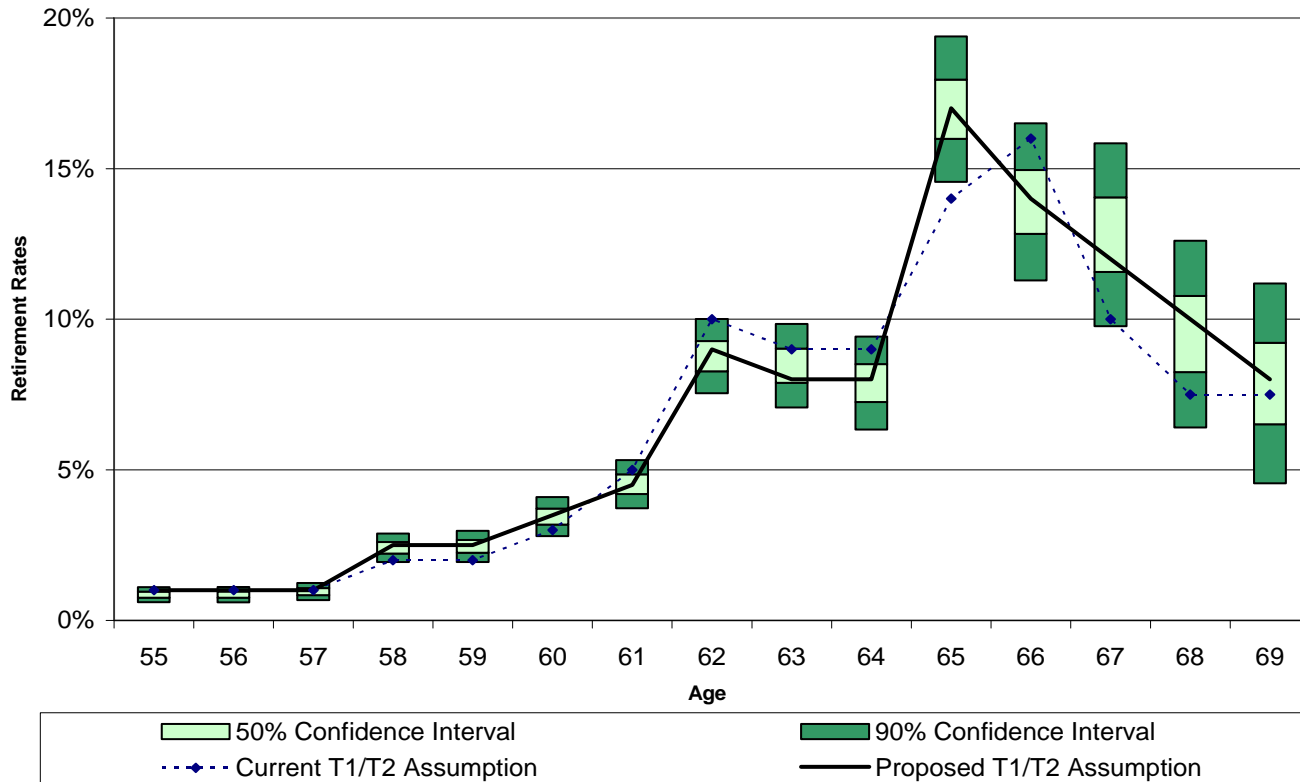


- Retirement decisions by members with less than 15 years of service are likely to be heavily influenced by the availability of resources other than PERS benefits, including:
 - Social Security
 - Prior employment
 - Spousal benefits
 - Savings

Appendix

Retirement Rates – General Service with less than 15 Years of Service

Tier 1/Tier 2 - School Districts Members with less than 15 Years of Service



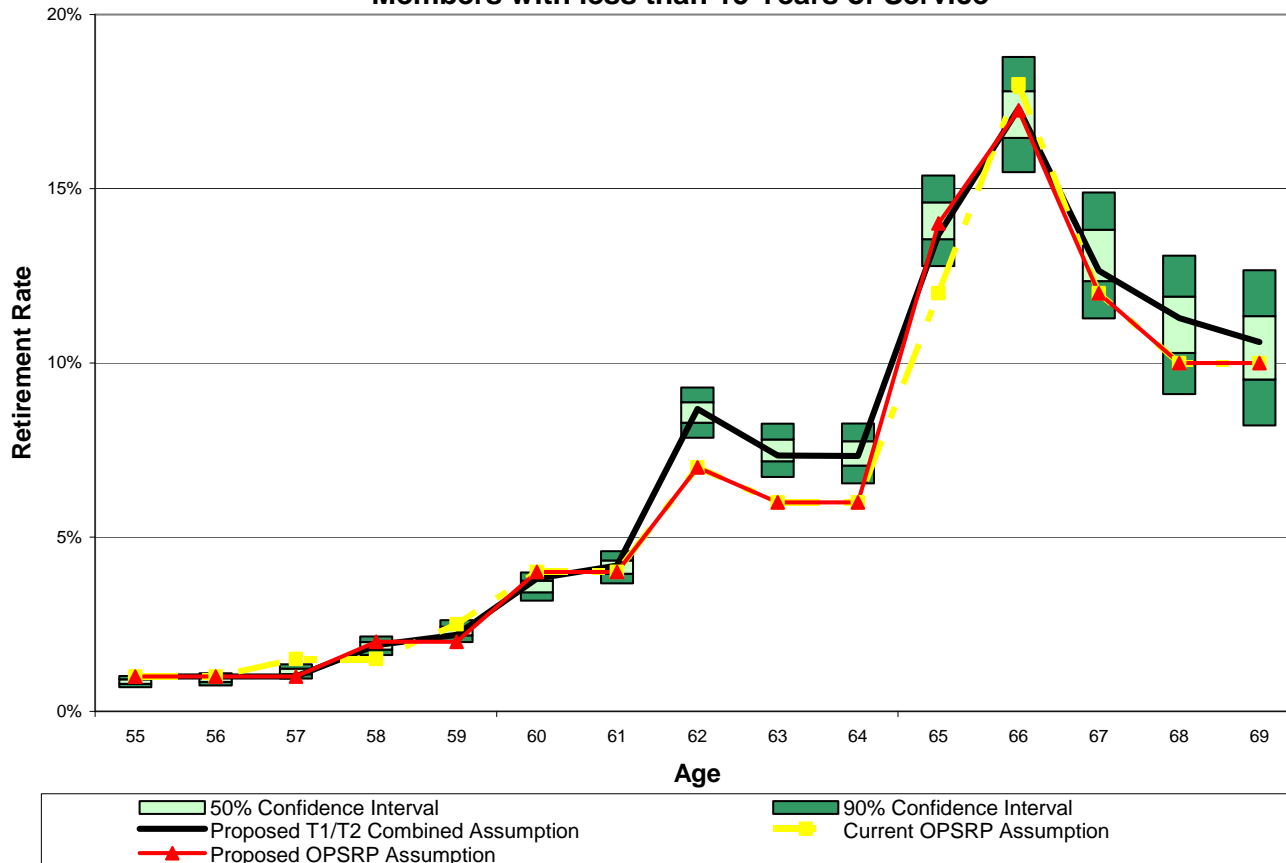
- Retirement decisions by members with less than 15 years of service are likely to be heavily influenced by the availability of resources other than PERS benefits, including:
 - Social Security
 - Prior employment
 - Spousal benefits
 - Savings

Appendix

Retirement Rates – General Service with less than 15 Years of Service

OPSRP - General Service

Members with less than 15 Years of Service

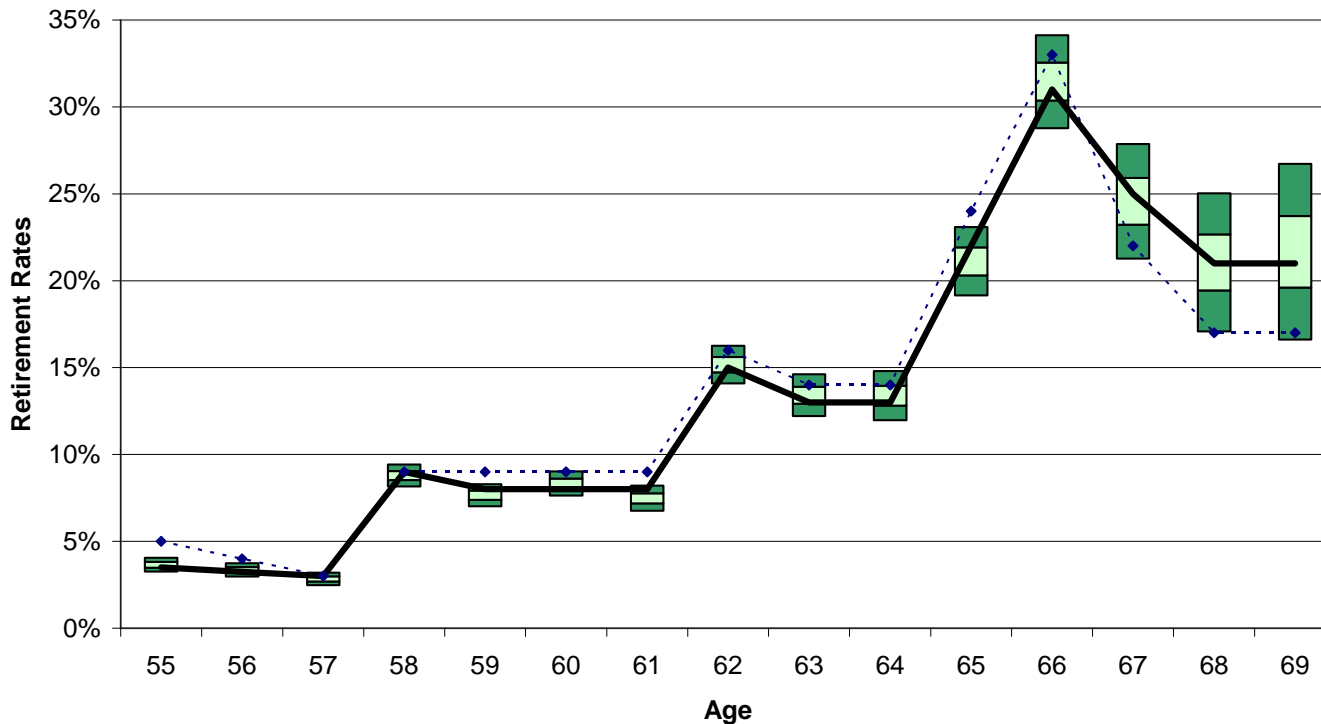


- Retirement decisions by members with less than 15 years of service are likely to be heavily influenced by the availability of resources other than PERS benefits, including:
 - Social Security
 - Prior employment
 - Spousal benefits
 - Savings

