

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING

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| Monday March 30, 2015 1:00 P.M. | PERS 11410 SW 68th Parkway Tigard, OR |
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| ITEM | PRESENTER |
|-------------|------------------|

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|--------------------------|--|
| A. Administration | |
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|----|--|---------|
| 1. | January 30, 2015 Board Meeting Minutes Director's Report <ul style="list-style-type: none"> a. Forward-Looking Calendar b. OIC Investment Report c. Budget Execution Report d. Annual Report of Executive Director's Financial Transactions | RODEMAN |
|----|--|---------|

| | |
|-------------------------------------|--|
| B. Administrative Rulemaking | |
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|----|---|--------|
| 1. | Notice of Disability Application Rules | VAUGHN |
| 2. | Notice of Benefit Payment Reductions/Deductions Rules | |
| 3. | Notice of IRC and Social Security Limitations Rules | |
| 4. | Adoption of Health Insurance Program Enrollment Rule | |
| 5. | Adoption of IAP Earnings Crediting Rules | |

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|---------------------------------------|--|
| C. Action and Discussion Items | |
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|----|---|--------|
| 1. | Final 2014 Earnings Crediting and Reserving | DUNN |
| 2. | Legislative Session Update | TAYLOR |

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|---|--|
| D. Executive Session Pursuant to ORS 192.660(2)(f), (h), and/or ORS 40.225 | |
|---|--|

| | | |
|----|-------------------|------------------|
| 1. | Litigation Update | LEGAL COUNSEL |
|----|-------------------|------------------|

There will be an Audit Committee meeting immediately following the regular 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.

<http://www.oregon.gov/PERS/>

2015 Meetings: · · · May 29 · July 31* · September 25 · November 20* * Audit Committee
 Krystal Gema John Thomas, Chair Pat West, Vice Chair Rhoni Wiswall Steve Rodeman, Executive Director

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM
BOARD MEETING MINUTES

January 30, 2015

Board Members:

John Thomas, Chair
Krystal Gema
Michael Jordan
Pat West
Rhoni Wiswall

Staff:

| | | | |
|---------------|------------------|------------------|--------------|
| Donna Allen | Yvette Elledge | Steve Rodeman | Larry Weiss |
| Linda Barnett | Brian Harrington | Jason Stanley | Joli Whitney |
| Paul Brown | Jessica Johnson | Marjorie Taylor | Yong Yang |
| Matt Bryan | Jordan Masanga | Karen Terry | |
| David Crosley | Beth Porter | Stephanie Vaughn | |
| Mary Dunn | Daniel Rivas | Anne Marie Vu | |

Others:

| | | |
|--------------|------------------|------------------|
| Shawn Cross | Matt Larrabee | John Skjervem |
| Debra Guzman | Bob Livingston | Brad Stevens |
| Greg Hartman | Scott Preppernau | Deborah Tremblay |
| Celia Heron | | |

Chair John Thomas called the meeting to order at 1:00 P.M. Board member Rhoni Wiswall attended the meeting by telephone.

ADMINISTRATION

A.1. BOARD MEETING MINUTES OF NOVEMBER 21, 2014

Board member West moved and Board member Gema seconded approval of the minutes submitted from the November 21, 2014 Board meeting. The motion passed unanimously.

A.1.a DIRECTOR'S REPORT

Executive Director Steve Rodeman reviewed the 2015 Forward Looking Calendar. Rodeman presented the Oregon Investment Council (OIC) Investment Report for the period ending December 31, 2014. John Skjervem, Chief Investment Officer of the Oregon State Treasury, came forward. He noted that there was disappointment that the results did not meet the assumed rate for the calendar period, but that the portfolio performed exactly as was expected. The total return on the net OPERF portfolio was 7.3 percent. The standouts were our risk assets. The fund has had consistent success in private equity and real estate. He described the year's results as "deworsification." US investor returns on investments in international markets had flat or negative results. Only two portfolios missed benchmarks – domestic equity and alternatives. All other components exceeded benchmarks. All four elements in the fixed portfolio outperformed their indices.

Skjervem presented background on Senate Bill 134, called the Investment Modernization Act; which would create the Oregon Investment Department and move the Oregon Investment Council out from under the State Treasury to give the OIC explicit operating and budget authority. This proposal would allow for an alternative to outsourcing fiduciary oversight functions which would result in a cost savings and, in turn, pass those savings on to members. Chair Thomas thanked Skjervem for his presentation and appreciates the importance of the

proposal. Although the Board is not taking a position on the legislation, the results of the decisions made by the Oregon Investment Council are critical to our members and the funding of the plan.

West added that he very much appreciates the excellent work of the OIC.

Rodeman also presented the December 2014 Budget Execution Report. There is a current positive variance of about \$2.3 million or 2.7 percent of the total biennial operating budget. The legislation implementation budget (Senate Bill 822 and 861) also continues on track with a positive variance of about 25 percent or \$499,000 of the \$2 million biennial budget. The 2015-17 budget will be considered by the General Government Subcommittee possibly in mid-March.

A.1.e. FORMATION OF THE EMPLOYER ADVISORY GROUP

Rodeman presented. Several employer representatives approached Board Member Jordan and Director Rodeman requesting that an advisory group be formed to help assist in the evaluation of policy decisions about the agency's administration of the PERS plan on behalf of employers. A group charter was developed and a new group has been formed. The Employer Advisory Group had their first meeting last week. Yvette Elledge and Sam Paris are the primary PERS staff supporting this group.

Bob Livingston, Legislative Director of Oregon State Firefighters Council and member of the PERS Coalition, came forward to offer his appreciation for the formation of the committee. He shared concerns that this advisory committee should not become a venue for employers to discuss issues that may be detrimental to members' benefits. He stressed the importance of bringing matters to the Legislative Advisory Committee (LAC) to ensure that the right issues are considered in the appropriate venue. He discussed the LAC and how its role differs. Rodeman added that the Employer group has only met once, so some of the operational details are still being worked out. Jordan added his perspective and agrees with the comments offered on the difference between the LAC and the Employer group. He noted that the employers are operational partners whereas the LAC works on policy issues. Thomas thinks this group will play an important role as PERS continues to enhance operational efficiency. Rodeman added that staff will continue to make sure that the right issues go to the right groups. No Board action was required.

ADMINISTRATIVE RULEMAKING

Policy Analysis and Compliance Section Manager Stephanie Vaughn presented.

B.1. NOTICE OF HEALTH INSURANCE PROGRAM ENROLLMENT RULE

Vaughn presented the notice of rulemaking for the Health Insurance Program Rule, OAR 459-035-0070. The proposed rule amendment clarifies that there are the same enrollment requirements for both the health insurance and dental insurance programs. A rulemaking hearing will be held February 24, 2015, and the public comment period ends March 6, 2015. No Board action was required.

B.2. NOTICE OF IAP EARNINGS CREDITING RULES

Vaughn presented the notice of rulemaking for the IAP Earnings Crediting Rules, OAR 459-007-0320, -0330 and -080-0250. The proposed amendments will clarify earnings crediting for IAP account payments and modify the definition of the term "Anniversary Date" for IAP

Account Installments. A rulemaking hearing is scheduled for February 24, 2015, and the public comment period ends March 6, 2015. No Board action is required.

B.3. ADOPTION OF DEFINITION OF SERVICE RULE

Vaughn presented the Definition of Service Rule, OAR 459-070-0001 for adoption. The rule amendment will remove language about workers compensation payments which is inconsistent with statute. A rulemaking hearing was held on November 25, 2014. No public attended. The public comment period ended December 31, 2014. No public comment was received.

Board member Gema moved to adopt modifications to the Definition of Service Rule as presented. West seconded. The rule passed unanimously.

B.4. ADOPTION OF GAAP COST ALLOCATION RULE

Vaughn presented the GAAP Cost Allocation rule, OAR 459-007-0009 for adoption. The rule must be clarified to remove inconsistent language.

Jordan moved and Wiswall seconded. The motion passed unanimously.

ACTION AND DISCUSSION ITEMS

C.1. PRELIMINARY 2014 EARNINGS CREDITING AND RESERVING

Mary Dunn, Senior Policy Director of Operations, presented preliminary earnings crediting and reserving for the Board's consideration. Dunn reviewed all of the reserves and accounts in which the Board is directed to allocate earnings by statute or rule: Administrative Expenses; Health Insurance Accounts; Employer Lump Sum Payment Accounts; Variable Annuity Account; Individual Account Program (IAP); and Tier One Rate Guarantee Reserve. The fund earnings did not exceed the assumed rate so the Board cannot allocate any of the 2014 earnings to the Contingency Reserve. New for this year, GASB 68 expenses will be deducted from the Employer Reserves once the actual figures are approved by the Board in March. Also, the first of the annual supplementary benefit payments were remitted from the Contingency Reserve. These payments were about 10% higher than originally projected due to more retirements than projected.

West moved to adopt the preliminary crediting of earnings as presented for calendar year 2014, subject to the final adoption at the March 30, 2015 PERS Board meeting. Gema seconded. The motion passed unanimously.

C.2. LEGISLATIVE UPDATE

Senior Policy Director Marjorie Taylor presented a legislative update. She explained that, of the more than 1400 bills which have already been introduced, PERS will be tracking over 100. Fifteen directly impact the PERS statutes. Several of these bills expand the definition of "police officer." She reviewed the previous board policy decisions around this issue. Taylor discussed expectations for the budget process and will inform the Board as those plans are developed.

No Board action was required.

C.3. STRATEGIC PLANNING UPDATE

Karen Terry, Strategic Planning and Organizational Development Consultant presented. Terry reviewed the four themes in the strategic plan and introduced each executive sponsor to discuss their theme in more detail.

Brian Harrington, Benefit Processing Division Director, presented Theme 1, Organizational Management and Development. Yvette Elledge, Member and Customer Services Director, presented the second and third themes; Member Services and Communications and Data Reliability. Jordan Masanga, Chief Information Officer, presented the fourth theme; Information Technology.

Thomas said that he feels this is one of the most important and relevant projects he has seen since he has come on board as the Chair. Jordan asked what impact data locking would have on the employers. Elledge said that we need to make sure that employers have the tools they need to do so and added that the members combined with employers will work together to help improve data accuracy.

West commented on the technology upgrades that PERS has endured over the years. He is glad to see the proactive stance on keeping up with the technology as it advances. Thomas asked about the IAP project. Masanga said we are currently in Phase II, starting to work on environments and build out technology.

Terry discussed next steps for implementation. Updates will be provided to the Board and the final Strategic Plan will be published by June 30, 2015.

PUBLIC TESTIMONY

Jeff Goodman, Councilman of City of Lake Oswego, appeared before the Board to share his thoughts on the GASB information which was provided to Lake Oswego. He requested that the information provided include the total assets and liabilities in addition to the unfunded liabilities. This will help inform the governing bodies of the entire situation and show the public that they are good stewards of these funds.

Rodeman commented that receiving feedback from our employers is why the numbers were preliminarily shared.

Matt Larrabee, Milliman Actuary, commented at the invitation of Chair Thomas. Larrabee noted that what appeared to be a liability was not actually a liability. He appreciated Goodman's testimony and will use this feedback to help develop the final statements.

No Board action was required.

Thomas adjourned the Board meeting at 2:35 PM.

