



Oregon

Kate Brown, Governor

Public Employees Retirement System

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January 31, 2022

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Adoption of Benefits-In-Force Earnings Crediting Rule:
OAR 459-007-0005, *Annual Earnings Crediting*

OVERVIEW

- Action: Adopt Benefits-In-Force earnings crediting rule.
- Reason: Remove cap currently in rule for earnings crediting to the Benefits-In-Force reserve. The OAR is not currently in line with our actual earnings crediting practice.
- Policy Issue: None identified.

BACKGROUND

The Benefits-In-Force (BIF) Reserve is the reserve established under ORS 238.670(2) and is the reserve from which all Tier One and Tier Two benefits are paid. When a Tier One/Two member retires, staff determines the amount actuarially required to fund the benefit for the member's (and the member's beneficiary, if the member elects a survivorship option) anticipated life expectancy and that amount is transferred to the BIF from the member account and the employer reserves. The current OAR 459-007-0005(16) limits the amount of earnings that can be applied to the BIF to no more than the assumed rate in any given calendar year. This limitation is not required by statute and does not align with our actual earnings crediting practice.

ORS 238.670(2) states that "at the close of each calendar year, the board shall set aside, out of interest and other income received during the calendar year, after deducting the amounts provided by law and to the extent that such income is available, a sufficient amount to credit to the reserves for pension accounts and annuities varying percentage amounts adopted by the board as a result of periodic actuarial investigations." While the statute provides the board with discretion regarding earnings crediting to the BIF, staff was unable to uncover the origin or purpose of placing a cap on crediting earnings to the BIF.

In order to bring the OAR in line with our practice, the proposed amendment to the rule deletes the words "up to the assumed rate" from the rule to clarify that the application of earnings to the BIF in a calendar year is not limited by the assumed rate.

PUBLIC COMMENT AND HEARING TESTIMONY

No rulemaking hearing was held because the PERS building is closed to the public. The public comment period ended on December 23, 2021, at 5:00 p.m. We received no public comment on the rule.

LEGAL REVIEW

The attached draft 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.

Benefit: Updates the rule to reflect current practice and provides clarification on the agency’s administrative rule.

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

RULEMAKING TIMELINE

December 1, 2021	Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State.
December 1, 2021	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice was sent to employers, legislators, and interested parties. Public comment period began.
December 3, 2021	PERS Board notified that staff began the rulemaking process.
December 23, 2021	Public comment period ended at 5:00 p.m.
January 31, 2022	Board may adopt the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

BOARD OPTIONS

The PERS Board may:

1. Pass a motion to “adopt the Benefits-In-Force earnings crediting rule, as presented.”
2. Direct staff to make other changes to the rule or explore other options.

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

B.6. Attachment 1 - 459-007-0005, *Annual Earnings Crediting*