Appendix

Retirement Rates – General Service with 15 to 29 Years of Service

Tier 1/Tier 2 - Other General Service Members with 15 - 29 Years of Service

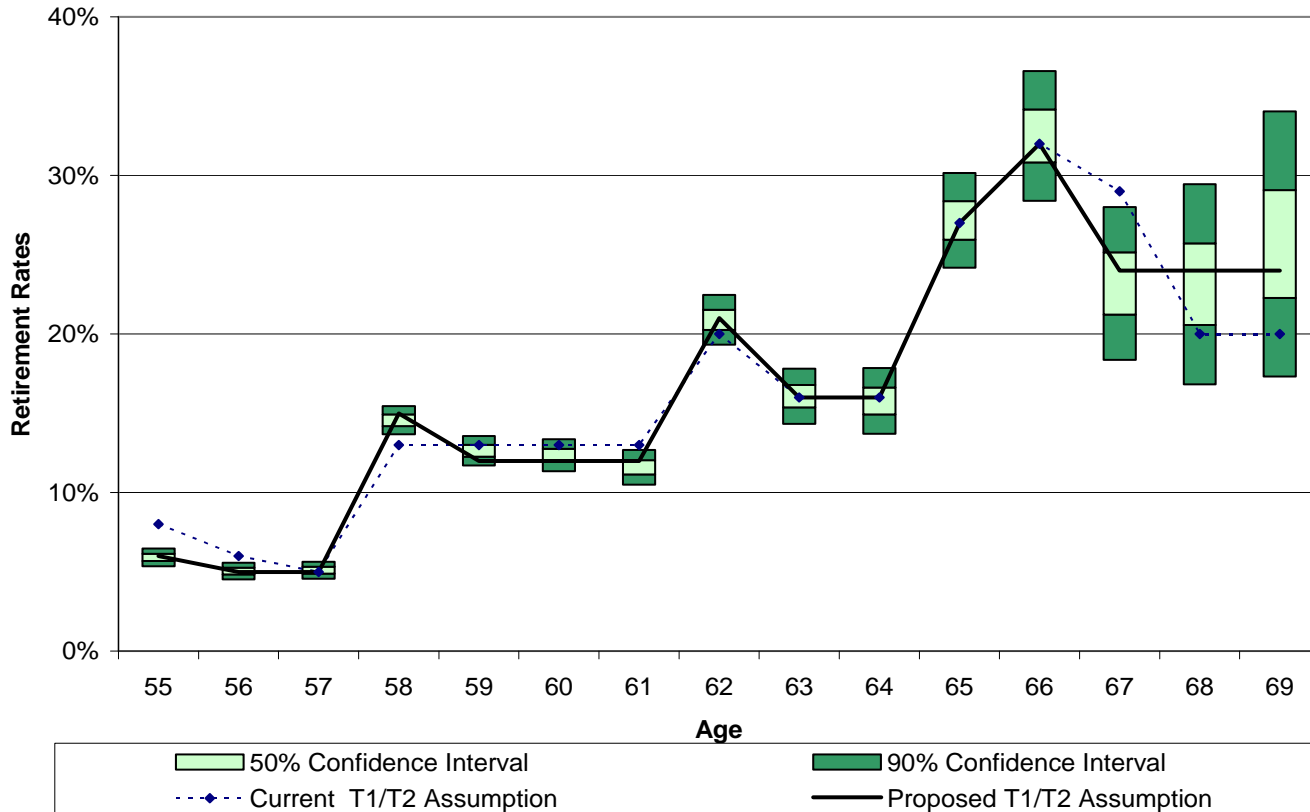


- Retirement decisions by members with 15 to 29 years of service are likely to be influenced by the structure of PERS benefits as well as the availability of other resources, including:
 - Social Security
 - Prior employment
 - Spousal benefits
 - Savings

Appendix

Retirement Rates – General Service with 15 to 29 Years of Service

Tier 1/Tier 2 - School Districts
 Members with 15 - 29 Years of Service



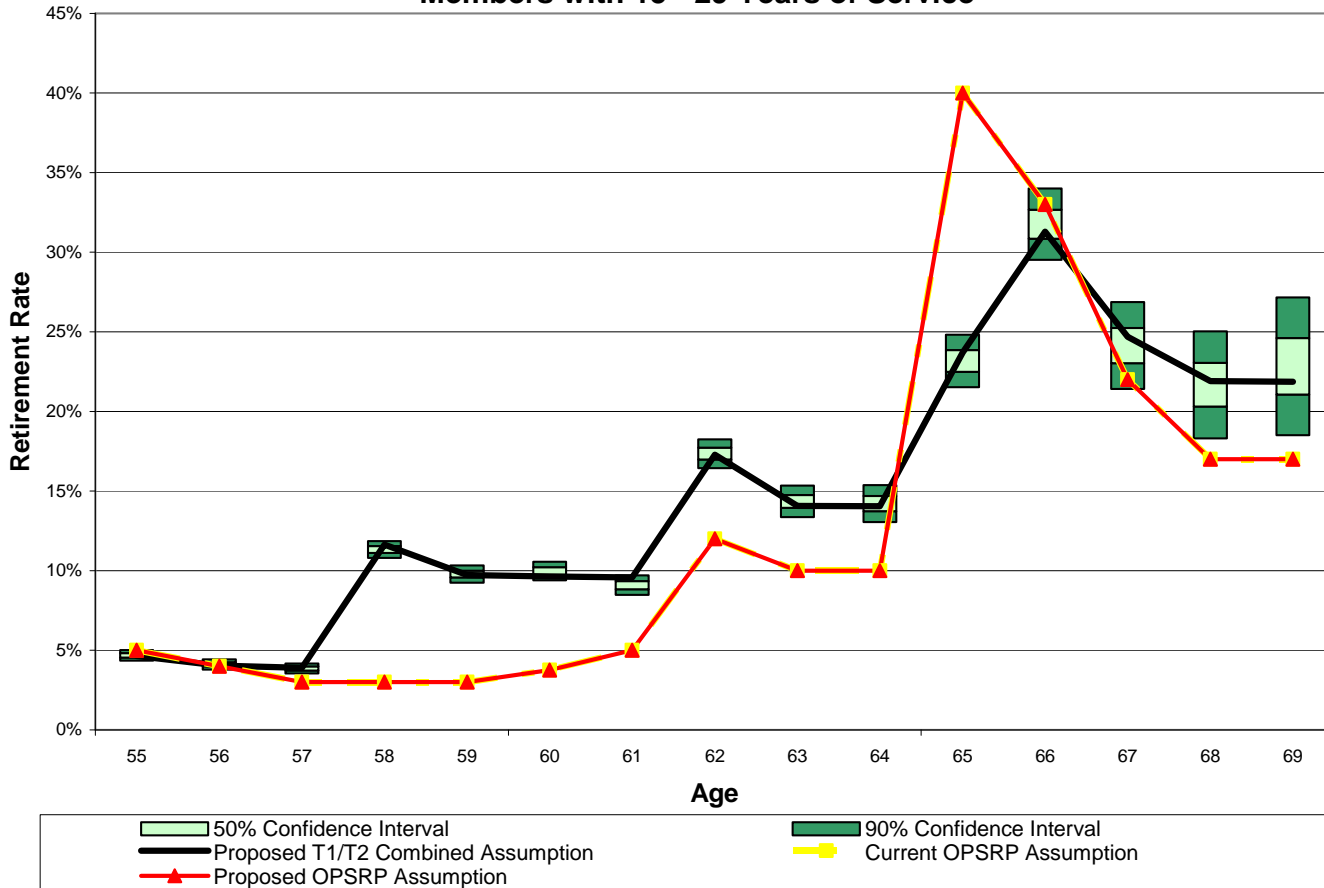
- Retirement decisions by members with 15 to 29 years of service are likely to be influenced by the structure of PERS benefits as well as the availability of other resources, including:
 - Social Security
 - Prior employment
 - Spousal benefits
 - Savings
- Charts for additional groups can be found in the appendix.

Appendix

Retirement Rates – General Service with 15 to 29 Years of Service

OPSRP - General Service

Members with 15 - 29 Years of Service

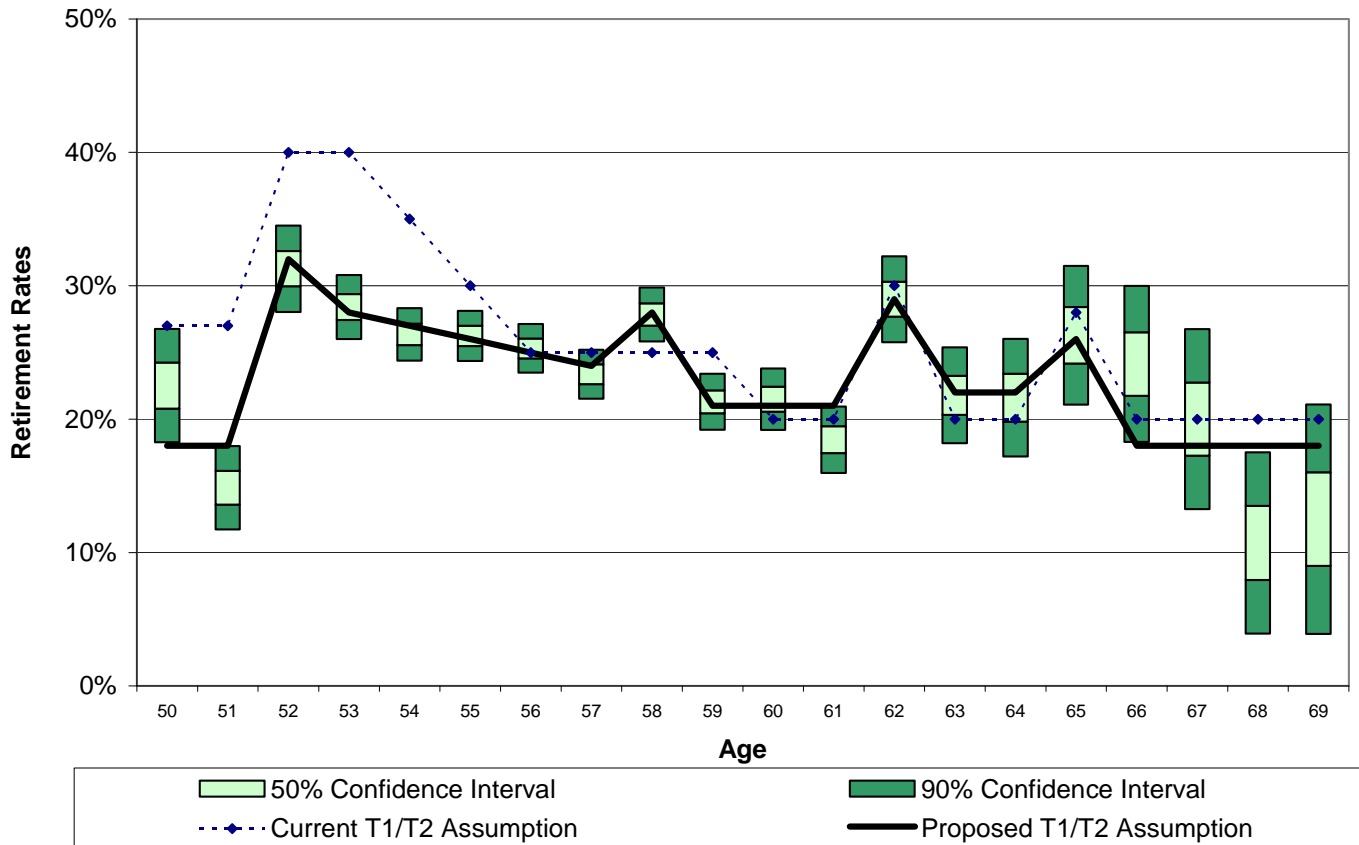


- Retirement decisions by members with 15 to 29 years of service are likely to be influenced by the structure of PERS benefits as well as the availability of other resources, including:
 - Social Security
 - Prior employment
 - Spousal benefits
 - Savings