Respectfully submitted,



Steven Patrick Rodeman
Executive Director

PERS Board Meeting Forward-Looking Calendar

Friday, May 29, 2015

Adoption of Disability Application Rules
Adoption of Benefit Payment Reductions/Deductions Rules
Adoption of IRC and Social Security Limitations Rules
Board Scorecard Report on Agency Performance Measures
Review of Actuarial Methods and Assumptions
2015 Legislative Session Update
2016 Retiree Health Insurance Plan Renewals and Rates
OSGP Advisory Committee Appointments

Friday, July 31, 2015

2015 Legislative Session Review
2014 Experience Study and Adoption of Actuarial Methods and Assumptions
Audit Committee Meeting

Friday, September 25, 2015

Customer Service Survey Results
2014 Actuarial Valuation and 2017-19 Employer "Advisory Rates"

Friday, November 20, 2015

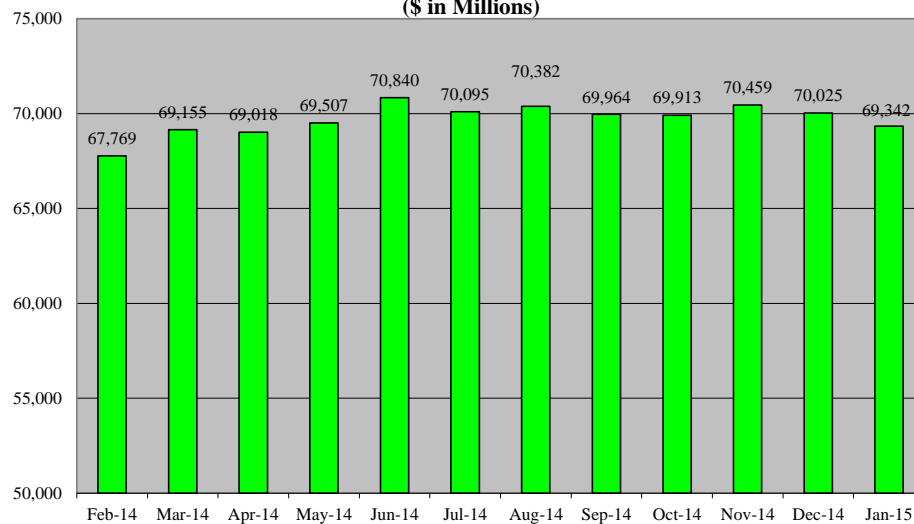
Board Scorecard Report on Agency Performance Measures
Audit Committee Meeting

| 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 | 7 YEARS | 10 YEARS |
| Public Equity | 32.5-42.5% | 37.5% | \$ 27,384,839 | 39.9% | (1.54) | 5.57 | 10.75 | 12.52 | 8.26 | 10.85 | 4.61 | 6.49 |
| Private Equity | 16-24% | 20% | 14,751,420 | 21.5% | 15.90 | 15.90 | 16.04 | 15.50 | 14.37 | 14.78 | 8.22 | 13.81 |
| Total Equity | 52.5-62.5% | 57.5% | 42,136,259 | 61.4% | | | | | | | | |
| Opportunity Portfolio | | | 1,055,375 | 1.5% | (1.13) | 9.18 | 10.32 | 13.14 | 10.00 | 10.71 | 8.14 | |
| Total Fixed | 15-25% | 20% | 16,231,387 | 23.7% | 1.00 | 3.61 | 2.73 | 4.60 | 5.22 | 6.11 | 6.33 | 5.91 |
| Real Estate | 9.5-15.5% | 12.5% | 7,761,871 | 11.3% | 1.26 | 15.57 | 13.95 | 13.52 | 13.97 | 11.00 | 3.92 | 9.51 |
| Alternative Investments | 0-10% | 10% | 1,400,662 | 2.0% | 0.82 | 5.45 | 5.64 | 3.55 | | | | |
| Cash | 0-3% | 0% | 7,545 | 0.0% | 0.14 | 0.58 | 0.63 | 0.83 | 0.74 | 0.75 | 1.00 | 2.09 |
| TOTAL OPERF Regular Account | | 100% | \$ 68,593,099 | 100.0% | (0.25) | 8.46 | 10.14 | 11.20 | 9.42 | 10.52 | 5.72 | 7.49 |
| OPERF Policy Benchmark | | | | | (0.39) | 9.41 | 10.50 | 12.12 | 9.80 | 10.63 | 6.02 | 7.41 |
| Value Added | | | | | 0.14 | (0.95) | (0.36) | (0.92) | (0.38) | (0.11) | (0.30) | 0.08 |
| TOTAL OPERF Variable Account | | | \$ 784,955 | | (1.50) | 6.51 | 10.11 | 11.86 | 7.87 | 10.42 | 3.99 | 4.82 |

Asset Class Benchmarks:

| | | | | | | | | |
|--|--------|-------|-------|-------|-------|-------|-------|-------|
| Russell 3000 Index | (2.78) | 12.99 | 17.70 | 17.43 | 13.88 | 15.83 | 8.07 | 7.93 |
| MSCI ACWI Ex US IMI Net | (0.18) | 0.17 | 3.32 | 6.71 | 2.54 | 5.65 | 1.16 | 5.68 |
| MSCI ACWI IMI Net | (1.55) | 6.18 | 9.82 | 11.48 | 7.49 | 10.05 | 4.12 | 6.42 |
| Russell 3000 Index + 300 bps--Quarter Lagged | N/A | 21.24 | 23.20 | 26.71 | 20.48 | 19.21 | 10.04 | 12.11 |
| Oregon Custom FI Benchmark | 1.13 | 3.38 | 2.28 | 3.77 | 4.53 | 4.69 | 4.89 | 4.93 |
| NCREIF Property Index--Quarter Lagged | 11.26 | 11.26 | 11.13 | 11.09 | 12.32 | 10.99 | 4.72 | 8.55 |
| 91 Day T-Bill | 0.00 | 0.03 | 0.06 | 0.07 | 0.08 | 0.09 | 0.32 | 1.55 |

TOTAL OPERF NAV
(includes variable fund assets)
One year ending January 2015
(\$ in Millions)



¹OIC Policy 4.01.18, as revised October 2013.

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. YTD is not annualized.



Oregon

Kate Brown, Governor

Public Employees Retirement System

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March 30, 2015

TO: Members of the PERS Board
FROM: Linda M. Barnett, Budget Officer
SUBJECT: March 2015 Board Report

2013-15 OPERATIONS BUDGET

Operating expenditures for January 2015 and preliminary expenditures for February 2015 were \$3,080,720 and \$3,699,382, respectively. Final expenditures for February closed in the Statewide Financial Management System on March 13, 2015, and will be included in the May 2015 report to the Board.

- To date*, through the first 20 months (83.3%) of the 2013-15 biennium, the Agency has expended a total of \$63,478,447, or 75.2% of PERS' legislatively approved operations budget of \$84,427,392.
- PERS recently received approval from the Legislative Fiscal Office to reschedule the remaining \$392,642 expenditure limitation to complete Phase II of the Individual Account Program administration project. As a result, PERS' legislatively approved operations budget will be \$84,820,034 for the 2013-15 biennium.
- The current projected positive variance is \$3,051,277 or approximately 3.61% of the operations budget. The Agency's goal is to maintain a positive variance of at least \$1.7 million (2%).

SENATE BILL (SB) 822 and SB 861 BUDGETS

These separate budget limitations were approved by the Legislature in 2013 and 2014 for the administrative costs to implement the COLA modifications for 2013 and beyond; remove tax remedy benefits for recipients who do not pay Oregon income taxes because they do not reside in Oregon; implement the six-year supplementary payments program; and recalculate employer contribution rates effective July 1, 2013. Funding was also provided for the necessary technology enhancements, additional call center agents, and Attorney General expenses.

- Expenditures to date are \$1,172,367 or 57.72% of the cumulative SB 822 and SB 861 legislatively approved budget of \$2,031,096.
- The current projected variance is \$634,425 or 31.24% of the SB 822 and SB 861 budget of \$2,031,096.

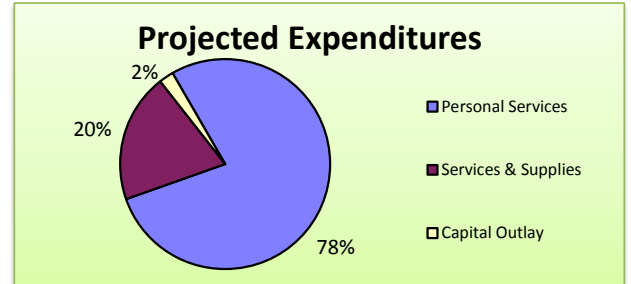
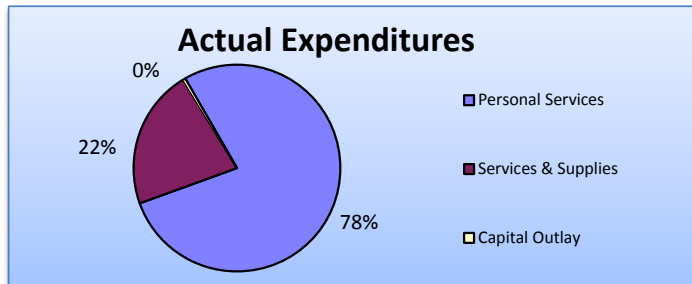
*Based on the preliminary February 2015 expenditures.

**2013-15 Agency-wide Budget Execution
Summary Budget Analysis
Preliminary For the Month of: February 2015**

Limited - Operating Budget

2013-15 Biennial Summary

| Category | Actual Exp. To Date | Projected Expenditures | Total Est. Expenditures | 2013-15 LAB | Variance |
|---------------------|---------------------|------------------------|-------------------------|-------------------|------------------|
| Personal Services | 49,419,975 | 11,066,425 | 60,486,400 | 63,535,242 | 3,048,842 |
| Services & Supplies | 13,165,917 | 6,590,592 | 19,756,509 | 19,638,697 | (117,812) |
| Capital Outlay | 892,555 | 240,651 | 1,133,206 | 1,253,453 | 120,247 |
| Total | 63,478,447 | 17,897,668 | 81,376,115 | 84,427,392 | 3,051,277 |



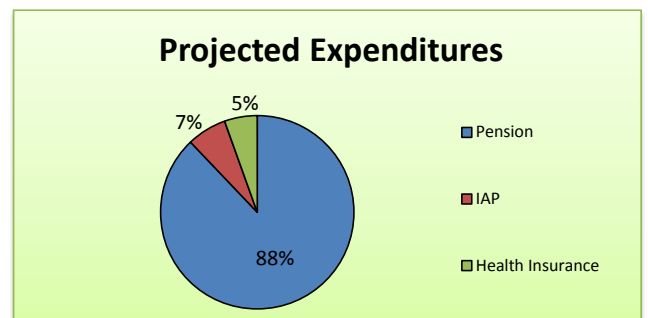
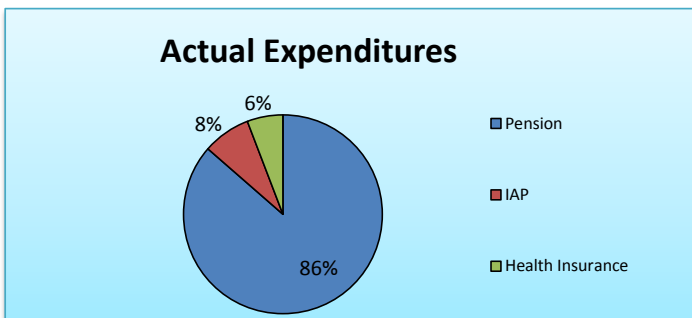
Monthly Summary

| Category | Actual Exp. | Projections | Variance | Avg. Monthly Actual Exp. | Avg. Monthly Projected Exp. |
|---------------------|------------------|------------------|----------------|--------------------------|-----------------------------|
| Personal Services | 2,521,172 | 2,759,380 | 238,208 | 2,470,999 | 2,213,285 |
| Services & Supplies | 1,093,354 | 1,180,097 | 86,743 | 658,296 | 1,294,818 |
| Capital Outlay | 84,856 | 89,970 | 5,114 | 44,628 | 48,130 |
| Total | 3,699,382 | 4,029,447 | 330,065 | 3,173,923 | 3,556,233 |

Non-Limited Budget

2013-15 Biennial Summary

| Programs | Actual Exp To Date | Projected Expenditures | Total Est. Expenditures | Non-Limited LAB | Variance |
|------------------|----------------------|------------------------|-------------------------|----------------------|--------------------|
| Pension | 6,203,310,580 | 1,695,926,794 | 7,899,237,374 | 8,148,014,000 | 248,776,626 |
| IAP | 558,636,410 | 127,784,823 | 686,421,233 | 721,200,000 | 34,778,767 |
| Health Insurance | 416,923,669 | 105,937,930 | 522,861,599 | 408,661,000 | (114,200,599) |
| Total | 7,178,870,659 | 1,929,649,547 | 9,108,520,206 | 9,277,875,000 | 169,354,794 |



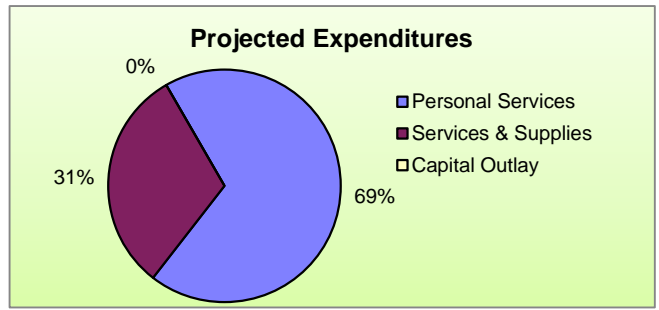
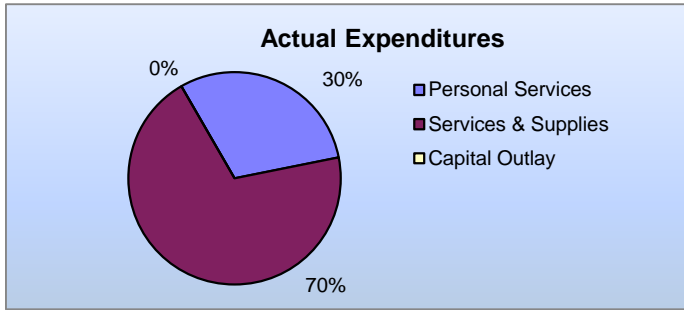
2013-15 SB822 & SB861 Projects - Budget Execution

Summary Budget Analysis

Preliminary For the Month of: February 2015

Biennial Summary - SB822 & SB861

| Category | Actual Exp. To Date | Projected Expenditures | Total Est. Expend. | 2013-15 LAB | Variance |
|---------------------|------------------------|---------------------------|-----------------------|------------------|----------------|
| Personal Services | 353,678 | 154,406 | 508,084 | 827,446 | 319,362 |
| Services & Supplies | 818,689 | 69,898 | 888,587 | 1,203,650 | 315,063 |
| Capital Outlay | | | | | |
| Total | 1,172,367 | 224,304 | 1,396,671 | 2,031,096 | 634,425 |



SB822 Project

Biennial Summary

| Category | Actual Exp. To Date | Projected Expenditures | Total Est. Expend. | 2013-15 LAB | Variance |
|---------------------|------------------------|---------------------------|-----------------------|------------------|----------------|
| Personal Services | 147,887 | 76,606 | 224,493 | 435,018 | 210,525 |
| Services & Supplies | 418,612 | 3,232 | 421,844 | 573,133 | 151,289 |
| Capital Outlay | | | | | |
| Total | 566,499 | 79,838 | 646,337 | 1,008,151 | 361,814 |

Monthly Summary

| Category | Actual Exp. | Projections | Variance | Avg. Monthly Actual Exp. | Avg. Monthly Projected Exp. |
|---------------------|---------------|---------------|------------|-----------------------------|--------------------------------|
| Personal Services | 12,063 | 18,190 | 6,127 | 7,394 | 15,321 |
| Services & Supplies | 5,346 | | (5,346) | 20,931 | 646 |
| Capital Outlay | | | | | |
| Total | 17,409 | 18,190 | 781 | 28,325 | 15,967 |

SB861 Project

Biennial Summary

| Category | Actual Exp. To Date | Projected Expenditures | Total Est. Expend. | 2013-15 LAB | Variance |
|---------------------|------------------------|---------------------------|-----------------------|------------------|----------------|
| Personal Services | 205,791 | 77,800 | 283,591 | 392,428 | 108,837 |
| Services & Supplies | 400,077 | 66,666 | 466,743 | 630,517 | 163,774 |
| Capital Outlay | | | | | |
| Total | 605,868 | 144,466 | 750,334 | 1,022,945 | 272,611 |

Monthly Summary

| Category | Actual Exp. | Projections | Variance | Avg. Monthly Actual Exp. | Avg. Monthly Projected Exp. |
|---------------------|---------------|---------------|---------------|-----------------------------|--------------------------------|
| Personal Services | 17,843 | 18,330 | 487 | 10,290 | 15,560 |
| Services & Supplies | 20,925 | 66,667 | 45,742 | 20,004 | 13,333 |
| Capital Outlay | | | | | |
| Total | 38,768 | 84,997 | 46,229 | 30,294 | 28,893 |



Oregon

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Public Employees Retirement System

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March 30, 2015

TO: Members of the PERS Board

FROM: Jason Stanley, Internal Audit Director

SUBJECT: Review the Annual Report of Financial Transactions of the former Executive Director for the fiscal year ended June 30, 2014, and the portion of the current fiscal year through December 1, 2014.

REQUESTED ACTION

In accordance with PERS policy and procedure, the Chair of the Audit Committee has reviewed the summary of salary, benefits, personnel expenses, travel, and other financial charges incurred by the PERS Executive Director for the fiscal year ended June 30, 2014, in the aggregate amount of \$246,754. For the period July 1, 2014, through the former Executive Director's retirement on December 1, 2014, expenses totaled \$135,258. Details of this amount were provided at the Audit Committee meeting held on January 30, 2015. The financial records supporting this summary are maintained in the Financial and Administrative Services Division (FASD).

BACKGROUND

Oregon Accounting Manual policy number 10.90.00.PO requires that agency heads reporting to a board or commission shall delegate review and approval authority for financial transactions to the person holding the position of second-in-command to the agency head or the Chief Financial Officer, and that the delegation be in writing. This is supported by PERS policy number 1.01.02.00.001.POL, which requires the Board to establish a formal structure to ensure the proper review and approval of the Executive Director's financial transactions.

That structure is contained within PERS' procedure number 1.01.02.00.001.PRO. The procedure requires that the Deputy Director or the Chief Financial Officer review and approve all financial transactions of the Executive Director, including monthly timesheets, travel claims (both in-state and out-of-state), SPOTS card purchases, etc. The procedure also requires that the Chair of the Audit Committee report to the Audit Committee and the PERS Board annually that they have reviewed the Executive Director's financial transactions, and that this review and approval be documented in the Board meeting minutes.

I have reviewed the detailed transactions (payroll time reports, travel expense reimbursement claims, and Small Purchase Order Transaction System (SPOTS) card purchases) of the former PERS Executive Director for the period described above and determined that they were appropriately submitted and archived with supporting documentation and contained the

appropriate authorization and approval by the Deputy Director. I reviewed the detailed financial summaries and identified no exceptions or inappropriate financial transactions. During this period, the former Executive Director had no exceptional performance leave, but did receive a vacation payout upon his resignation in accordance with state policy.

The PERS Board minutes for this meeting will reflect receipt of this report on the Executive Director's financial transactions for the fiscal year ended June 30, 2014, and the portion of fiscal year 2015 through December 1, 2014, as submitted by the Internal Audit Director and in compliance with OAM 10.90.00 PO.



Oregon

Kate Brown, Governor

Public Employees Retirement System

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March 30, 2015

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Notice of Disability Application Rules:
OAR 459-015-0020, *Application Required*
OAR 459-076-0020, *Application Required*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Housekeeping edits to OAR 459-015-0020 and 459-076-0020 to properly incorporate defined terms “date of termination,” “date of separation from service,” and “date of disability.”
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

These rules provide specific timeframes for a member to file an application for a disability retirement (Tier One/Tier Two) or benefit (OPSRP). The member cannot apply before they stop working, but they are not required to be terminated from employment. The definitions for “date of disability”, “date of separation from service”, and “date of termination” in OAR 459-015-0001 were updated and incorporated into the disability rules in October 2011. There were quite a number of rules that required updates and when OAR 459-015-0020 was edited to incorporate the updated defined terms, “date of termination” was inadvertently updated to “date of separation from service” in paragraph (6)(b) when it should have been updated in paragraph (6)(a). Also, “date of termination” in (6)(a) was updated to “date of separation from service” instead of “date of disability.” The proposed edits to the rule correctly update both paragraphs (6)(a) and (6)(b) and propose other minor edits for clarification.

The proposed update to OAR 459-076-0020 incorporates the defined term “date of disability” in one place where it was missed in 2011 and makes other minor edits for clarification.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held April 28, 2015, at 3:00 p.m. at PERS headquarters in Tigard. The public comment period ends May 6, 2015, at 5:00 p.m.

LEGAL REVIEW

The attached 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: This housekeeping edit conforms to statute and disability rule definitions.

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

RULEMAKING TIMELINE

| | |
|----------------|---|
| March 13, 2015 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| March 30, 2015 | PERS Board notified that staff began the rulemaking process. |
| April 1, 2015 | <i>Oregon Bulletin</i> publishes the Notice. Notice is sent to employers, legislators, and interested parties. Public comment period begins. |
| April 28, 2015 | Rulemaking hearing to be held at 3:00 p.m. at PERS in Tigard. |
| May 6, 2015 | Public comment period ends at 5:00 p.m. |
| May 29, 2015 | Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel. |

NEXT STEPS

A rulemaking hearing will be held April 28, 2015, at 3:00 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the May 29, 2015 Board meeting.

B.1. Attachment 1 - OAR 459-015-0020, *Application Required*

B.1. Attachment 2 - OAR 459-076-0020, *Application Required*

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

1 **459-015-0020**

2 **Application Required**

3 (1) Application must be made on forms provided by PERS. PERS may require the
4 member to provide any information that PERS considers necessary to determine the
5 applicant’s eligibility for a disability retirement allowance.

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

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

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

14 (5) When an employee member *[is]* becomes disabled due to injury or disease, the
15 member may make application immediately after the last day worked even though the
16 member may be 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 job.

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

20 (a) For a member who *[is]* becomes totally disabled due to injury or disease before
21 terminating employment from all PERS qualifying positions and has not withdrawn the
22 amount credited to the account of the member in the system, the member must file an

1 application for a disability retirement allowance within five calendar years of the date of
2 separation from service *[termination]*. Total disability must be continuous from the date
3 of disability *[separation from service]* to the date the application is filed.

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

10 (c)(A) For a member who *[is]* becomes totally disabled due to injury or disease but
11 does not terminate employment, an application for disability retirement must be filed no
12 later than 90 calendar days from:

- 13 (i) The date the member is medically released for work; or
- 14 (ii) The date the member returns to work, whichever is earlier.

15 (B) Total disability must be continuous from the date of disability to the earlier of
16 paragraph (A)(i) or (ii) of this subsection.

17 (d) A member cannot apply for disability retirement before their date of disability.

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

22 (8) When making application for a PERS disability retirement allowance, PERS will
23 request the applicant authorize any physician, health practitioner, hospital, clinic,
24 pharmacy, employer, employment agency, or government agency to release and disclose to

1 PERS, or independent physicians and vocational consultants retained by PERS, any
2 information within their records or knowledge, including that information otherwise
3 protected under federal or state law, regarding the applicant’s health and employment
4 which PERS determines relates to the applicant’s claim of disability and inability to
5 perform any work for which qualified.

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

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

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

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

20 Stat. Auth.: ORS 238.650

21 Stats. Implemented: ORS 238.320 - 238.345

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

1 **459-076-0020**

2 **Application Required**

3 (1) Application must be made on forms provided by PERS. PERS may require the
4 member to provide any information that PERS considers necessary to determine the
5 member's eligibility for a disability benefit.

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

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

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

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

17 (A) The application must be filed no later than 90 calendar days from:

18 (i) The date the member is medically released for work; or

19 (ii) The date the member returns to work, whichever is earlier.

20 (B) Total disability must be continuous from the date of disability to the earlier of
21 paragraph (A)(i) or (ii) of this subsection.