Appendix

Retirement Rates – General Service with 30 or More Years of Service

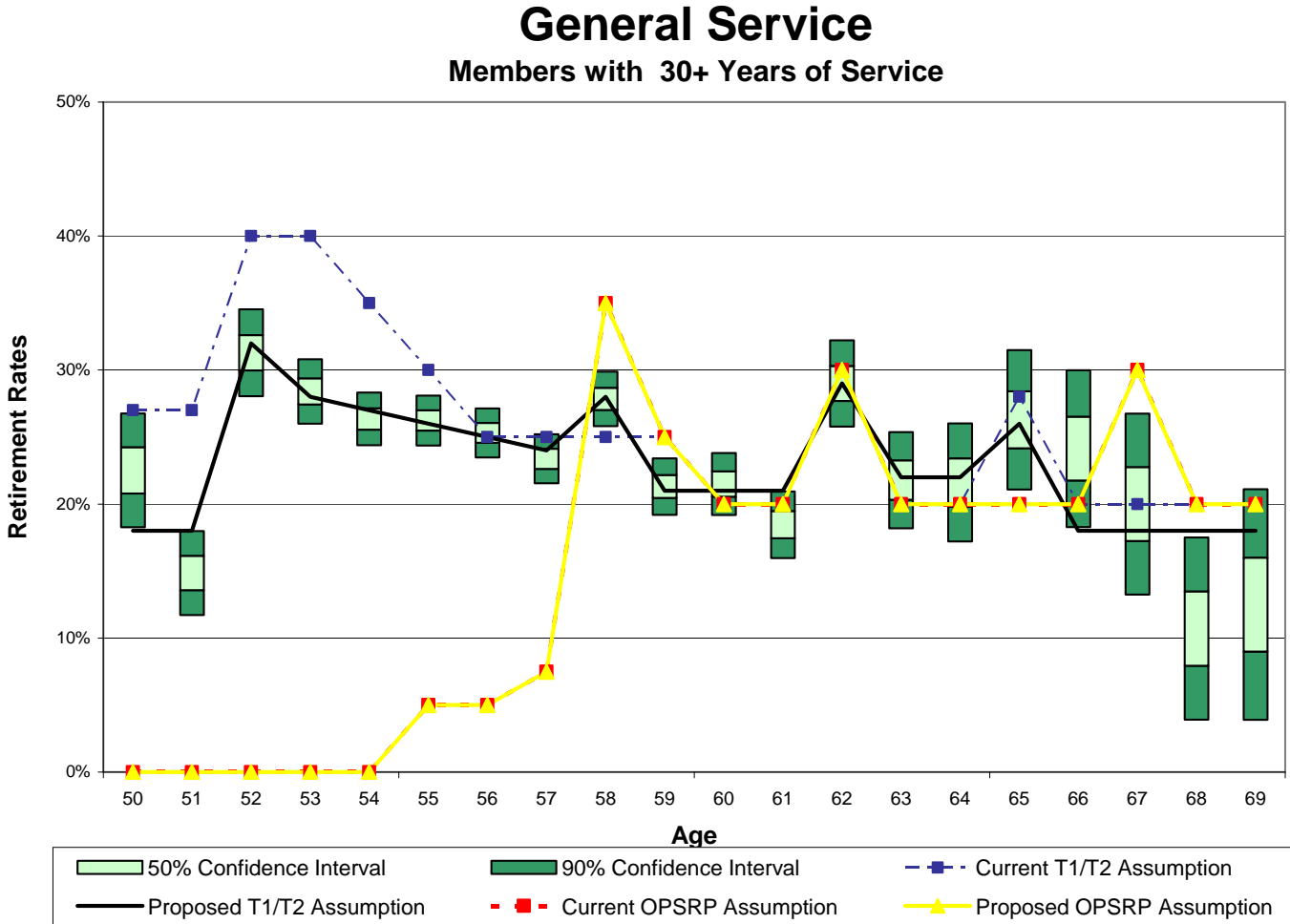
General Service/School District
Members with 30+ Years of Service



- Retirement decisions by members with 30 or more years of service are heavily influenced by the immediate unreduced benefits available through PERS (after age 58 for OPSRP benefits)
- There has been a continued decline in retirements among this group at the earliest ages, possibly due to the decline in average replacement income from Money Match benefits over the last 7 years

Appendix

Retirement Rates – General Service with 30 or More Years of Service

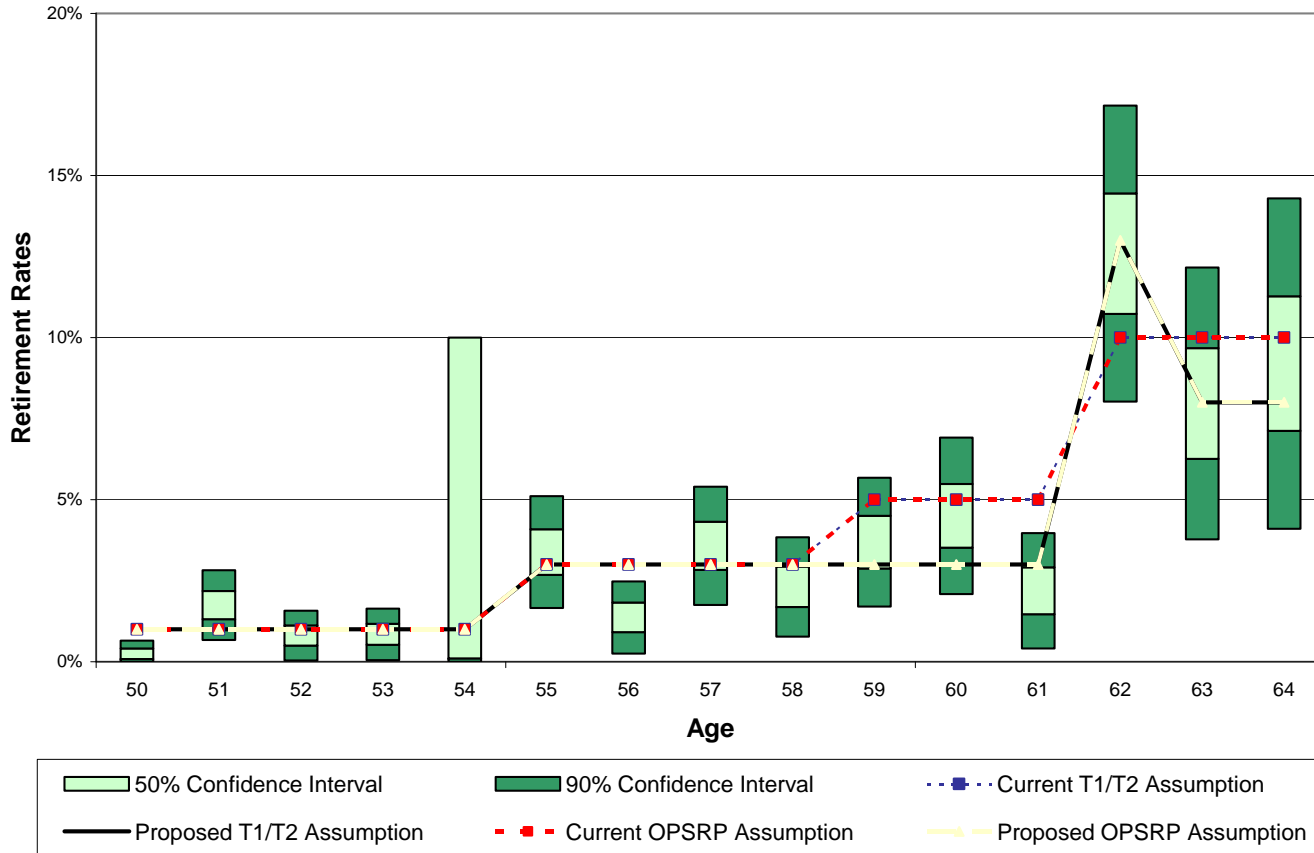


- Retirement decisions by members with 30 or more years of service are heavily influenced by the immediate unreduced benefits available through PERS (after age 58 for OPSRP benefits)
- There has been a continued decline in retirements among this group at the earliest ages, possibly due to the decline in average replacement income from Money Match benefits over the last 7 years

Appendix

Retirement Rates – Police & Fire with less than 13 Years of Service

Police & Fire Members
Members with less than 13 Years of Service



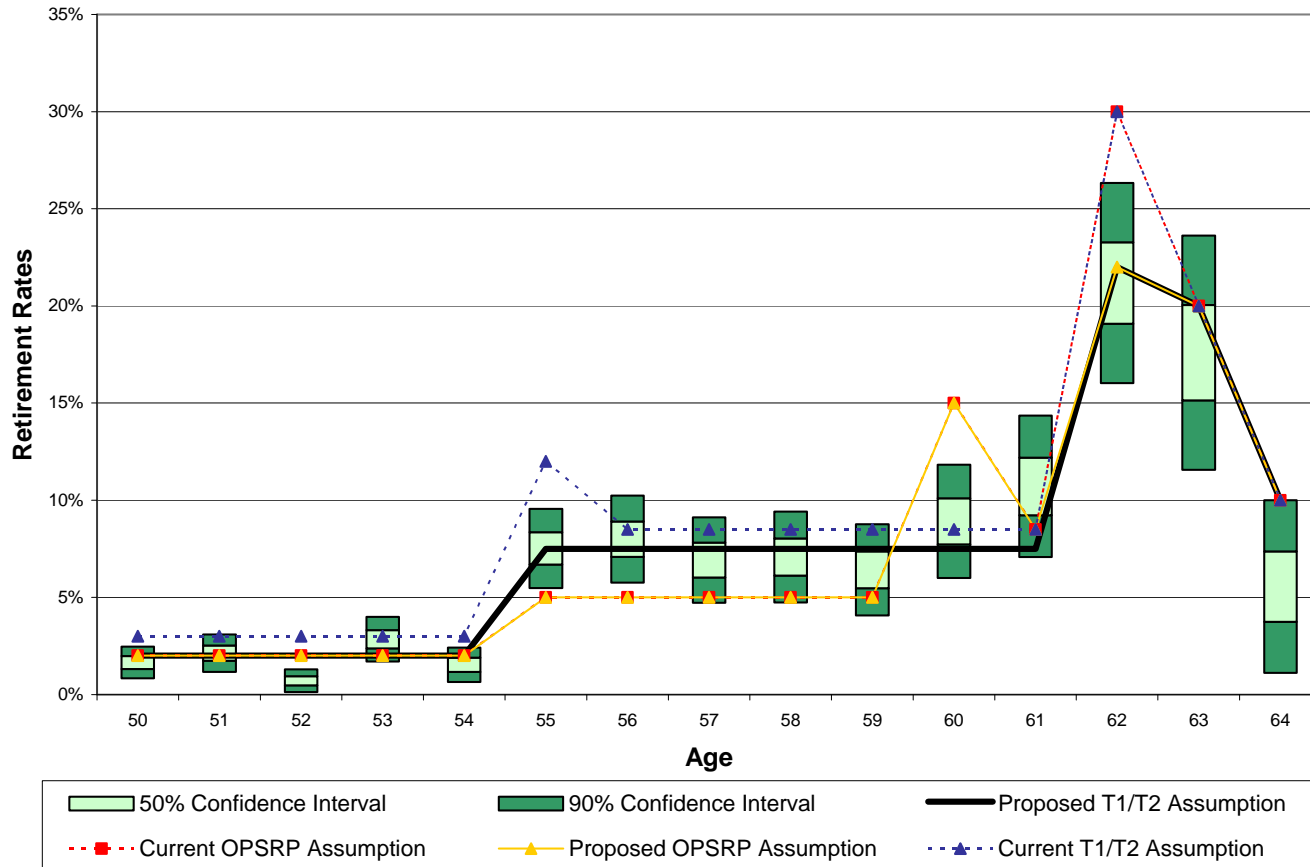
- Retirement decisions by members with less than 13 years of service are likely to be heavily influenced by the availability of resources other than PERS benefits, including:
 - Social Security
 - Prior employment
 - Spousal benefits
 - Savings