1 (b) An inactive member who *[was]* became totally disabled due to injury or disease
2 while the applicant was an active member and has not terminated membership, must file
3 an application for a disability benefit within five calendar years of the date of separation
4 from service. Total disability must have arisen while the applicant was an active member
5 and be continuous from the date of disability *[the member last worked]* to the date the
6 application is filed.

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

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

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

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

22 (8) When filing an application for disability benefit, if the applicant wishes to
23 authorize release and disclosure of protected health information, as defined in OAR 459-

1 076-0001, the applicant must complete and sign a consent form which specifically
2 authorizes the release and disclosure of such information.

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

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

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

13 Stat. Auth.: ORS 238A.450

14 Stats. Implemented: ORS 238A.235



Oregon

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March 30, 2015

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Notice of Benefit Payment Reductions/Deductions Rules:
OAR 459-005-0600, *Precedence for Pre-Tax and Post-Tax Deductions from Benefit Payment*
OAR 459-005-0610, *Recovery of Overpayments*
OAR 459-045-0070, *Precedence for Benefit Payment Reductions or Deductions*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Update the order of priority for deductions from a benefit payment.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

OAR 459-005-0600 establishes the order of priority for deductions, whether pre-tax or post-tax, from a monthly benefit. The rule has not been updated since 1998; PERS has experienced many changes since that time, so a number of rule modifications are necessary. The proposed modifications clarify that, if a member is subject to the benefit limitation under Internal Revenue Code section 415 and must receive a portion of their monthly benefit from the Benefit Equalization Fund under ORS 238.485, such allocation of the member's benefit payments takes precedence over all other payments. Deductions for administrable court orders, such as garnishments for restitution under ORS 238.447, have been added. And, finally, premium payments for PERS-sponsored health insurance were moved down in priority, as they are a voluntary deduction.

OAR 459-045-0070 is a new rule and establishes the order of priority for deductions, whether pre-tax or post-tax, from a member's monthly benefit when a domestic relations order awards a portion of the member's benefit to an alternate payee (AP). Such AP awards can be reductions (AP is responsible for the income tax on their portion of the benefit) or deductions (member is responsible for the income tax on the entire benefit, including the amount paid to the AP). The order of priority is slightly different for each of these scenarios and is broken out separately in the rule.

Finally, section (12) of OAR 459-005-0610 has been deleted because the order of precedence for recovery of an overpayment or an erroneous payment is addressed in both OAR 459-005-0600 and OAR 459-045-0070; therefore, this section of the rule is no longer necessary.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held April 28, 2015, at 3:00 p.m. at PERS headquarters in Tigard. The public comment period ends May 6, 2015, at 5:00 p.m.

LEGAL REVIEW

The attached 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: Changes the order of priority for reductions of or deductions from a benefit payment.

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

RULEMAKING TIMELINE

| | |
|----------------|--|
| March 13, 2015 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| March 30, 2015 | PERS Board notified that staff began the rulemaking process. |
| April 1, 2015 | <i>Oregon Bulletin</i> publishes the Notice. Notice is sent to employers, legislators, and interested parties. Public comment period begins. |
| April 28, 2015 | Rulemaking hearing to be held at 3:00 p.m. at PERS in Tigard. |
| May 6, 2015 | Public comment period ends at 5:00 p.m. |
| May 29, 2015 | Staff will propose adopting the new rule and rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel. |

NEXT STEPS

A rulemaking hearing will be held April 28, 2015, at 3:00 p.m. at PERS headquarters in Tigard. The rules are scheduled to be brought before the PERS Board for adoption at the May 29, 2015 Board meeting.

B.2. Attachment 1 - OAR 459-005-0600, *Precedence for Pre-Tax and Post-Tax Deductions from Benefit Payment*

B.2. Attachment 2 - OAR 459-005-0610, *Recovery of Overpayments*

B.2. Attachment 3 - OAR 459-045-0070, *Precedence for Benefit Payment Reductions or Deductions*

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

1 **459-005-0600**

2 **Precedence for *[Reductions or]* Pre-Tax and Post-Tax Deductions *[of]* from Benefit**
3 **Payment**

4 (1) The order of priority for *[reductions of or]* deductions from a benefit payment is
5 as follows:

6 **(a) Adjustment for payments to be made from the Benefit Equalization Fund as**
7 **established under ORS 238.485.**

8 *[(a)](b)* Adjustment for an overpayment or erroneous payment of benefit.

9 *[(b)](c)* Withholding for federal and state income taxes, and other current taxes.

10 *[(c) Withholding for premium payment of a PERS sponsored health insurance plan.]*

11 (d) Withholding in response to support liens in accordance with ORS 238.445.

12 (e) Withholding in response to Internal Revenue Service (IRS) liens.

13 *[(f) Adjustment due to a divorce decree or other court order.]*

14 **(f) Adjustment due to other administrable court orders.**

15 **(g) Withholding for a premium payment of a PERS-sponsored health insurance**
16 **plan.**

17 *[(g)](h)* Other voluntary withholdings authorized by the Board and elected by the
18 member or beneficiary of the member.

19 **(2) This rule does not apply when there is a payment to an alternate payee**
20 **award under ORS 238.465, as provided in OAR 459-045-0070.**

21 *[(2) The adjustments for recovery of improperly made overpayments or erroneous*
22 *payments take precedence over other reductions or deductions.]*

1 Stat. Auth.: ORS 238.715(9), ~~[&]~~ 238.650 & 238A.450

2 Stats. Implemented: ORS ~~[238.005 - 238.715]~~ chapters 238 and 238A

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

1 **459-005-0610**

2 **Recovery of Overpayments**

3 (1) Authority and Purpose. In accordance with ORS 238.715, this rule sets forth the
4 criteria and process for the recovery of overpayments and erroneous payments made by
5 PERS. It is the policy of the Board to implement wherever possible, and if cost effective,
6 a full recovery of all overpayments and erroneous payments. Staff shall attempt recovery
7 of overpayments and erroneous payments in the most efficient method available and in
8 the least amount of time possible.

9 (2) For the purposes of this rule:

10 (a) “Erroneous payment” means any payment that has been made from the Public
11 Employees Retirement Fund in error, including a payment to a payee that is not entitled
12 to receive the payment.

13 (b) “Good cause” means a cause beyond the reasonable control of the person. “Good
14 cause” exists when it is established by satisfactory evidence that factors or circumstances
15 are beyond the reasonable control of a rational and prudent person of normal sensitivity,
16 exercising ordinary common sense.

17 (c) “Lump-sum payment” means any one-time distribution or payment made under
18 ORS Chapters 238 or 238A, or any other law directing PERS to make a payment,
19 including a retroactive adjustment, that is not scheduled to be paid to or on behalf of a
20 payee on a regular monthly basis.

1 (d) “Monthly payment” means any gross pension, annuity, service or disability
2 retirement allowance, death benefit, or other benefit under ORS Chapter 238 or 238A that
3 is paid monthly to or on behalf of a payee.

4 (e) “Overpayment” refers to an amount that is in excess of the amount a payee is
5 entitled to under ORS Chapters 238 and 238A.

6 (f) “Payee” means:

7 (A) A member, a trust established by the member, or the member’s estate;

8 (B) A member’s beneficiary, a trust established by the member’s beneficiary, or the
9 estate of the member’s beneficiary;

10 (C) An alternate payee, as defined in OAR 459-045-0001(2), a trust established by
11 an alternate payee, or the estate of an alternate payee;

12 (D) The beneficiary of an alternate payee, a trust established by the beneficiary of an
13 alternate payee, or the estate of the beneficiary of an alternate payee; or

14 (E) Any other recipient of a benefit payment by PERS.

15 (3) In addition to the notice of an overpayment or erroneous payment to a payee
16 required by ORS 238.715(4), PERS shall also send an explanation of the overpayment or
17 erroneous payment; whether the Board asserts a right to assess interest, penalties and
18 costs of collection; and a description of the manner in which the payee may appeal the
19 determinations reflected in the explanation, if applicable.

20 (4) In determining the amounts owed by a payee and setting a repayment schedule
21 under sections (5) or (6) of this rule, PERS shall reduce the amount owed by any lump-
22 sum payment then owed by PERS to that payee. If the payee should subsequently become
23 entitled to any lump sum payment, it shall be applied against the amounts then owed by

1 that payee. PERS, in its discretion, may revise the repayment schedule or continue on the
2 established schedule until the remaining amounts owed are fully repaid.

3 (5) The following list includes possible methods for PERS to recover an
4 overpayment under an agreement with the payee. These methods are listed in order of
5 preference. Unless otherwise ordered by the Board, PERS Staff is granted the discretion
6 to select the method deemed most likely to effect a full recovery:

7 (a) A repayment of all amounts owed in a single payment.

8 (b) A deduction of a percentage or fixed dollar amount, to be agreed upon between
9 the payee and PERS, from future monthly payments for a period not to exceed two years
10 that will fully repay the amounts owed.

11 (c) A fixed monthly dollar amount to be agreed upon between the payee and PERS
12 that will fully repay the amounts owed.

13 (d) A deduction of a percentage or fixed dollar amount from future monthly
14 payments, to be agreed upon between the payee and PERS, for a specified period greater
15 than two years that will fully repay the amounts owed if PERS deems that a longer
16 repayment period is warranted by the payee’s personal financial circumstances.

17 (6) If the payee does not agree to one of the recovery methods under section (5) of
18 this rule, PERS shall use one or more of the following methods to effect a full recovery of
19 any overpayment or erroneous payment:

20 (a) Deducting not more than 10 percent from current and future monthly payments to
21 a payee until the full amounts owed are recovered.

22 (b) Making an actuarially determined reduction, not to exceed 10 percent, to current
23 and future payments from PERS calculated to repay the full amount of the overpayment

1 or erroneous payment during the period in which monthly payments will be made to the
2 payee.

3 (c) Seeking recovery of the overpayment or erroneous payment by using any remedy
4 available to the Board under applicable law.

5 (d) Engaging the services of outside collection agencies.

6 (7) If a recovery method has to be selected under section (6) and the overpayment is
7 caused solely by the actions of PERS or a participating public employer, PERS will select
8 a method which imposes the least economic hardship on the member while allowing for a
9 reasonably prudent recovery of the overpayment.

10 (8) The base or original benefit payment used to calculate cost-of-living adjustments,
11 ad hoc increases, or other benefit increases shall not be altered by an actuarial reduction
12 provided for in subsection (6)(b) of this rule.

13 (9) In the event that PERS determines that an overpayment or erroneous payment
14 was not caused by PERS or by the actions of a participating public employer, PERS may
15 include within the amounts owed by the payee:

16 (a) All costs incurred by PERS in recovering the overpayment or erroneous payment,
17 including attorney fees, and fees assessed by an outside collection agency; and

18 (b) Interest in an amount equal to one percent per month on the balance of the
19 overpayment or erroneous payment until that payment is fully recovered.

20 (10) The Board authorizes the Director, or the Director's designee, to waive:

21 (a) The interest and costs of collection associated with the recovery of an
22 overpayment or erroneous payment for good cause shown; and

1 (b) The recovery of any overpayment or erroneous payment if the total amount of
2 overpayments or erroneous payments is less than \$50.

3 (11) Recovery of an overpayment or erroneous payment shall not be effected if
4 PERS has not initiated recovery of those payments within six years after the date the
5 overpayment or erroneous payment was made. PERS initiates recovery on the date it
6 mails the notification required by ORS 238.715(4).

7 *[(12) The recovery of an overpayment or an erroneous payment shall take*
8 *precedence over other deductions or reductions as set forth in OAR 459-005-0600.]*

9 Stat. Auth.: ORS 238.715(9), 238.630 & 238.650

10 Stats. Implemented: ORS 238.715

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 459-045-0070

2 Precedence for Benefit Payment Reductions or Deductions

3 (1) The order of priority when the alternate payee award is a reduction of a
4 member’s benefit payment is as follows:

5 (a) Adjustment for payments to be made from the Benefit Equalization Fund as
6 established under ORS 238.485.