Appendix

Retirement Rates – Police & Fire with 13 to 24 Years of Service

Police & Fire Members

Members with 13 to 24 Years of Service

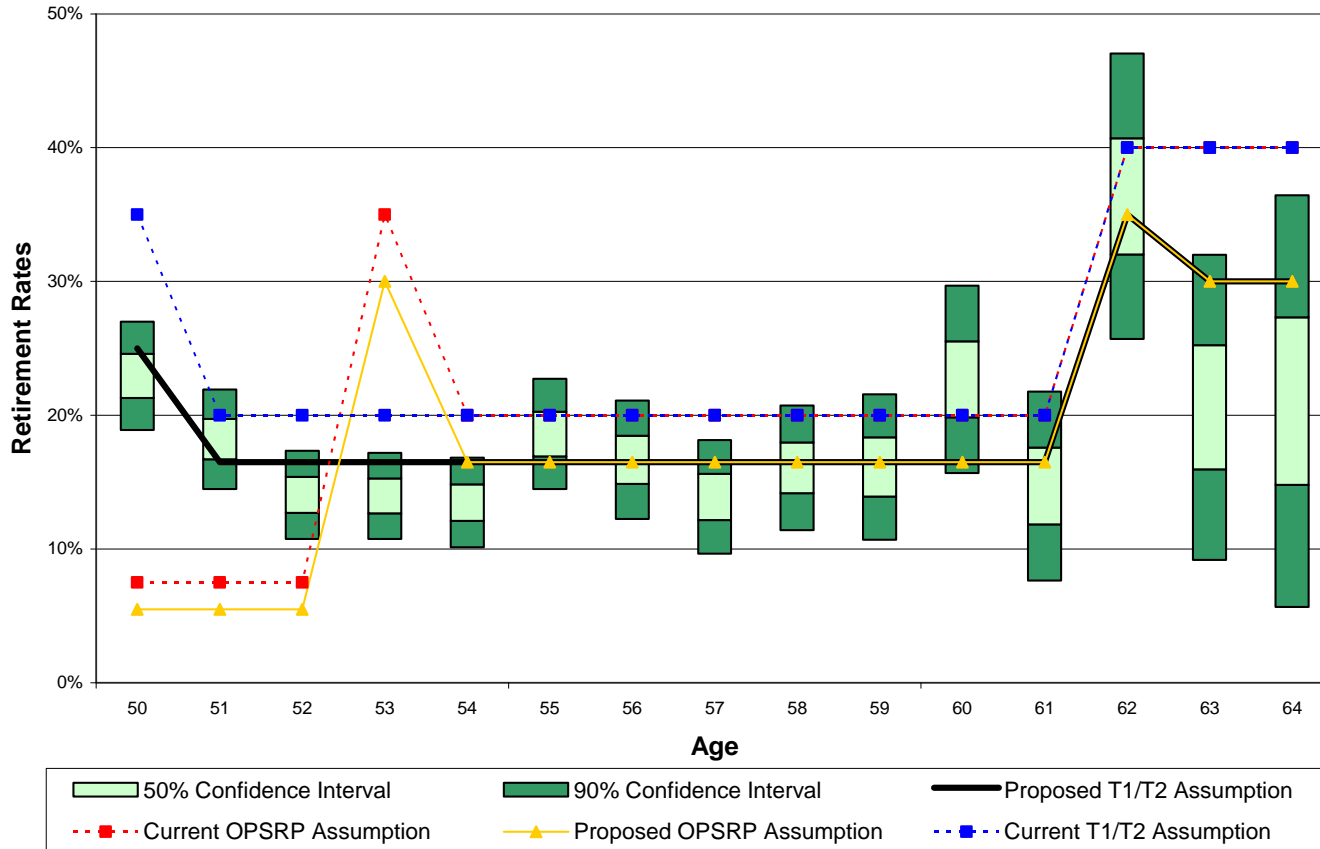


- Retirement rates for members with more than 12 years of service are influenced by the availability of unreduced benefits
- Since there is no reliable OPSRP data, OPSRP assumptions are based on the Tier 1 / Tier 2 patterns and judgments about how the different normal retirement age will affect retirement rates

Appendix

Retirement Rates – Police & Fire with 25 or More Years of Service

Police & Fire Members Members with 25+ Years of Service

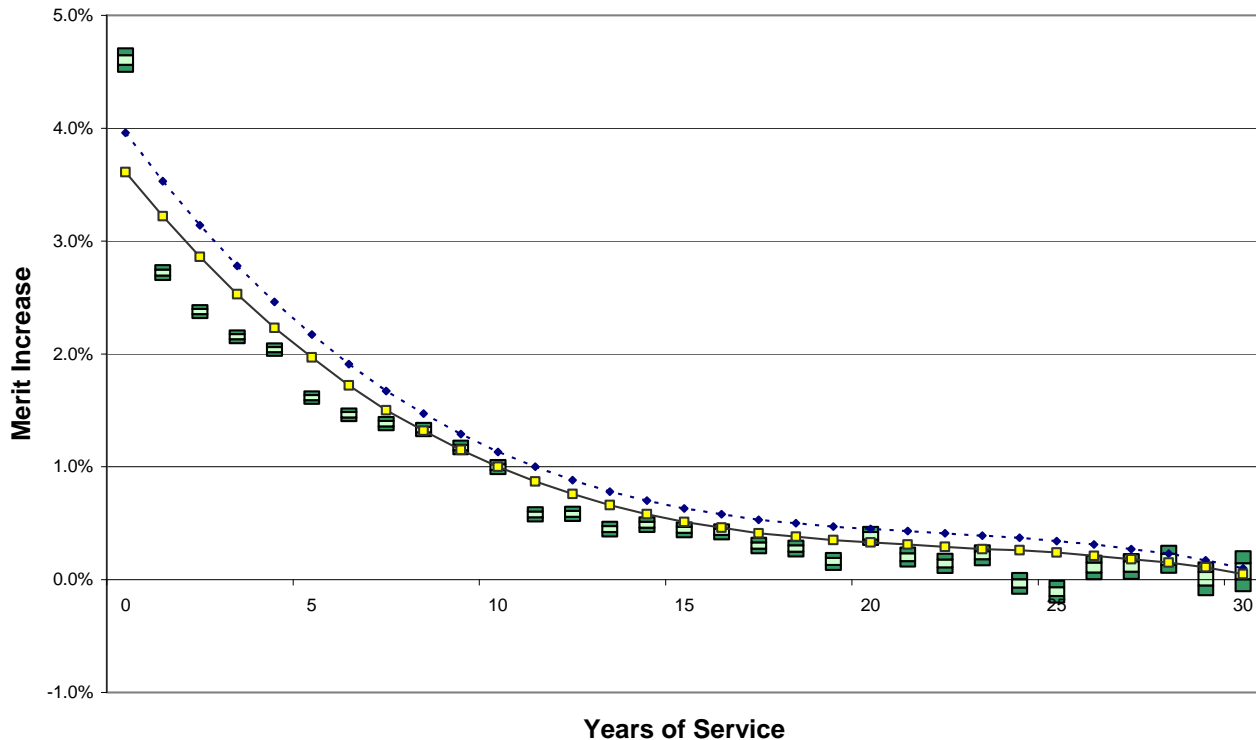


- Retirement rates for members with 25 or more years of service are influenced by the availability of unreduced benefits
- Since there is no reliable OPSRP data, OPSRP assumptions are based on the Tier 1 / Tier 2 patterns and judgments about how the different normal retirement age will affect retirement rates

Appendix

Merit Salary Increases

Other General Service



50% Confidence Interval
 90% Confidence Interval
 Current Assumption
 Proposed Assumption

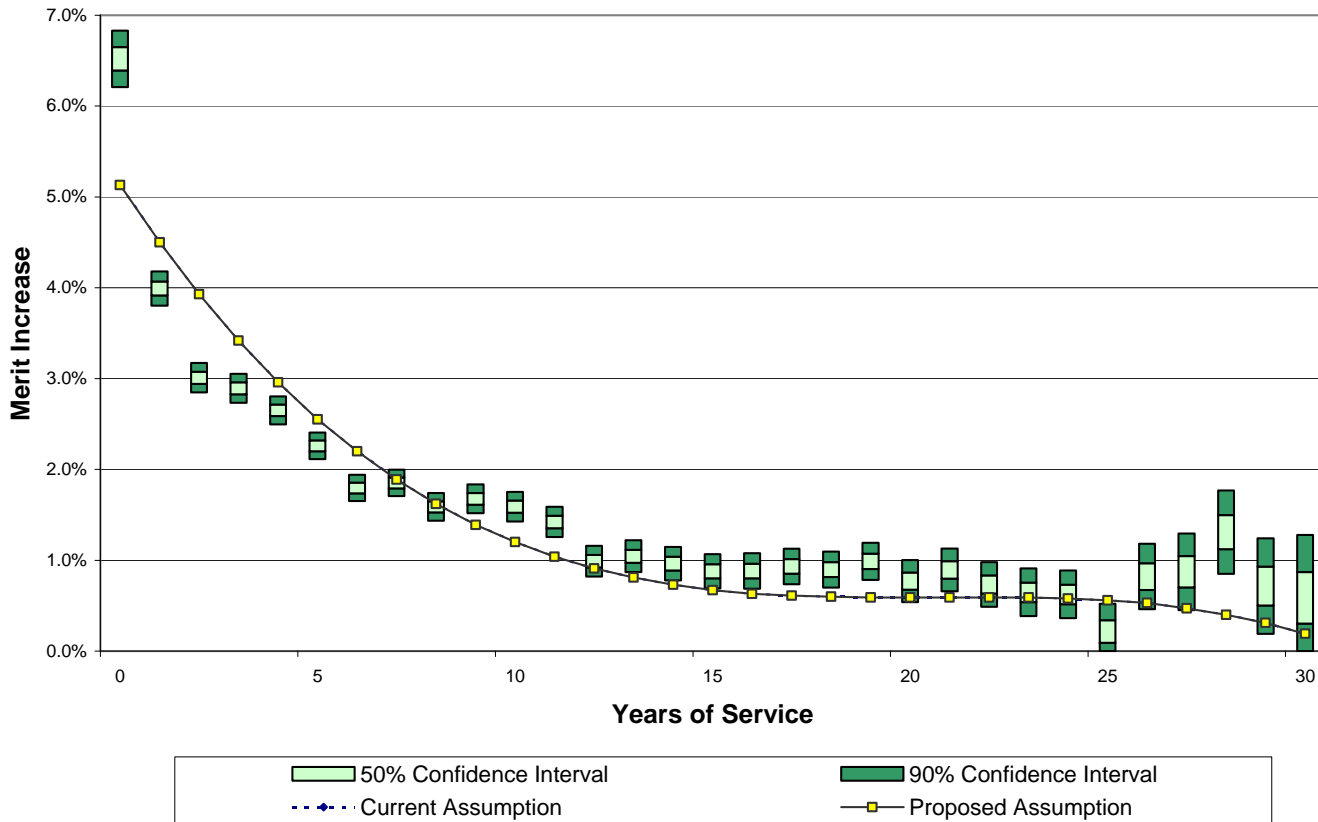
For the merit scale, we studied experience from 2003 through 2010.

- Merit increases are added to inflation and general productivity to arrive at a total salary increase assumption
- Current assumptions set for three groups:
 - School Districts (SD)
 - Other General Service (Other GS)
 - Police & Fire (PF)
- Proposed changes:
 - Decrease Merit Scale modestly for School Districts members with more than 10 years of service.
 - Decrease Merit Scale for Other GS slightly
 - Maintain Merit Scale for PF

Appendix

Merit Salary Increases

Police & Fire



For the merit scale, we studied experience from 2003 through 2010.