7 (b) Adjustment for an alternate payee benefit payment.

8 (c) Adjustment for an overpayment or erroneous payment of benefit.

9 (d) Withholding for federal and state income taxes, and other current taxes.

10 (e) Withholding in response to support liens in accordance with ORS 238.445.

11 (f) Withholding in response to Internal Revenue Service (IRS) liens.

12 (g) Adjustment due to other administrable court orders.

13 (h) Withholding for a premium payment of a PERS-sponsored health insurance
14 plan.

15 (i) Other voluntary withholdings authorized by the Board and elected by the
16 member or beneficiary of the member.

17 (2) The order of priority when the alternate payee award is a deduction from a
18 member’s benefit payment is as follows:

19 (a) Adjustment for payments to be made from the Benefit Equalization Fund as
20 established under ORS 238.485.

21 (b) Adjustment for an overpayment or erroneous payment of benefit.

22 (c) Withholding for federal and state income taxes, and other current taxes.

1 (d) Adjustment for an alternate payee benefit payment.

2 (e) Withholding in response to support liens in accordance with ORS 238.445.

3 (f) Withholding in response to Internal Revenue Service (IRS) liens.

4 (g) Adjustment due to other administrable court orders.

5 (h) Withholding for a premium payment of a PERS-sponsored health insurance
6 plan.

7 (i) Other voluntary withholdings authorized by the Board and elected by the
8 member or beneficiary of the member.

9 Stat. Auth.: ORS 238.650, 238.715(9) & 238A.450

10 Stats. Implemented: ORS 238.465



Oregon

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March 30, 2015

TO: Members of the PERS Board

FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section

SUBJECT: Notice of IRC and Social Security Limitations Rules:
OAR 459-005-0525, *Ceiling on Compensation for Purposes of Contributions and Benefits*
OAR 459-005-0545, *Annual Addition Limitation*
OAR 459-017-0060, *Reemployment of Retired Members*
OAR 459-080-0500, *Limitation on Contributions*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Update rules to reflect the 2015 Internal Revenue Code (IRC) and Social Security annual compensation limitations.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

The Internal Revenue Service (IRS) revises various dollar limits annually based on cost-of-living adjustments. These revisions are used throughout the PERS plan's statutes and rules, but revisions to the limits must be adopted by the legislature or PERS Board to be effective.

The proposed rule modifications incorporate these federal adjustments and are necessary to ensure compliance with the IRC's limits on the amount of annual compensation allowed for determining contributions and benefits, annual benefits, and annual additions to PERS.

Also, under ORS 238.082, a Tier One or Tier Two retired member who is receiving Social Security benefits and who returns to PERS-covered employment may continue to receive their PERS retirement benefits so long as they work less than 1,040 hours or not exceed any related Social Security annual compensation limits. The proposed modifications to OAR 459-017-0060 adopt the 2015 Social Security earnings limitations. For these increases to be effective, the PERS Board has to adopt these rule modifications.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held April 28, 2015, at 3:00 p.m. at PERS headquarters in Tigard. The public comment period ends May 6, 2015, at 5:00 p.m.

LEGAL REVIEW

The attached 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: Yes, statute requires the Board to update its rules to reflect revisions by the IRS. If not amended, OAR 459-017-0060 would provide incomplete guidance regarding reemployed retired members and outdated Social Security annual compensation limits.

Impact: Clarifies the current limits for contributions and benefits under federal law. Retired members will benefit from the updated Social Security annual compensation limits.

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

RULEMAKING TIMELINE

| | |
|----------------|--|
| March 13, 2015 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| April 1, 2015 | <i>Oregon Bulletin</i> publishes the Notice. Notice is sent to employers, legislators, and interested parties. Public comment period begins. |
| April 28, 2015 | Rulemaking hearing to be held at 3:00 p.m. at PERS in Tigard. |
| May 6, 2015 | Public comment period ends at 5:00 p.m. |
| May 29, 2015 | Board may adopt the permanent rule modifications. |

NEXT STEPS

A rulemaking hearing will be held April 28, 2015, at 3:00 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the May 29, 2015 Board meeting.

- B.3. Attachment 1 - 459-005-0525, *Ceiling on Compensation for Purposes of Contributions and Benefits*
- B.3. Attachment 2 - 459-005-0545, *Annual Addition Limitation*
- B.3. Attachment 3 - 459-017-0060, *Reemployment of Retired Members*
- B.3. Attachment 4 - 459-080-0500, *Limitation on Contributions*

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

1 **459-005-0525**

2 **Ceiling on Compensation for Purposes of Contributions and Benefits**

3 (1) The purpose of this rule is to assure compliance of the Public Employees
4 Retirement System (PERS) with Internal Revenue Code (IRC) Section 401(a)(17)
5 relating to the limitation on annual compensation allowable for determining contribution
6 and benefits under ORS Chapters 238 and 238A.

7 (2) Definitions:

8 (a) “Annual compensation” means “salary,” as defined in ORS 238.005 and 238.205
9 with respect to Chapter 238 and in 238A.005 with respect to Chapter 238A paid to the
10 member during a calendar year or other 12-month period, as specified in this rule.

11 (b) “Eligible participant” means a person who first becomes a member of PERS
12 before January 1, 1996.

13 (c) “Employer” means a “public employer” as defined in ORS 238.005, for the
14 purposes of this rule as it applies to Chapter 238. For the purposes of this rule as it
15 applies to Chapter 238A, an “employer” means a “participating public employer” as
16 defined in 238A.005.

17 (d) “Noneligible participant” means a person who first becomes a member of PERS
18 after December 31, 1995.

19 (e) “Participant” means an active or inactive member of PERS.

20 (3) For eligible participants, the limit set forth in IRC Section 401(a)(17) shall not
21 apply for purposes of determining the amount of employee or employer contributions that
22 may be paid into PERS, and for purposes of determining benefits due under ORS

1 Chapters 238 and 238A. The limit on annual compensation for eligible participants shall
2 be no less than the amount which was allowed to be taken into account for purposes of
3 determining contributions or benefits under former ORS 237.001 to 237.315 as in effect
4 on July 1, 1993.

5 (4) For noneligible participants, the annual compensation taken into account for
6 purposes of determining contributions or benefits under ORS Chapters 238 and 238A
7 shall be measured on a calendar year basis, and shall not exceed [~~\$260,000~~] \$265,000 per
8 calendar year beginning in [~~2014~~] 2015.

9 (a) The limitation on annual compensation will be indexed by cost-of-living
10 adjustments in subsequent years as provided in IRC Section 401(a)(17)(B).

11 (b) A noneligible participant employed by two or more agencies or instrumentalities
12 of a PERS participating employer in a calendar year, whether concurrently or
13 consecutively, shall have all compensation paid by the employer combined for
14 determining the allowable annual compensation under this rule.

15 (c) PERS participating employers shall monitor annual compensation and
16 contributions to assure that reports and remitting are within the limits established by this
17 rule and IRC Section 401(a)(17).

18 (5) For a noneligible participant, Final Average Salary under ORS 238.005 with
19 respect to Chapter 238 and under 238A.130 with respect to Chapter 238A shall be
20 calculated based on the amount of compensation that is allowed to be taken into account
21 under this rule.

22 (6) Notwithstanding sections (4) and (5) of this rule, if the Final Average Salary as
23 defined in ORS 238.005 with respect to Chapter 238 and as defined in 238A.130 with

1 respect to Chapter 238A is used in computing a noneligible participant’s retirement
2 benefits, the annual compensation shall be based on compensation paid in a 12-month
3 period beginning with the earliest calendar month used in determining the 36 months of
4 salary paid. For each 12-month period, annual compensation shall not exceed the amount
5 of compensation that is allowable under this rule for the calendar year in which the 12-
6 month period begins.

7 (7) With respect to ORS Chapter 238, creditable service, as defined in 238.005, shall
8 be given for each month that an active member is paid salary or wages and allowable
9 contributions have been remitted to PERS, or would be remitted but for the annual
10 compensation limit in IRC Section 401(a)(17). With respect to Chapter 238A, retirement
11 credit as determined in 238A.140, shall be given for each month that an active member is
12 paid salary or wages and allowable contributions have been remitted to PERS, or would
13 be remitted but for the annual compensation limit in IRC Section 401(a)(17).

14 (8) The provisions of this rule are effective on January 1, 2004.

15 Stat. Auth.: ORS 238.630, 238.650, 238A.370 & 238A.450

16 Stats. Implemented: ORS 238 & 238A

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

1 **459-005-0545**

2 **Annual Addition Limitation**

3 (1) Applicable Law. This administrative rule shall be construed consistently with the
4 requirements of the Internal Revenue Code (IRC) Section 415(c) and the Treasury regulations
5 and Internal Revenue Service rulings and other interpretations issued thereunder.

6 (2) Annual Addition Limitation. Except as otherwise provided in this rule, a member’s
7 annual additions to PERS for any calendar year after ~~[2013]~~ 2014 may not exceed ~~[\$52,000]~~
8 \$53,000 (as adjusted under IRC Section 415(d)).

9 (3) Annual Additions. For purposes of this rule, the term “annual additions” has the same
10 meaning as under IRC Section 415(c)(2).

11 (4) Permissive Service Credit. The following special rules shall apply with respect to
12 purchases of permissive service credit, as defined in OAR 459-005-0540, Permissive Service
13 Credit:

14 (a) If a member’s after-tax contributions to purchase permissive service credit are
15 included in the member’s annual additions under section (3) of this rule, the member shall not
16 be treated as exceeding the limitation under section (2) of this rule solely because of the
17 inclusion of such contributions.

18 (b) With respect to any eligible participant, the annual addition limitation in section (2) of
19 this rule shall not be applied to reduce the amount of permissive service credit to an amount
20 less than the amount that could be purchased under the terms of the plan as in effect on
21 August 5, 1997. As used in this subsection, the term “eligible participant” includes any
22 individual who became an active member before January 1, 2000.

1 (5) Purchase of Service in the Armed Forces Under ORS 238.156 or 238A.150. If a
2 member makes a payment to PERS to purchase retirement credit for service in the Armed
3 Forces pursuant to 238.156(3)(c) or 238A.150 and the service is covered under Internal
4 Revenue Code Section 414(u), the following special rules shall apply for purposes of applying
5 the annual addition limitation in section (2) of this rule:

6 (a) The payment shall be treated as an annual addition for the calendar year to which it
7 relates;

8 (b) The payment shall not be treated as an annual addition for the calendar year in which
9 it is made; and

10 (c) The member shall be treated as having received the following amount of
11 compensation for the period of service in the Armed Forces to which the payment relates:

12 (A) The amount of compensation the member would have received from a participating
13 employer had the member not been in the Armed Forces; or

14 (B) If the amount in paragraph (A) of this subsection is not reasonably certain, the
15 member's average compensation from the participating employer during the 12-month period
16 immediately preceding the period of service in the Armed Forces (or, if shorter, the period of
17 employment immediately preceding the period of service in the Armed Forces).

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

19 Stat. Auth.: ORS 238.630, 238.650, 238A.370 & 238A.450

20 Stats. Implemented: ORS 238.005 - 238.715, 238A.370

1 (a) The retired member meets the requirements of ORS 238.082(4), (5), (6), (7) or (8),
2 and did not retire at a reduced benefit under the provisions of 238.280(1), (2), or (3);

3 (b) The retired member retired at a reduced benefit under ORS 238.280(1), (2) or (3),
4 is employed in a position that meets the requirements of 238.082(4), the date of
5 employment is more than six months after the member’s effective retirement date, and the
6 member’s retirement otherwise meets the standard of a bona fide retirement;

7 (c) The retired member is employed by a school district or education service district as
8 a speech-language pathologist or speech-language pathologist assistant and:

9 (A) The retired member did not retire at a reduced benefit under the provisions of
10 ORS 238.280(1), (2), or (3); or

11 (B) If the retired member retired at a reduced benefit under the provisions of ORS
12 238.280(1), (2) or (3), the retired member is not so employed until more than six months
13 after the member’s effective retirement date and the member’s retirement otherwise meets
14 the standard of a bona fide retirement;

15 (d) The retired member meets the requirements of section 2, chapter 499, Oregon
16 Laws 2007;

17 (e) The retired member is employed for service during a legislative session under ORS
18 238.092(2); or

19 (f) The retired member is on active state duty in the organized militia and meets the
20 requirements under ORS 399.075(8).