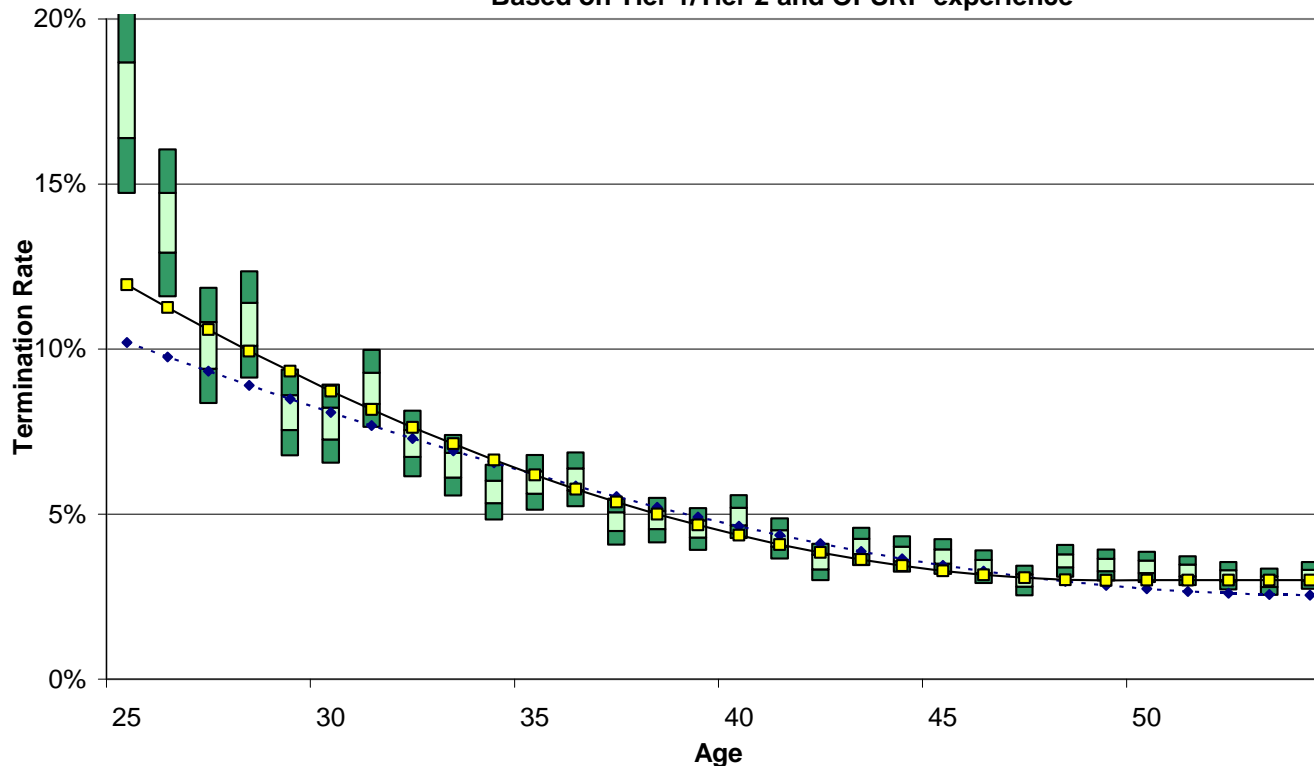
- Merit increases are added to inflation and general productivity to arrive at a total salary increase assumption
- Current assumptions set for three groups:
 - School Districts (SD)
 - Other General Service (Other GS)
 - Police & Fire (PF)
- Proposed changes:
 - Decrease Merit Scale modestly for School Districts members with more than 10 years of service.
 - Decrease Merit Scale for Other GS slightly
 - Maintain Merit Scale for PF

Appendix

Ultimate Termination Rates

Other General Service Male - OPSRP

Based on Tier 1/Tier 2 and OPSRP experience



- Structure changes:
 - Separate rates for T1/T2 and OPSRP
 - Consolidate rates for SLGRP and Independent Employers

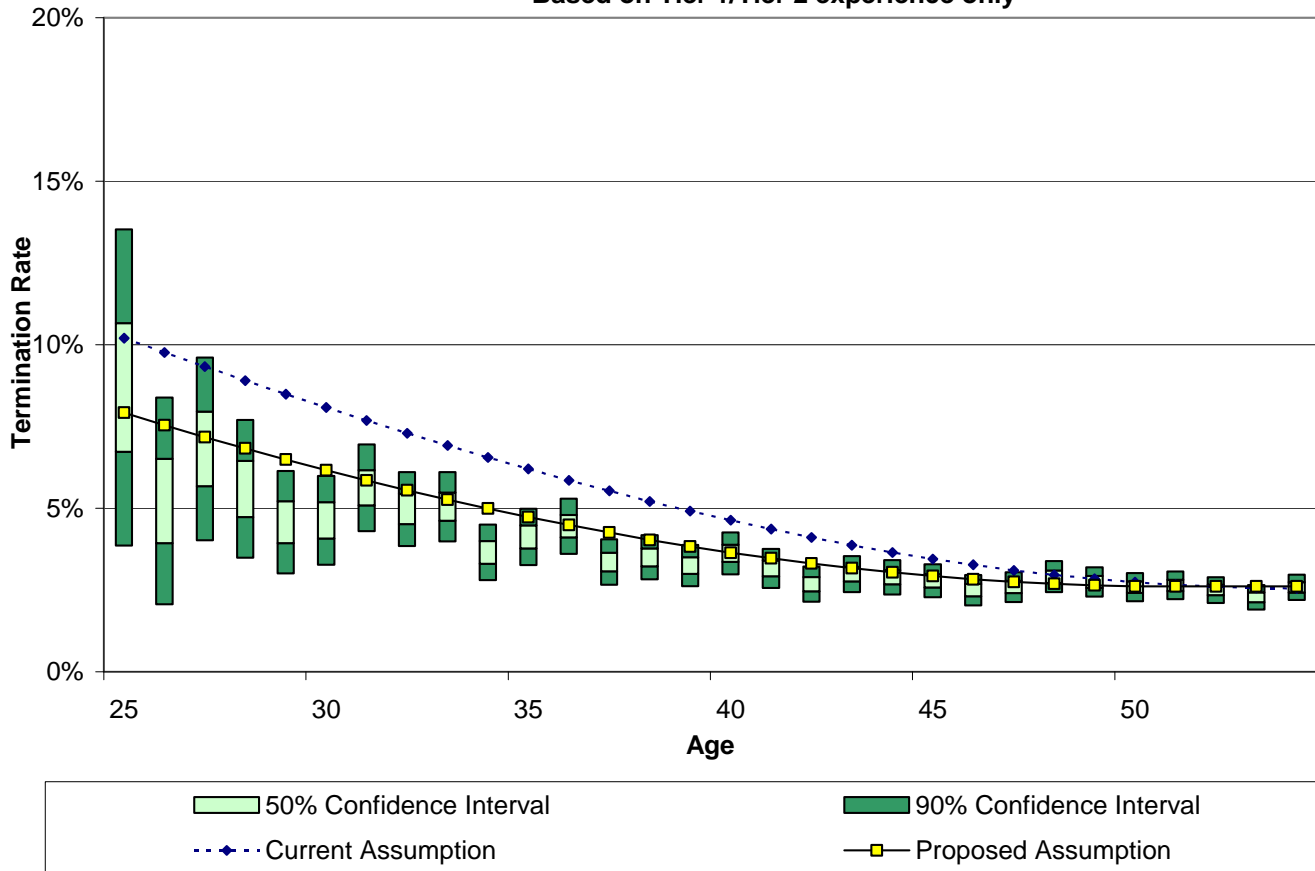
- Adjustments to ultimate termination rates:
 - Modest upward adjustment for School Districts – OPSRP
 - Modest decrease for Other General Service – T1/T2
 - Minor changes for Other General Service – OPSRP
 - No changes for Police & Fire

Appendix

Ultimate Termination Rates

Other General Service Male - Tier 1/Tier 2

Based on Tier 1/Tier 2 experience only



- Structure changes:
 - Separate rates for T1/T2 and OPSRP
 - Consolidate rates for SLGRP and Independent Employers

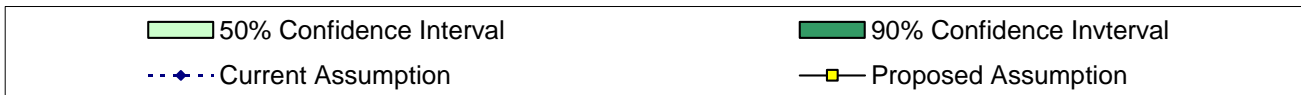
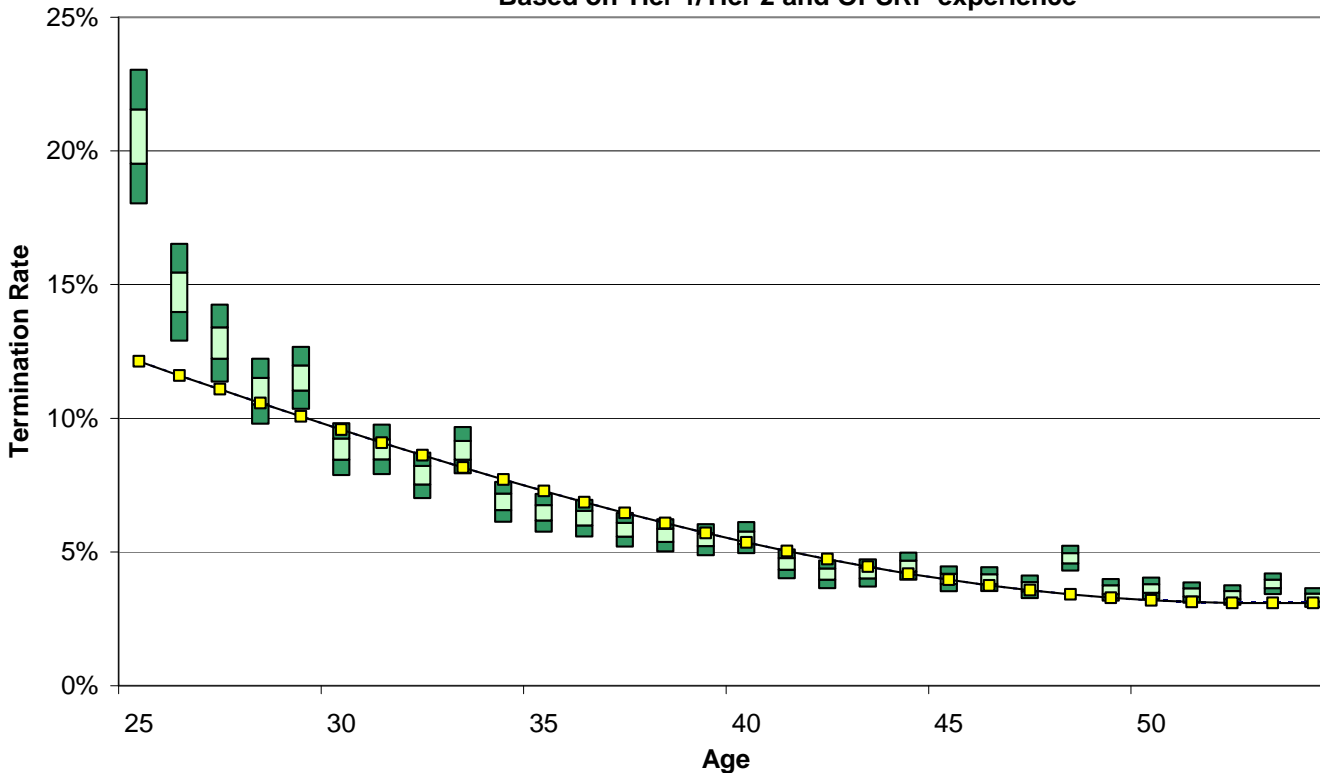
- Adjustments to ultimate termination rates:
 - Modest upward adjustment for School Districts – OPSRP
 - Modest decrease for Other General Service – T1/T2
 - Minor changes for Other General Service – OPSRP
 - No changes for Police & Fire