21 (g) For purposes of population determinations referenced by statutes listed in this
22 section, the latest federal decennial census shall first be operative on the first day of the
23 second calendar year following the census year.

1 (h) For purposes of ORS 238.082(6), a retired member replaces an employee if the
2 retired member:

3 (A) Is assigned to the position of the employee; and

4 (B) Performs the duties of the employee or duties that might be assigned to an
5 employee in that position.

6 (5) If a retired member is reemployed subject to the limitations of ORS 238.082 and
7 section (2) of this rule, the period or periods of employment subsequently exceed those
8 limitations, and employment continues into the month following the date the limitations
9 are exceeded:

10 (a) If the member has been retired for six or more calendar months:

11 (A) PERS will cancel the member’s retirement.

12 (i) If the member is receiving a monthly service retirement allowance, the last
13 payment to which the member is entitled is for the month in which the limitations were
14 exceeded.

15 (ii) If the member is receiving installment payments under ORS 238.305(4), the last
16 installment payment to which the member is entitled is the last payment due on or before
17 the last day of the month in which the limitations were exceeded.

18 (iii) If the member received a single lump sum payment under ORS 238.305(4) or
19 238.315, the member is entitled to the payment provided the payment was dated on or
20 before the last day of the month in which the limitations were exceeded.

21 (iv) A member who receives benefits to which he or she is not entitled must repay
22 those benefits to PERS.

1 (B) The member will reestablish active membership the first of the calendar month
2 following the month in which the limitations were exceeded.

3 (C) The member’s account must be rebuilt in accordance with the provisions of
4 section (7) of this rule.

5 (b) If the member has been retired for less than six calendar months:

6 (A) PERS will cancel the member’s retirement effective the date the member was
7 reemployed.

8 (B) All retirement benefits received by the member must be repaid to PERS in a single
9 payment.

10 (C) The member will reestablish active membership effective the date the member
11 was reemployed.

12 (D) The member account will be rebuilt as of the date that PERS receives the single
13 payment. The amount in the member account must be the same as the amount in the
14 member account at the time of the member’s retirement.

15 (6) For purposes of determining period(s) of employment in section (2) of this rule:

16 (a) Hours of employment are hours on and after the retired member’s effective
17 retirement date for which the member receives wages, salary, paid leave, or other
18 compensation.

19 (b) Hours of employment that are performed under the provisions of section (4) of this
20 rule on or after the later of January 1, 2004 or the operative date of the applicable statutory
21 provision are not counted.

1 (7) Reemployment under ORS 238.078(1). If a member has been retired for service
2 for more than six calendar months and is reemployed in a qualifying position by a
3 participating employer under the provisions of 238.078(1):

4 (a) PERS will cancel the member’s retirement effective the date the member is
5 reemployed.

6 (b) The member will reestablish active membership on the date the member is
7 reemployed.

8 (c) If the member elected a benefit payment option other than a lump sum option
9 under ORS 238.305(2) or (3), the last monthly service retirement allowance payment to
10 which the member is entitled is for the month before the calendar month in which the
11 member is reemployed. Upon subsequent retirement, the member may choose a different
12 benefit payment option.

13 (A) The member’s account will be rebuilt as required by ORS 238.078 effective the
14 date active membership is reestablished.

15 (B) Amounts from the Benefits-In-Force Reserve (BIF) credited to the member’s
16 account under the provisions of paragraph (A) of this subsection will be credited with
17 earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement
18 to the date of active membership.

19 (d) If the member elected a partial lump sum option under ORS 238.305(2), the last
20 monthly service retirement allowance payment to which the member is entitled is for the
21 month before the calendar month in which the member is reemployed. The last lump sum
22 or installment payment to which the member is entitled is the last payment due before the
23 date the member is reemployed. Upon subsequent retirement, the member may not choose

1 a different benefit payment option unless the member has repaid to PERS in a single
2 payment an amount equal to the lump sum and installment benefits received and the
3 earnings that would have accumulated on that amount.

4 (A) The member’s account will be rebuilt as required by ORS 238.078 effective the
5 date active membership is reestablished.

6 (B) Amounts from the BIF credited to the member’s account under the provisions of
7 paragraph (A) of this subsection, excluding any amounts attributable to repayment by the
8 member, will be credited with earnings at the BIF rate or the assumed rate, whichever is
9 less, from the date of retirement to the date of active membership.

10 (e) If the member elected the total lump sum option under ORS 238.305(3), the last
11 lump sum or installment payment to which the member is entitled is the last payment due
12 before the date the member is reemployed. Upon subsequent retirement, the member may
13 not choose a different benefit payment option unless the member has repaid to PERS in a
14 single payment an amount equal to the benefits received and the earnings that would have
15 accumulated on that amount.

16 (A) If the member repays PERS as described in this subsection the member’s account
17 will be rebuilt as required by ORS 238.078 effective the date that PERS receives the single
18 payment.

19 (B) If any amounts from the BIF are credited to the member’s account under the
20 provisions of paragraph (A) of this subsection, the amounts may not be credited with
21 earnings for the period from the date of retirement to the date of active membership.

22 (f) If the member received a lump sum payment under ORS 238.315:

1 (A) If the payment was dated before the date the member is reemployed, the member
2 is not required or permitted to repay the benefit amount. Upon subsequent retirement:

3 (i) The member may choose a different benefit payment option.

4 (ii) The member's retirement benefit will be calculated based on the member's periods
5 of active membership after the member's initial effective retirement date.

6 (B) If the payment was dated on or after the date the member is reemployed, the
7 member must repay the benefit amount. Upon subsequent retirement:

8 (i) The member may choose a different benefit payment option.

9 (ii) The member's retirement benefit will be calculated based on the member's periods
10 of active membership before and after the member's initial effective retirement date.

11 (iii) The member's account will be rebuilt as described in ORS 238.078(2)

12 (g) A member who receives benefits to which he or she is not entitled must repay
13 those benefits to PERS.

14 (8) Reemployment under ORS 238.078(2). If a member has been retired for less than
15 six calendar months and is reemployed in a qualifying position by a participating employer
16 under the provisions of 238.078(2):

17 (a) PERS will cancel the member's retirement effective the date the member is
18 reemployed.

19 (b) All retirement benefits received by the member must be repaid to PERS in a single
20 payment.

21 (c) The member will reestablish active membership effective the date the member is
22 reemployed.

1 (d) The member account will be rebuilt as of the date that PERS receives the single
2 payment. The amount in the member account must be the same as the amount in the
3 member account at the time of the member’s retirement.

4 (e) Upon subsequent retirement, the member may choose a different benefit payment
5 option.

6 (9) Upon the subsequent retirement of any member who reestablished active
7 membership under ORS 238.078 and this rule, the retirement benefit of the member must
8 be calculated using the actuarial equivalency factors in effect on the effective date of the
9 subsequent retirement.

10 (10) The provisions of paragraphs (7)(c)(B), (7)(d)(B), and (7)(e)(B) of this rule are
11 applicable to retired members who reestablish active membership under ORS 238.078 and
12 this rule and whose initial effective retirement date is on or after March 1, 2006.

13 (11) Reporting requirement. A participating employer that employs a retired member
14 must notify PERS in a format acceptable to PERS under which statute the retired member
15 is employed.

16 (a) Upon request by PERS, a participating employer must certify to PERS that a
17 retired member has not exceeded the number of hours allowed under ORS 238.082 and
18 section (2) of this rule.

19 (b) Upon request by PERS a participating employer must provide PERS with business
20 and employment records to substantiate the actual number of hours a retired member was
21 employed.

22 (c) Participating employers must provide information requested under this section
23 within 30 days of the date of the request.

1 (12) Sick leave. Accumulated unused sick leave reported by an employer to PERS
2 upon a member's retirement, as provided in ORS 238.350, may not be made available to a
3 retired member returning to employment under sections (2) or (7) of this rule.

4 (13) Subsections (4)(c) and (4)(d) of this rule are repealed effective January 2, 2016.

5 (14) This rule is effective January 1, ~~2014~~ 2015.

6 Stat. Auth.: ORS 238.650

7 Stats. Implemented: ORS 238.078, 238.082, 238.092, 399.075, & 2007 OL Ch. 499 &

8 774

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 080 – OPSRP INDIVIDUAL ACCOUNT PROGRAM**

1 **459-080-0500**

2 **Limitation on Contributions**

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

4 (a) “Annual addition” has the same meaning given the term in 26 U.S.C. 415(c)(2).

5 (b) “Compensation” has the same meaning given the term in 26 U.S.C. 415(c)(3)(A).

6 (2) Annual addition limitation. Except as otherwise provided in this rule, the annual
7 addition to a member account for any calendar year may not exceed ~~[\$52,000]~~ \$53,000
8 effective January 1, ~~[2014]~~ 2015.

9 (3) Payment for military service. If a payment of employee contributions for a period
10 of military service is made under OAR 459-080-0100:

11 (a) The payment shall be treated as an annual addition for the calendar year(s) of
12 military service to which it relates;

13 (b) The payment shall not be treated as an annual addition for the calendar year in
14 which it is made; and

15 (c) For the purpose of allocating payments under this section, the member’s
16 compensation shall be the amount described in OAR 459-080-0100(3)(d).

17 Stat. Auth.: ORS 238A.450

18 Stats. Implemented: ORS 238A.370



Oregon

Kate Brown, Governor

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March 30, 2015

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Adoption of Health Insurance Program Rule:
OAR 459-035-0070, *Enrollment*

OVERVIEW

- Action: Adopt modifications to the PERS Health Insurance Program (PHIP) rule.
- Reason: Clarify the enrollment requirements for the PHIP dental insurance program.
- Policy Issue: No policy issues were identified.

BACKGROUND

Retired members who are eligible to enroll in PHIP are also eligible to enroll in PERS dental insurance. A retired member must enroll in PHIP to be eligible to enroll in the dental program and is only eligible to enroll in the dental program at the same time as PHIP. If a retired member discontinues participation in the dental insurance program, that member can only re-enroll in the dental insurance program during an available enrollment period and subject to the same qualifications. The proposed rule modifications clarify that the enrollment requirements are the same for both the health insurance and dental insurance programs.

SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

The new language in Section (2)(a) was changed from “That enrollment...” to “Enrollment in a PERS-sponsored dental insurance plan...” This edit was made to avoid ambiguity associated with the word “that.”

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held February 24, 2015, at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended March 6, 2015, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Impact: Provides direction to retirees regarding enrolling in the dental insurance program.

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

RULEMAKING TIMELINE

| | |
|-------------------|--|
| January 15, 2015 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| January 30, 2015 | PERS Board notified that staff began the rulemaking process. |
| February 1, 2015 | <i>Oregon Bulletin</i> published the Notice. Notice was sent to employers, legislators, and interested parties. Public comment period began. |
| February 24, 2015 | Rulemaking hearing held at 2:00 p.m. at PERS in Tigard. |
| March 6, 2015 | Public comment period ended at 5:00 p.m. |
| March 30, 2015 | Board may adopt the permanent rule modifications. |

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt modifications to the Health Insurance Program rule, as presented.”
2. Direct staff to make other changes to the rule or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Clarify the enrollment requirements for the PHIP dental insurance program.

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.4. Attachment 1 - OAR 459-035-0070, *Enrollment*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 035 – HEALTH INSURANCE PROGRAMS**

1 **459-035-0070**

2 **Enrollment**

3 (1) Enrollment requirements of PERS-sponsored health insurance plans for eligible
4 persons are as follows:

5 (a) An eligible person must complete all applicable parts of PERS Medical & Dental
6 Insurance Application form, and file the form with the Third Party Administrator
7 including, in the case of a dependent domestic partner, an Affidavit of Dependent
8 Domestic Partnership. The form must indicate which plan is desired and it must list
9 individually all dependents, including the spouse, that are to be enrolled. The form can be
10 obtained from the Third Party Administrator or PERS;

11 (b) An eligible person who is a retiree may enroll:

12 (A) Within 90 days of the retiree’s effective date of retirement;

13 (B) At any time if covered under another group health insurance plan for 24
14 consecutive months immediately preceding enrollment, provided that the application for
15 enrollment is filed within 30 days of loss of coverage. Health care coverage under
16 workers’ compensation, Medicare or any other governmental entitlement program for
17 health care do not qualify as other group health insurance coverage for purposes of this
18 paragraph;

19 (C) Within 90 days of initial Medicare eligibility, if the retiree is enrolled in Parts A
20 and B of Medicare; or

21 (D) During an open enrollment period designated by the Board.

1 (c) Except as provided in subsection (f) of this section, an eligible spouse or
2 dependent must be enrolled at the same time and in the same plan as the eligible retiree;

3 (d) An eligible surviving spouse or dependent who is enrolled under the deceased
4 retiree’s plan at the time of death may continue coverage under that plan, and must
5 complete a Medical & Dental Insurance Application form as soon as possible following
6 the retiree’s death;

7 (e) An eligible surviving spouse or dependent who is not covered under the retiree’s
8 plan at the time of the retiree’s death, may enroll:

9 (A) Within 90 days of the retiree’s death;

10 (B) At any time if covered under another group health insurance plan for 24
11 consecutive months immediately preceding enrollment, provided that the application for
12 enrollment is filed within 30 days of loss of coverage. Health care coverage under
13 workers’ compensation, Medicare or any other governmental entitlement program for
14 health care do not qualify as other group health insurance plan coverage for purposes of
15 this paragraph;

16 (C) Within 90 days of initial Medicare eligibility, if he or she is enrolled in Parts A
17 and B of Medicare; or

18 (D) During an open enrollment period designated by the Board.

19 (f) A new spouse, dependent domestic partner, or dependent may be enrolled:

20 (A) Within 30 days of becoming a spouse, a dependent domestic partner or
21 dependent;

22 (B) If not enrolled in Medicare, only with the same carrier that the eligible retiree is
23 enrolled in;

1 (C) If enrolled in Parts A and B of Medicare, only in the Medicare Companion Plan
2 offered by the same carrier that covers the eligible retiree.

3 (g) An eligible retiree’s spouse may enroll within 90 days of initial Medicare
4 eligibility, if he/she is enrolled in Parts A & B of Medicare even though the retiree
5 remains enrolled in a non-PERS health plan.

6 (2) Special enrollment requirements for dental insurance plans:

7 (a) Only persons who are enrolled in a PERS-sponsored health insurance plan may

8 enroll in a PERS-sponsored dental insurance plan. ~~That e~~**Enrollment in a PERS-**
9 **sponsored dental insurance plan must be made under the enrollment conditions for**
10 **the PERS-sponsored health insurance that are described in section (1) of this**
11 **rule.[:]**

12 (b) Dental insurance coverage is not available to any eligible person unless all family
13 members (the retiree, spouse, dependent domestic partner and dependent(s)) who are
14 enrolled in a PERS-sponsored health insurance plan also enroll in the same PERS-
15 sponsored dental insurance plan.[:]

16 *[(c) If the retiree, spouse, dependent domestic partner and dependent(s) do not*
17 *enroll in a PERS-sponsored dental insurance plan when eligible, or later choose to*
18 *discontinue dental coverage, they will not be allowed to re-enroll in a PERS-sponsored*
19 *dental insurance plan.]*

20 Stat. Auth.: ORS 238.410 & ORS 238.650

21 Stats. Implemented: ORS 238.410, ORS 238.415 & ORS 238.420



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March 30, 2015

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Adoption of IAP Earnings Crediting Rules:
OAR 459-007-0320, *Crediting Earnings for IAP Account Lump Sum Payments*
OAR 459-007-0330, *Crediting Earnings for IAP Account Lump Installment Payments*
OAR 459-080-0250, *IAP Account Installments*

OVERVIEW

- Action: Adopt modifications to the IAP Earnings Crediting rules.
- Reason: Clarify earnings crediting for IAP Account payments under OAR 459-007-0320 and 459-007-0330, and change the definition of the term “Anniversary Date” for the purpose of the IAP Account Installments in OAR 459-007-0330.
- Policy Issue: No policy issues were identified.

BACKGROUND

OAR 459-007-0320 and 459-007-0330 outline how earnings are credited to distributions from the IAP. Lump sum distributions from the IAP are credited with the latest year-to-date calculation as of the date of distribution; IAP accounts of retired members electing installment payments are credited with the latest year-to-date calculation as of the date of the initial distribution. The latest year-to-date calculation is determined on a monthly basis, as defined in OAR 459-007-0001. The proposed rule change clarifies that the monthly latest year-to-date calculation is applied on a *calendar month* basis, so all distributions made in the same month will receive the same earnings crediting rate. The proposed change is a clarification; there is no change in our administration of the IAP.

One of the retirement options for the IAP is the Anticipated Life Span Option. This option employs a distribution method approved by the Internal Revenue Service (IRS) intended to establish substantially equal payments to retired members, which is an exception to the additional 10 percent tax on early distributions. The IRS approved method requires an annual recalculation of the member’s account to determine the distribution(s) for the following year. This annual recalculation is done on the member’s anniversary date, currently defined in OAR 459-080-0250 as the first of the month following the initial distribution. The current definition of anniversary date causes the annual recalculation to fall out of sync with the timing of the distribution(s). For example, a member electing to receive annual installments would receive the second annual installment one month before the annual recalculation. The proposed rule change establishes the anniversary date as the first day of the month of the date of distribution, bringing the annual recalculation in line with the timing of the distributions.

SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

In all the rules, the phrase “the first of the month of the date of distribution” was changed to “the first day of the calendar month of the date of distribution,” because the distinction between months and calendar months can be problematic.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held February 24, 2015, at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended March 6, 2015, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

The attached 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: Provides clarification to members regarding administration of their IAP account distributions.

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

RULEMAKING TIMELINE

| | |
|-------------------|--|
| January 15, 2015 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| January 30, 2015 | PERS Board notified that staff began the rulemaking process. |
| February 1, 2015 | <i>Oregon Bulletin</i> published the Notice. Notice was sent to employers, legislators, and interested parties. Public comment period began. |
| February 24, 2015 | Rulemaking hearing held at 2:00 p.m. at PERS in Tigard. |
| March 6, 2015 | Public comment period ended at 5:00 p.m. |
| March 30, 2015 | Board may adopt the permanent rule modifications. |

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt modifications to the IAP Earnings Crediting 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.

Adoption – IAP Earnings Crediting Rules

03/30/15

Page 3 of 3

- Reason: Clarify earnings crediting for IAP Account payments under OAR 459-007-0320 and 459-007-0330, and change the definition of the term “Anniversary Date” for the purpose of the IAP Account Installments in OAR 459-007-0330.

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.5. Attachment 1 - OAR 459-007-0320, *Crediting Earnings for IAP Account Lump Sum Payments*

B.5. Attachment 2 - OAR 459-007-0330, *Crediting Earnings for IAP Account Lump Installment Payments*

B.5. Attachment 3 - OAR 459-080-0250, *IAP Account Installments*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 007 – EARNINGS AND INTEREST DISTRIBUTION**

1 **459-007-0320**

2 **Crediting Earnings for IAP Account Lump Sum Payments**

3 (1) When an IAP member retires and elects to receive a lump sum payment of their
4 account(s) under ORS 238A.400(1), earnings will be credited in the manner specified in
5 this section.

6 (a) If earnings for the calendar year before the date of distribution have not been
7 credited, earnings for that year will be credited based on the latest IAP year-to-date
8 calculation available for that year.

9 (b) Earnings credited for the calendar year of distribution will be credited based on
10 | the latest IAP year-to-date calculation as of the first day of the calendar month of the
11 | date of distribution.

12 (2) When an IAP member elects to withdraw their account(s) under ORS 238A.375,
13 earnings will be credited in the manner specified in this section.

14 (a) If earnings for the calendar year before the date of distribution have not been
15 credited, earnings for that year will be credited based on the latest IAP year-to-date
16 calculation available for that year.

17 (b) Earnings credited for the calendar year of distribution will be credited based on
18 | the latest IAP year-to-date calculation as of the first day of the calendar month of the
19 | date of distribution.

20 Stat. Auth.: ORS 238A.450

21 Stats. Implemented: ORS 238A.350, 238A.375 & 238A.400

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 007 – EARNINGS AND INTEREST DISTRIBUTION**

1 **459-007-0330**

2 **Crediting Earnings for IAP Account Installment Payments**

3 (1) For the purposes of this rule, “monthly change rate” means the monthly earnings
4 rate for IAP account(s) when a retiree elects installment payments.

5 (2) When an IAP member retires and elects to receive installment payments under
6 ORS 238A.400(2), earnings will be credited in the manner specified in this rule:

7 (a) For the initial installment payment:

8 (A) If earnings for the calendar year before the date of distribution have not been
9 credited, earnings for that year shall be credited based on the latest IAP year-to-date
10 calculation available for that year.

11 (B) Earnings credited for the calendar year of distribution will be credited based on
12 the latest IAP year-to-date calculation as of the first day of the calendar month of the
13 initial date of distribution.

14 (b) After the initial installment payment is made, earnings will be credited monthly
15 using the latest monthly change rate beginning with the first of the month after the initial
16 date of distribution.

17 Stat. Auth.: ORS 238A.450

18 Stats. Implemented: ORS 238A.350 & 238A.400

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 080 – OPSRP INDIVIDUAL ACCOUNT PROGRAM**

1 **459-080-0250**

2 **IAP Account Installments**

3 (1) Definitions.

4 (a) “Anniversary date” means the first **day** of the **calendar** month *[after]* **of** the date
5 of distribution of the first installment payment.

6 (b) “Date of distribution” has the same meaning as defined in OAR 459-007-0001(7).

7 (c) “Estimated Life Expectancy” means the member’s life expectancy as determined
8 by the applicable IRS mortality table.

9 (d) “Payout Period” means the span of years over which the member elects to receive
10 installment payments under section (2) of this rule.

11 (2) Upon retirement, a member of the individual account program who elects to
12 receive the amounts in the member’s employee and employer accounts in installments
13 under ORS 238A.400(2) shall designate the number of years over which the installments
14 are to be paid, selecting a period of 5, 10, 15, or 20 years, or a period equal to the
15 member’s estimated life expectancy. The member may also request that installments be
16 made on a monthly, quarterly, or annual basis.

17 (3) Account balances will be adjusted each month in accordance with OAR 459-007-
18 0330.

19 (a) The amount of each 5-, 10-, 15-, or 20-year installment will be determined by
20 dividing the member's adjusted balance by the number of remaining installment payments.

21 (b) The installment amount for the member's estimated life expectancy will be
22 determined once a year by dividing the member's adjusted balance on the anniversary date

1 by the member's remaining estimated life expectancy, which amount will then be paid
2 monthly, quarterly, or annually.

3 (4) If a member requests installments under section (2) of this rule, but the amount of
4 the requested installment would be less than \$200 as determined at the time of the initial
5 request, the frequency and Payout Period of the installment payment will be modified so
6 that the amount of the installment is at least \$200. If the member's account balance is
7 \$1,000 or less at the time of the initial request, the member will not be eligible for
8 installments and the balance will be paid in a lump sum.

9 (5) Notwithstanding the Payout Period selected by the member under section (2) of
10 this rule, any distribution will be adjusted to comply with the required minimum
11 distribution requirements of 26 U.S.C. 401(a)(9) and regulations implementing that
12 section, as in effect on December 31, 2013.

13 (6) Members who elect a five year Payout Period or a lump sum payment may elect to
14 directly roll over any portion of their IAP installment or lump sum payment to an eligible
15 retirement plan subject to the limitations in OAR 459-005-0595.