Appendix

Ultimate Termination Rates

Other General Service Female - OPSRP

Based on Tier 1/Tier 2 and OPSRP experience



- Structure changes:
 - Separate rates for T1/T2 and OPSRP
 - Consolidate rates for SLGRP and Independent Employers

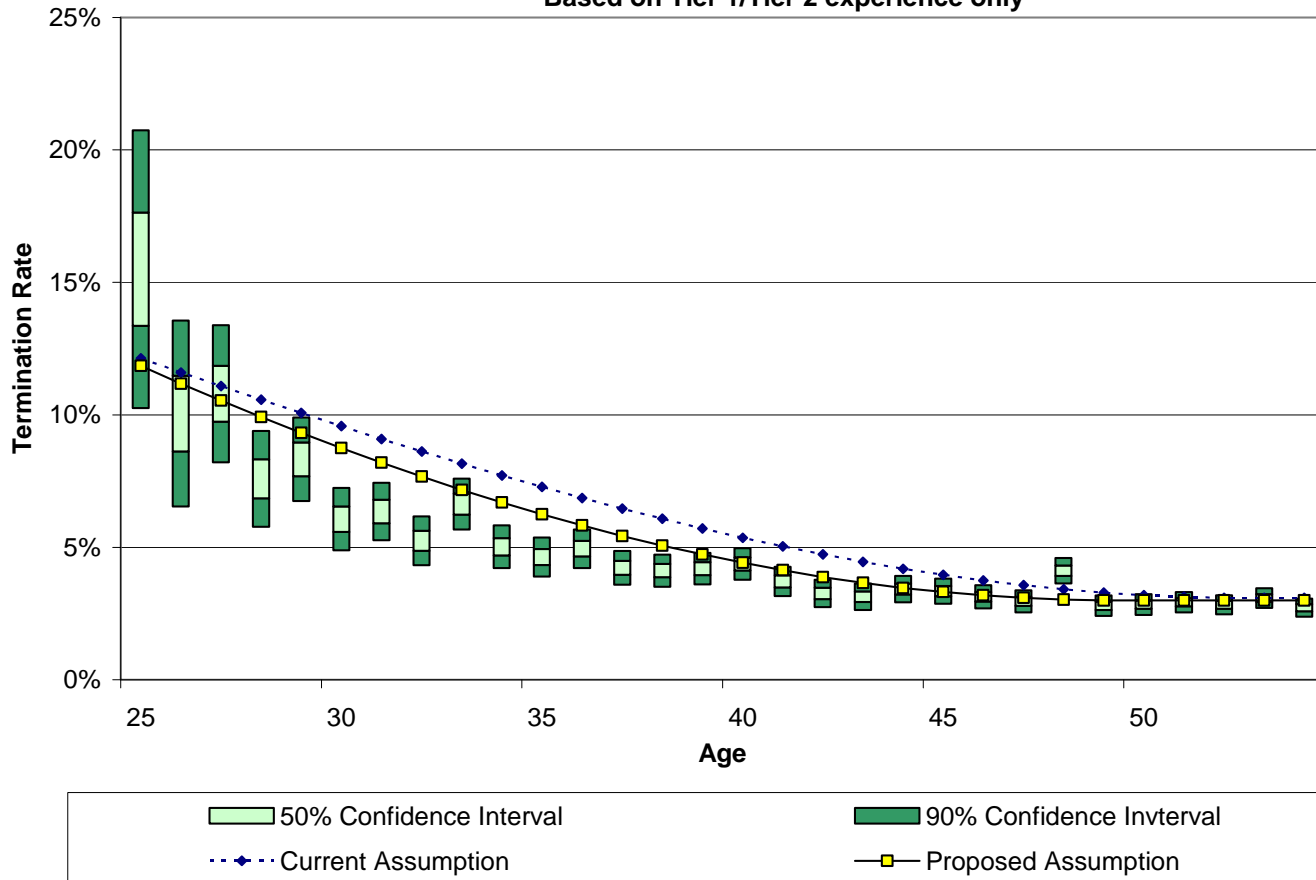
- Adjustments to ultimate termination rates:
 - Modest upward adjustment for School Districts – OPSRP
 - Modest decrease for Other General Service – T1/T2
 - Minor changes for Other General Service – OPSRP
 - No changes for Police & Fire

Appendix

Ultimate Termination Rates

Other General Service Female - Tier 1/Tier 2

Based on Tier 1/Tier 2 experience only



- Structure changes:
 - Separate rates for T1/T2 and OPSRP
 - Consolidate rates for SLGRP and Independent Employers

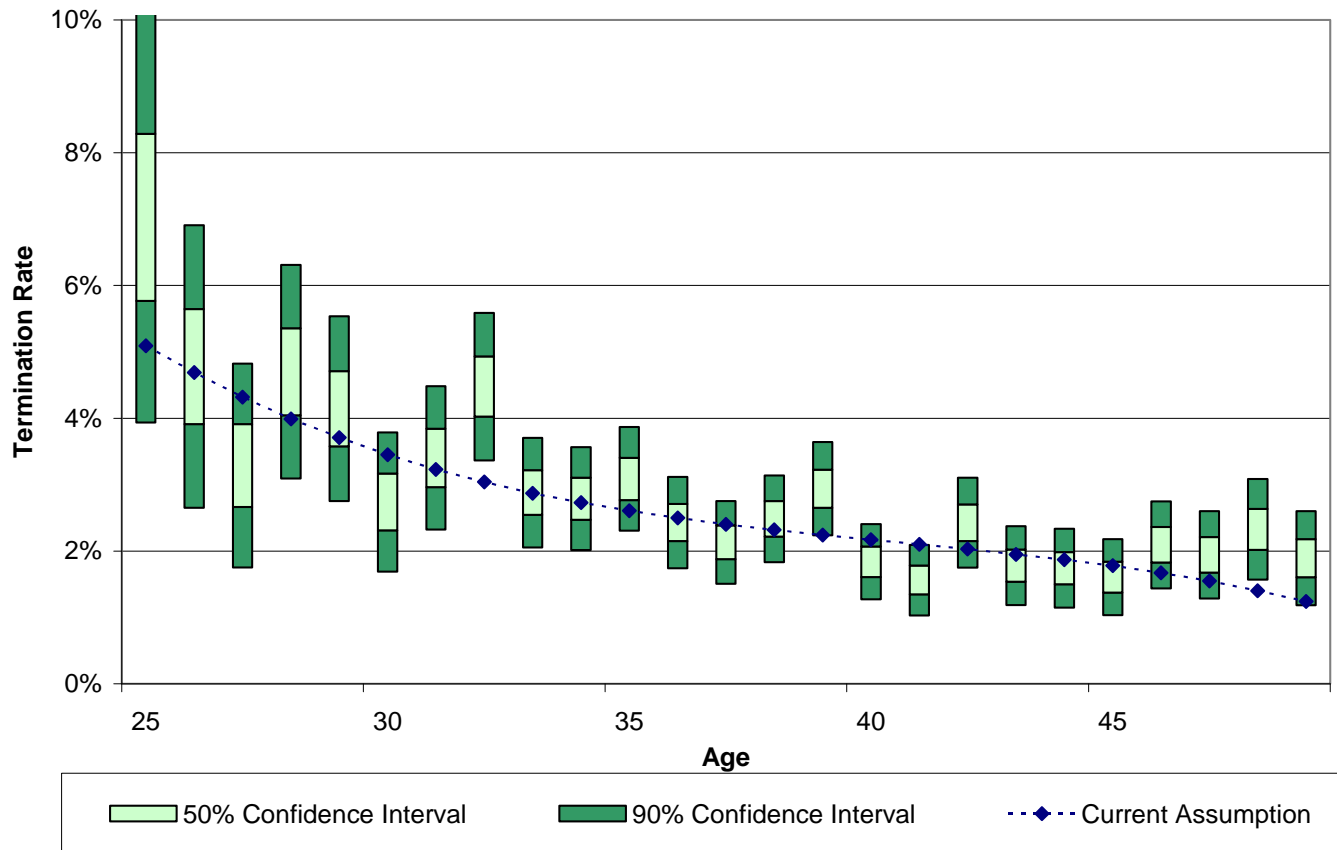
- Adjustments to ultimate termination rates:
 - Modest upward adjustment for School Districts – OPSRP
 - Modest decrease for Other General Service – T1/T2
 - Minor changes for Other General Service – OPSRP
 - No changes for Police & Fire

Appendix

Ultimate Termination Rates

Police & Fire - OPSRP

Based on Tier 1/Tier 2 and OPSRP experience



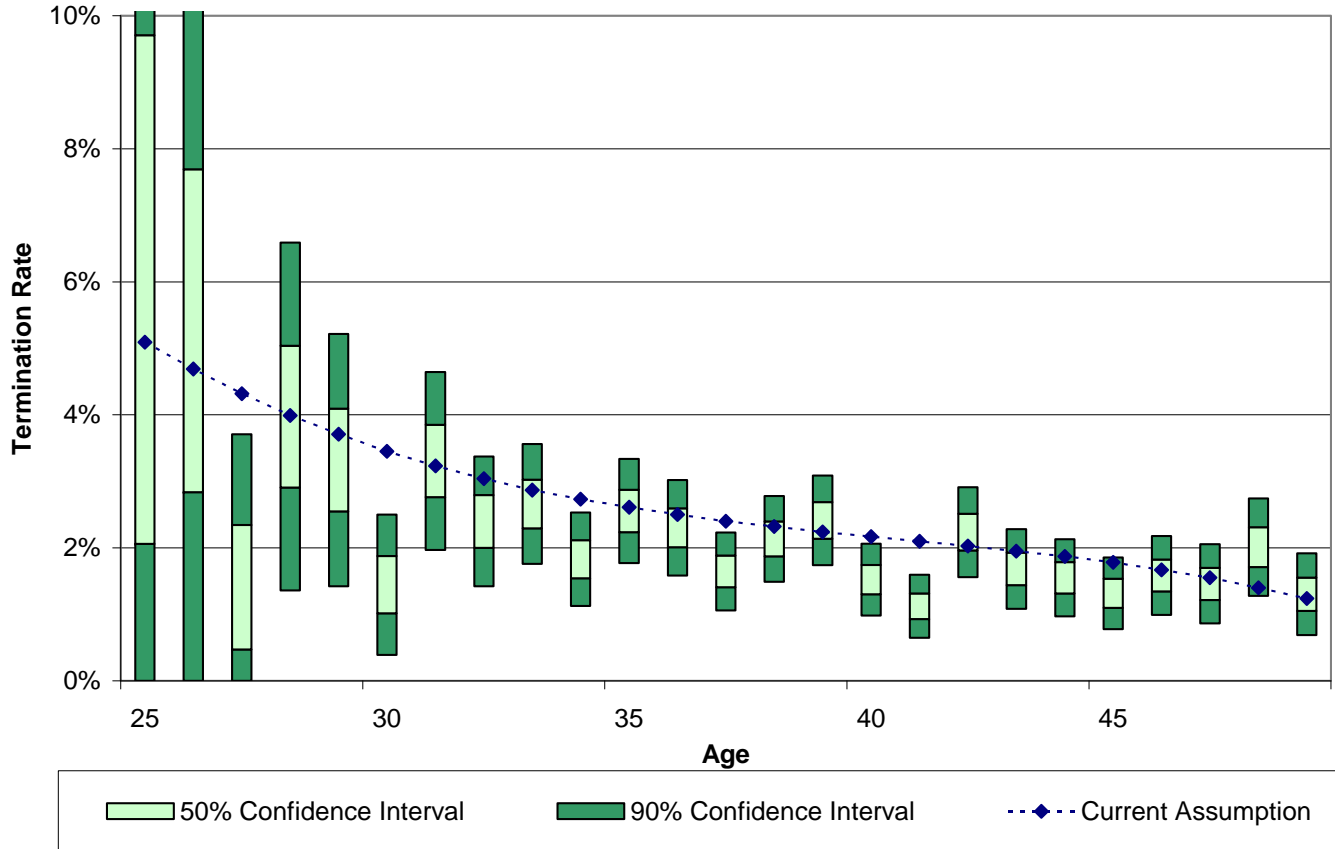
- Structure changes:
 - Separate rates for T1/T2 and OPSRP
 - Consolidate rates for SLGRP and Independent Employers
- Adjustments to ultimate termination rates:
 - Modest upward adjustment for School Districts – OPSRP
 - Modest decrease for Other General Service – T1/T2
 - Minor changes for Other General Service – OPSRP
 - No changes for Police & Fire

Appendix

Ultimate Termination Rates

Police & Fire - Tier 1/Tier 2

Based on Tier 1/Tier 2 experience only



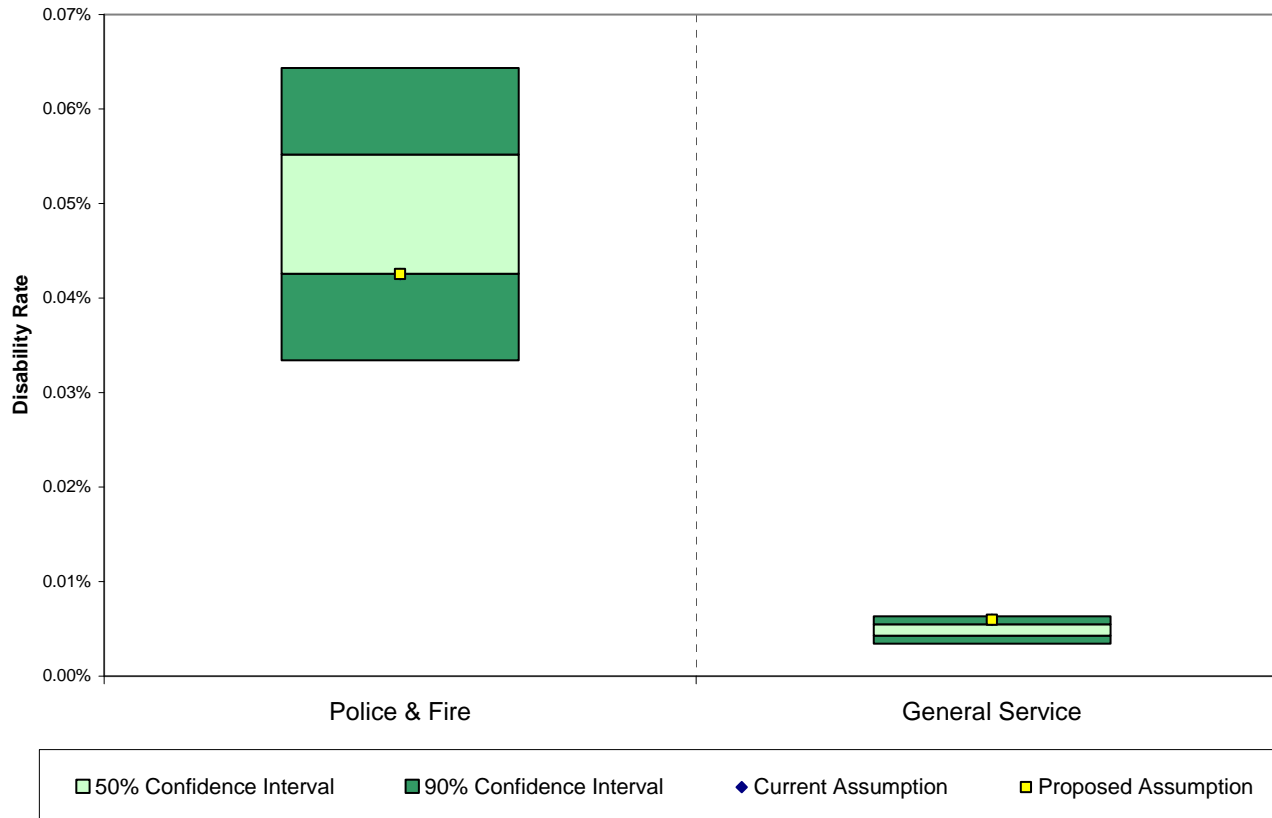
- Structure changes:
 - Separate rates for T1/T2 and OPSRP
 - Consolidate rates for SLGRP and Independent Employers

- Adjustments to ultimate termination rates:
 - Modest upward adjustment for School Districts – OPSRP
 - Modest decrease for Other General Service – T1/T2
 - Minor changes for Other General Service – OPSRP
 - No changes for Police & Fire

Appendix

Duty Disability Incidence

Duty Disability Incidence
Aggregate Confidence Intervals and Rates



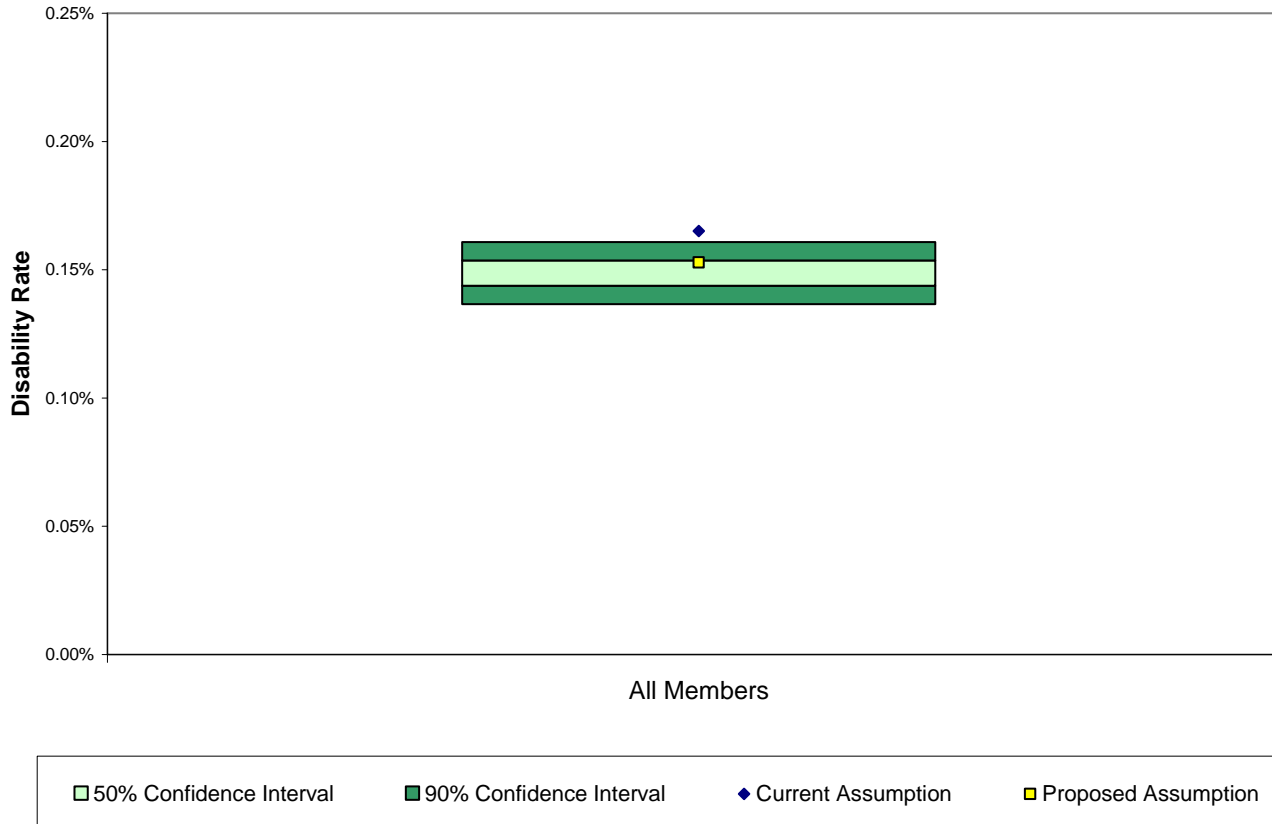
- Duty disability rates remained fairly level since the prior study.
- We propose no changes to the current duty disability incidence tables

Appendix

Ordinary Disability Incidence

Ordinary Disability Incidence

Aggregate Confidence Intervals and Rates

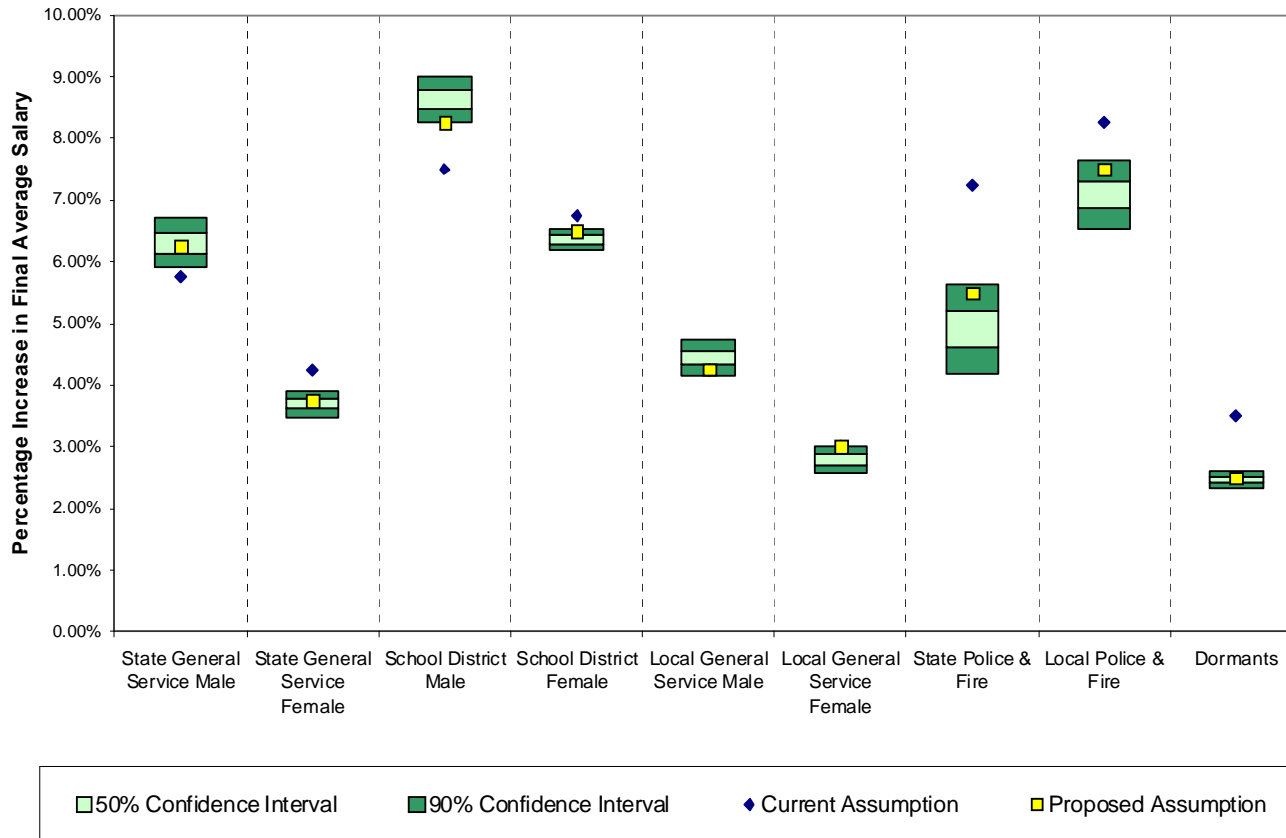


- Ordinary disability rates have declined slightly since the prior study.
- We propose adjusting the current table slightly so the assumption falls within the aggregate confidence interval.