16 (7) Members who elect a 10-, 15-, or 20-year, or an estimated life expectancy Payout
17 Period cannot elect to have any portion of their installment payments rolled over.

18 (8) Members who are subject to the required minimum distribution requirements
19 referenced in section (5) of this rule may only roll over that portion of their installment or
20 lump sum payments that exceeds required minimum distribution requirements.

21 Stat. Auth.: ORS 238A.450

22 Stats. Implemented: ORS 238A.400



Oregon

Kate Brown., Governor

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March 30, 2015

TO: Members of the PERS Board

FROM: Mary Dunn, Senior Policy Director of Operations
Kyle J. Knoll, Administrator, Financial & Administrative Services Division

SUBJECT: 2014 Final Earnings Crediting and Reserving

OVERVIEW

- Action: Adopt 2014 final earnings crediting.
- Subject: Crediting calendar year earnings to the PERS Fund's accounts and reserves.

The PERS Board is charged with crediting the earnings from the PERS Fund each calendar year. Some of those allocations are directed by statute or rule; the remainder are at the PERS Board's discretion. At its January 30, 2015 meeting, the PERS Board adopted preliminary earnings allocations. That preliminary allocation was reported to and acknowledged at a meeting of the Joint Ways & Means Committee Subcommittee on General Government on March 18, 2015, and will be received at a meeting of the full Ways & Means Committee, probably on April 3, 2015.

EARNINGS ALLOCATIONS DIRECTED BY STATUTE OR RULE

The following reserves and accounts are allocated earnings by applicable statute or rule. In compliance with these restrictions, the final earnings allocation reflects the following:

- 1. Administrative Expenses:** PERS administrative costs are funded by earnings when they are sufficient, as they were in 2014 (ORS 238.610(1)). As directed by House Bill 4155 (2014 Regular Session), the administrative costs to comply with Governmental Accounting Standards Board (GASB) 68 reporting standards will be recovered only from earnings on employer's contributions. The final 2014 expenses for GASB 68 are \$40,500. These expenses do not include the external audit costs, budgeted at \$118,000, for the GASB 68 reports to be issued in 2015. Those and any other GASB 68 related expenses will be recovered from 2015 earnings.
- 2. Health Insurance Accounts:** These accounts are created as part of the PERS Fund and directed by statute to be credited with actual earnings or losses, less the expense related to the administration of the programs (ORS 238.410(7); 238.415(4); 238.420(4)). For 2014, the crediting rate for these accounts is estimated to be 6.90% for RHIA, 3.02% for RHIPA, and 0.5387% for SRHIA (invested in the Treasury Short-Term Fund).
- 3. Employer Lump Sum Payment Accounts:** These accounts are credited with actual earnings or losses of the PERS Fund Regular Account less administrative expenses, as authorized by ORS 238.225. For 2014, the year-end balances will receive 7.39%.

- 4. Variable Annuity Account:** This account is credited with earnings and losses on its distinct asset allocation of the PERS Fund. The Variable Annuity Account is only invested in global equities and, therefore, its earnings are discrete from those of the more diversified PERS Fund Regular Account. For 2014, variable earnings are credited at 4.29%.
- 5. Individual Account Program (IAP):** These member accounts are credited with actual earnings or losses of the PERS Fund Regular Account as required by ORS 238A.350(1). IAP earnings for 2014 are to be credited at 7.05% after deducting IAP expenses.
- 6. Tier One Rate Guarantee Reserve:** This reserve, established under ORS 238.255(1), is used to fund crediting of the assumed rate to Tier One member regular accounts. The allocated proportionate share of 2014 earnings for this reserve is \$31.5 million. As earnings did not at least equal the assumed rate this year, \$26.0 million of these earnings will be used to “top-up” crediting to Tier One member regular accounts at the assumed rate (7.75%). The remaining \$5.5 million in earnings are added to the Reserve, leaving a balance of \$439.7 million in this Reserve for future crediting years.

SUMMARY OF BOARD ALLOCATIONS FOR 2014 EARNINGS

The PERS Board’s Annual Earnings Crediting Rule (see OAR 459-007-0005 attached) directs the crediting to the Judge and Tier Two member regular accounts, as well as the OPSRP Pension, Benefits-in-Force, and Employer reserves. Staff recommends the following allocations be adopted by the PERS Board:

Non-Discretionary Allocations

Apply administrative expenses, credit health insurance accounts, employer lump sum accounts, variable annuity accounts, and accounts in the Individual Account Program in the manner described above. Credit Tier One member regular accounts with the assumed earnings rate (7.75%) in effect during 2014.

Judge Member Accounts

Credit Judge Member Accounts with the 2014 assumed earnings rate (7.75%).

Tier Two Member Regular Accounts

Tier Two member regular accounts usually are credited with a proportional share of available PERS Fund Regular Account earnings. Staff recommends following this practice, which would result in a rate of 7.24%.

Benefits-in-Force, Employer, and Tier One Rate Guarantee Reserves

Credit the Benefits-in-Force, Employer, and Tier One Rate Guarantee reserves evenly with the remaining available PERS Fund Regular Account earnings. The crediting rate to those accounts would then be 7.24%, with a portion of the Tier One Rate Guarantee Reserve’s earnings being transferred to “top-up” Tier One member regular account earnings to the assumed rate.

BOARD ACTION

The Board's options for 2014 final earnings crediting include:

1. Pass a motion to "adopt final earnings crediting as presented for calendar year 2014."
2. Pass a motion adopting an alternative final allocation 2014 earnings.

STAFF RECOMMENDATION

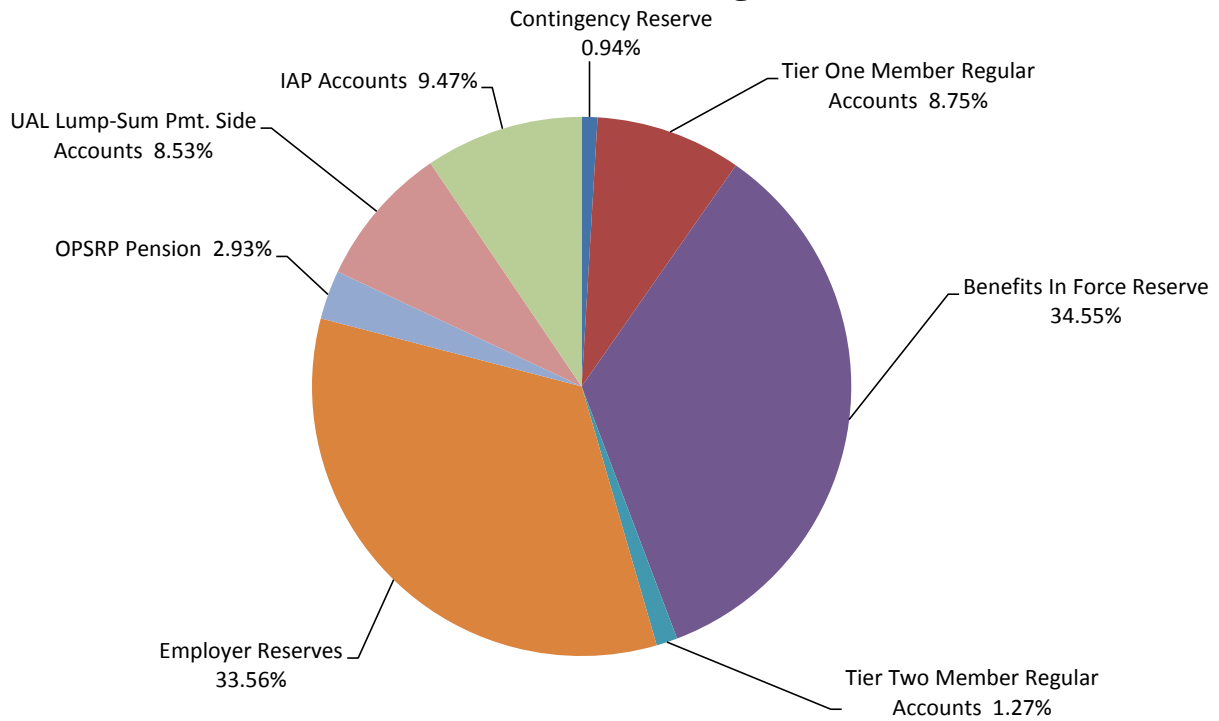
Staff recommends the Board choose Option #1.

C.1. Attachment 1 –2014 Reserve Balances Chart

Oregon Public Employees Retirement System
2014 Crediting and Reserving
Credit Contingency Reserve with 0% of Earnings
 (All dollar amounts in millions)

| | Reserves Before Crediting | 2014 Crediting | Reserves After Crediting | 2014 Rates |
|---|----------------------------------|-----------------------|---------------------------------|-------------------|
| Contingency Reserve | \$651.2 | | \$651.2 | N/A |
| Tier One Member Regular Accounts | 5,189.0 | 402.1 | 5,591.1 | 7.75% |
| Tier One Rate Guarantee Reserve | 434.2 | 5.5 | 439.7 | 1.26% |
| Benefits In Force Reserve | 22,197.9 | 1,609.0 | 23,806.9 | 7.24% |
| Tier Two Member Regular Accounts | 813.0 | 58.9 | 871.9 | 7.24% |
| Employer Reserves | 21,563.9 | 1,563.0 | 23,126.9 | 7.24% |
| OPSRP Pension | 1,887.7 | 133.9 | 2,021.6 | 7.09% |
| *UAL Lump-Sum Pmt. Side Accounts | 5,452.1 | 424.8 | 5,876.9 | 7.39% |
| *IAP Accounts | 6,107.2 | 422.5 | 6,529.7 | 7.05% |
| Total | \$64,296.2 | \$4,619.7 | \$68,915.9 | |

2014 Reserve Balances After 2014 Crediting



*Informational only. Not affected by Board reserving or crediting decisions.
 IAP accounts receiving installments have already received 2014 earnings.



Oregon

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March 30, 2015

TO: Members of the PERS Board
FROM: Marjorie Taylor, Senior Policy Director
SUBJECT: 2015 Legislative Update

2015 REGULAR LEGISLATIVE SESSION

The 2015 Regular Legislative Session began Monday, February 2. As of mid-March, over 2,600 bills have been introduced for consideration, and about 30 would change some part of the PERS plan directly, or may be amended to do so. At a similar point during the 2013 session, at least 60 bills had been proposed to change some provision in the plan.

Just as I reported in January, the main themes of these bills are to expand the definition of “police officer;” modify the exception for retirees returning to work; reconnect to federal tax law; make technical corrections related to other proposals; establish a Oregon Investment Division; and provide for the agency budget. In addition to those key bills, we are following those that may generally impact agency operations. Before the May 29, 2015 Board meeting, most of the activity will be complete, or scheduled, for bills that may be approved during session.

LEGISLATIVE ADVISORY COMMITTEE

The PERS Legislative Advisory Committee met on March 10, 2015, to consider a proposal from Rob Bovett of the Association of Oregon Counties. Mr. Bovett first approached the PERS Employer Advisory Committee in December 2014 with a conversation about changing the Contribution Start Date for new OPSRP members. If approved, the bill would hopefully make that date more standard across the various pay cycles of our participating employers.

HOUSE BILL 5034 - PERS BUDGET BILL

The PERS Budget, House Bill 5034, was heard by the Ways and Means Subcommittee on General Government from March 16-18. On March 3, 2015, the Ways and Means Information Technology subcommittee heard testimony from PERS on its technology projects and associated budget Policy Option Packages. Altogether, no concerns were voiced about the PERS budget proposal at this time and legislators were well engaged in reviewing the agency’s strategic plan and resulting goals and objectives for the upcoming bienium.

BOARD MEMBER APPOINTMENTS

Chair Thomas was recommended for reappointment to the PERS Board. We continue to work with the Governor’s Office to seek appointment recommendations for open Board positions. Those Senate confirmation hearings will occur in May, before the next Board meeting, should any candidates be put forward.