Appendix

Unused Sick Leave

Unused Sick Leave



- Based on recent experience, we propose adjusting rates for State General Service, School District, State and Local Police & Fire, and Dormants.
- For members that have the ability to include unused sick leave, the final average pay calculated without sick leave is increased by the percentages shown at left to model the effects of sick leave

Appendix

Lump Sum Option at Retirement

- When a member elects a partial lump sum at retirement, they receive their account balance and a reduced annuity.
- When a member elects a total lump sum at retirement, they receive two times their account balance.
- In both cases, the member gives up the value of the COLA on the portion of the annuity they receive in a lump sum.
- If the member's benefit is determined under Full Formula, electing a total lump sum may cause the member to give up a substantial portion of the benefit.
- Consequently, the assumption phases out the total lump sum assumption over a period of time reflecting the transition from Money Match to Full Formula benefits.

Lump Sum Election	Count	Actual %	Current Assumption
Partial LS	843	5.76%	6.00%
Total LS	912	6.23%	6.25%*
Annuity	12,881	88.01%	87.75%*
Total Elections	13,639	100%	100%

* "Total" lump sum elections are assumed to decrease 0.5% per year. Amount shown is the average over the experience study period.

Lump Sum Election	Proposed Assumption
Partial LS	No Change
Total LS	No Change 5% for 2011, declining by 0.5% per year until reaching 0.0%

Appendix

Purchase of Credited Service

- For Money Match retirements, purchasing service credits is roughly cost neutral to the system, so no assumption is proposed for Money Match benefits.

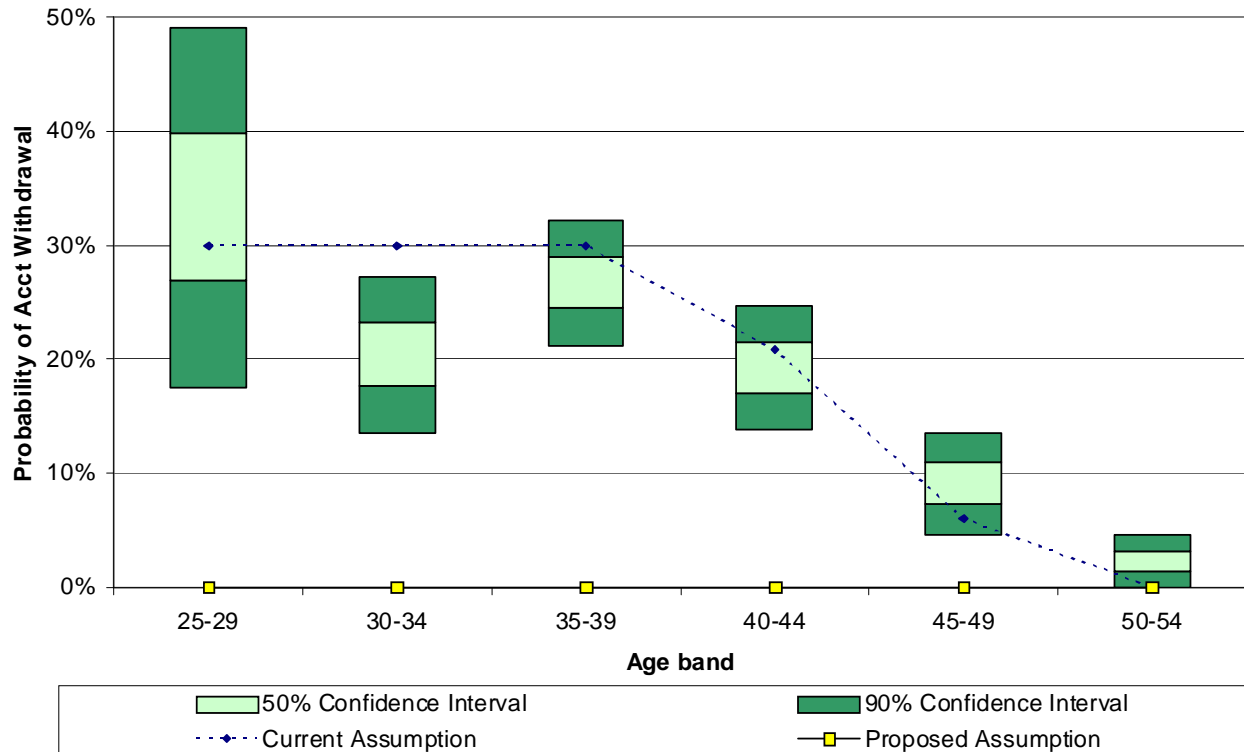
	Count	Number Electing to Purchase Service	Actual %	Current Assumption
Money Match Retirements	3,174	1,149	36%	0%
Non-Money Match Retirements	2,403	1,413	59%	55%

- We propose increasing the assumed percentage of non-Money Match retirees that elect to purchase service to 60%.

Appendix

Probability of Account Withdrawal

Police and Fire



- This assumption represents the probability that a dormant member will withdraw his/her account balance from the plan before retirement.
- We propose eliminating this assumption going forward, that is assuming no one withdraws their account balance.

Actuarial Methods

Treatment of Negative Rate Guarantee Reserve

- The value of assets used to determine employer contribution rates has historically excluded any assets in the Contingency, Capital Preservation, or Rate Guarantee Reserves

Valuation Assets = Market Assets - Reserves

- The Rate Guarantee Reserve (RGR) is currently negative (a deficit reserve), as it was for the 12/31/2008 and 12/31/2009 valuations
 - As confirmed by the Board in May 2009, the reserve was excluded in these valuations while it has been in deficit
 - In essence, the negative reserve was treated as an asset
 - All else equal, treating a negative reserve as an asset increases valuation assets used for contribution rate calculations
 - If the negative reserve is larger than the sum of the positive reserves, then valuation assets would exceed the fair value of assets using this approach
- We think it is prudent for the Board to periodically evaluate this issue and either reconfirm the current approach or specify any desired changes

Actuarial Methods

Treatment of Negative Rate Guarantee Reserve (continued)

- Rationale for treating a negative reserve as an asset:
 - We understand that if a deficit persists for five years, action is required to restore the reserve
 - If a separate mechanism is established to restore the reserve, then treating the negative reserve as an asset would avoid double-charging for the associated deficit
- Rationale for not adjusting valuation assets for a negative reserve (i.e., not treating it as an asset):
 - It avoids the potential for valuation assets to exceed fair value of assets
 - The reserve restoration mechanism is not currently well-defined
 - Not adjusting for a negative reserve would increase calculated contribution rates. The higher rate so calculated could be a good budgeting proxy for the reserve restoration cost once a restoration mechanism is defined.
- As a policy choice, the Board could distinguish between treatment when the RGR is negative in isolation versus when sum of RGR, Contingency, and Capital Preservation is negative

Actuarial Methods

Treatment of Negative Rate Guarantee Reserve (continued)

- When reserves are positive, their treatment is straightforward
 - Reserves are excluded from valuation assets for rate-setting calculations as they are earmarked for a specific purpose different than general benefit payments
- When a reserve (such as the Rate Guarantee Reserve) is negative, there are various possible ways to treat the negative reserve
 - Alternative #1 (current method): Always treat the negative reserve as an asset
 - If the negative reserve is large, the net sum of all reserves could be negative, leading to valuation assets exceeding fair market value
 - Alternative #2: Never treat the negative reserve as an asset
 - The entire negative Rate Guarantee Reserve is essentially treated as part of the Unfunded Actuarial Liability (UAL) with this approach
 - Alternative #3: Never allow the sum of the excluded reserves to be negative
 - With this approach, valuation assets will never exceed reported market value. A negative Rate Guarantee Reserve would be treated as an asset only to the extent it does not exceed, for example, the amount of the Contingency Reserve.

MERCER



Oregon

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July 29, 2011

TO: Members of the PERS Board
FROM: Joe O'Leary, Administrator
Policy, Planning, and Legislative Analysis Division
SUBJECT: 2011 Legislative Session Adjournment Report

The 76th Legislative Assembly adjourned *sine die* on June 30, 2011. Three PERS-related bills were enacted into law or are under consideration by the Governor. Six other measures have some impact on the Plan. The legislative implementation process is being set up. Future updates will report on the progress of implementing these measures into practice.

HB 5039A PERS 2011-13 BUDGET BILL

PERS was allocated Other Fund limitation of \$76.9 million for administrative and operating expenses and \$1.4 million for debt service for the 2011-13 biennium. This represents a 6.5% reduction in services and supplies from the Governor's Balanced Budget and a total 7.4% reduction in the Other Fund operational budget from the 2009-11 Legislatively Approved Budget. *Effective July 1, 2011.*

HB 2113B PERS AGENCY BILL

The technical corrections introduced at PERS' request by the Governor remained unchanged in this bill: modifications to the retirement plan options for legislators; clean-up of the eligible trustee to trustee transfer retirement credit purchases; and fixing the vesting dates for OPSRP and IAP account. The bill was also amended to include the provisions of HB 2114, dealing with the dual membership problem of members who withdraw from the IAP but are prohibited from withdrawing from OPSRP Pension. Lastly, another amendment was made to authorize OSGP to offer a Roth IRA account to conform to the change in federal law. The bill provides Other Fund limitation of \$475,600 for implementing the change to the OPSRP vesting standard. *Pending Governor's signature.*

HB 2456B OUT OF STATE TAX REMEDY REPEAL

Prohibits PERS from paying an increased benefit under the tax remedy provisions of HB 3349 (1995) if a person is not a resident of Oregon or not subject to Oregon personal income tax. Applicable only to otherwise eligible members who retire after January 1, 2012. Provides Other Fund limitation of \$570,000 for implementation. *Pending Governor's signature.*

SB 76A CORRECTIONS OFFICERS

Expands the definition of "correction officer" at ORS 181.610 to include officers who supervise other corrections officers. The PERS definition of "police officer" cross-references that statute, so these officers would clearly be included as P&F members in PERS. *Effective June 14, 2011.*

SB 301B FEDERAL TAX RECONNECT

Updates connection date to federal Internal Revenue Code and other provisions of federal tax law. *Effective September 29, 2011.*

SB 353 OMNIBUS HOUSEKEEPING BILL

This measure contains 81 pages of non-substantive statutory clean-up offered by Legislative Counsel. While having no substantive impact, it does alphabetize the definitions in ORS Chapter 238, changing the numerical designation of every definition. This requires review of OARs, Business Rules, and other publications which might cite directly to a definition. *Effective January 1, 2012.*

SB 405A UNIVERSITY POLICE

Allows State Board of Higher Education to authorize the establishment of a university police department at the request of a public university. The measure modifies ORS Chapter 238 definitions to include commissioned university police within the definition of “police officer” for PERS purposes. *Effective June 23, 2011.*

SB242C CREATES HIGHER EDUCATION COORDINATING COMMISSION

Creates Higher Education Coordinating Commission and provides greater autonomy to public institutions of higher education independent of the rest of state government. Technical amendments offered by PERS avoid any substantive changes to plan administration. One section of the bill requires the State Board of Higher Education to establish a committee to evaluate options for its optional retirement plan under ORS Chapter 243. *Pending Governor’s signature.*

HB 2100B OREGON HEALTH AUTHORITY AGENCY BILL

This bill amends several statutes related to the Oregon Health Authority, which was previously carved out of the Department of Human Services. One provision amends the current return to work exception for a deputy director or assistant director of the Department of Human Services to include a deputy or assistant director of the Oregon Health Authority upon approval by the Governor. *Pending Governor’s signature.*