

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING

**Friday
May 26, 2017
1:00 P.M.**

**PERS
11410 SW 68th Parkway
Tigard, OR**

| ITEM | PRESENTER |
|--|-----------------|
| A. Administration | |
| 1. April 3, 2017 Board Meeting Minutes | RODEMAN |
| 2. Director's Report <ul style="list-style-type: none"> a. Forward-Looking Calendar b. OPERF Investment Report c. Budget Execution Report | |
| 3. Board Score Card Report on Agency Performance Measures | ARMATAS/RICKARD |
| 4. Employer Side Accounts | HEMBREE |
| B. Administrative Rulemaking | |
| 1. Notice of Employer Side Accounts Rules | VAUGHN |
| 2. Notice of Electronic Funds Transfer Rule | |
| 3. Notice of Assumed Rate Rule | |
| 4. Adoption of Insolvent Employer Rule | |
| 5. Adoption of Restoration of Forfeited Service Credit Rule | |
| 6. Disability Rules Update | |
| C. Action and Discussion Items | |
| 1. <i>Moro</i> Implementation Project Update | ELLEDGE-RHODES |
| 2. Legislative Update | TAYLOR |
| 3. 2018 Retiree Health Insurance Plan Renewals and Rates | KOBBERVIG |
| 4. Economic Assumptions and Actuarial Methods | MILLIMAN |

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

2017 Meetings: · July 28* · September 29 · November 17* · * Audit Committee

Stephen Buckley Lawrence Furnstahl Krystal Gema John Thomas, Chair Pat West, Vice Chair Steve Rodeman, Executive Director
SL1

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING MINUTES

April 3, 2017

Board members present:

Chair John Thomas, Lawrence Furnstahl, Krystal Gema, and Vice-chair Pat West were present. Board member Stephen Buckley participated via telephone.

Staff present:

Linda Barnett, Dean Carson, Melanie Chandler, David Crosley, Mary Dunn, Yvette Elledge-Rhodes, Brian Harrington, Debra Hembree, Neil Jones, Kyle Knoll, Amanda Marble, Shane Perry, Louise Plata, Steve Rodeman, Jason Stanley, Marjorie Taylor, Stephanie Vaughn, Anne Marie Vu, Joli Whitney, and Yong Yang.

Others present:

Nate Carter, Steve Demarest, Lynette Coffman, Henry Groepper, Jeff Gudman, Joe Gymkowski, Celia Heron, Matt Larrabee, Eve Miller, Rhonda Miller, Michelle Morrison, Scott Preppernau, John Skjervem, Del Stevens, Deborah Tremblay, Peter Wong, and James Young.

Chair John Thomas called the meeting to order at 1:00 P.M.

ADMINISTRATION

A.1. MEETING MINUTES OF JANUARY 27, 2017

Board member Gema moved and Board member Furnstahl seconded approval of the minutes submitted from the January 27, 2017 Board meeting. The motion passed unanimously.

A.2. DIRECTOR'S REPORT

Executive Director Steve Rodeman reviewed the Forward Looking Calendar and highlighted the important items to be considered by the Board during the year. Rodeman noted an overview of methods and assumptions at the May Board meeting for the 2016 System Valuation with final adoption of the assumed earnings rate in July.

John Skjervem, Chief Investment Officer of Oregon State Treasury, presented the Oregon Investment Council's Investment Report of the Oregon Public Employees Retirement Fund (OPERF) for the period ending February 28, 2017. In addition, he provided a brief program overview of the PERS Fund and Treasury's Investment Division.

Rodeman presented the Budget Execution Report. Phase 1 of PERS' 2017-19 budget request was presented March 7-8, 2017, to the Joint Ways & Means Committee General Government Subcommittee.

ADMINISTRATIVE RULEMAKING

Stephanie Vaughn, Policy Analysis and Compliance Section Manager, presented.

B.1. NOTICE OF INSOLVENT EMPLOYER RULE

Vaughn presented notice of rulemaking for the Insolvent Employer rule, OAR 459-009-0400. This rule is being created to define the term "insolvent employer" and to establish that the PERS Board has the authority to take action to satisfy some or all outstanding liability of an insolvent employer to the PERS Fund through the Contingency Reserve. Furnstahl commented on the definition of insolvent employer in the proposed rule and noted that the third requirement is

somewhat unclear and may need to be split into a fourth requirement or added to another area of the rule. A rulemaking hearing will be held April 25, 2017, at PERS Headquarters. The public comment period ends on May 3, 2017. No Board action was required.

B.2. NOTICE OF RESTORATION OF FORFEITED SERVICE CREDIT RULE

Vaughn presented the notice of rulemaking for the Restoration of Forfeited Service Credit rule, OAR 459-001-0050. These revisions clarify administration of membership termination and restoration of forfeited credit by reason of withdrawal, including how membership forfeiture impacts other PERS statutes. A rulemaking hearing will be held April 25, 2017, at PERS headquarters. The public comment period ended May 3, 2017. No Board action was required.

B.3. DISABILITY RULES UPDATE

Vaughn provided an update for the Board on the status of the Disability Rules package. Although staff anticipated to return to the Board for adoption of these rules at its April meeting, they have been postponed for consideration until the May 26, 2017 Board meeting. No Board action was required.

ACTION AND DISCUSSION ITEMS

C.1. MORO ATTORNEY FEES AND COSTS

Vaughn presented. On October 27, 2016, the Oregon Supreme Court awarded attorney fees and costs of \$943,792.95 to petitioners in the *Moro* case and directed that the PERS Board determine how to best allocate the fee award among the PERS Fund's accounts. On February 24, 2017, an appellate judgement was issued which included post-judgment interest from the date of the judgment to the date of payment. The interest is currently about \$8,900. Staff developed several options to pay the fees and costs for the Board's consideration. Staff's recommendation is to pay the amounts awarded from the Contingency Reserve. Furnstahl moved to pay the fees and costs awarded by the court in the *Moro* case from the Contingency Reserve. West seconded the motion. The motion passed unanimously.

C.2. MORO IMPLEMENTATION PROJECT UPDATE

Chief Operations Officer Yvette Elledge-Rhodes presented an update on the status of the *Moro* Implementation Project. No Board action was required.

C.3. LEGISLATIVE UPDATE

Senior Policy Director Marjorie Taylor presented a brief update on proposed legislation impacting PERS members. No Board action was required.

C.4. PRELIMINARY CONTINGENCY RESERVE ALLOCATION

Assistant Chief Administration Officer Mary Dunn presented. Rodeman noted a letter to the Board from Governor Kate Brown regarding the Contingency Reserve allocation in which she provided a recommendation for the Board's consideration. This issue was first presented to the Board at the January 27, 2017 Board meeting during the 2016 Preliminary Earnings Crediting agenda item. At that time, staff recommended that the Board solicit stakeholder input on the proposed allocation of the excess Contingency Reserve.

Three letters were submitted for consideration and were included as attachments in the meeting materials. Dunn reviewed the feedback received and summarized the responses. She reviewed the reallocation options available for the Board to consider.

The Joint Ways & Means Committee General Government Subcommittee adopted a recommendation at its March 9, 2017 meeting to direct the PERS Board, prior to any allocation of Contingency Fund Reserves, to report to the Joint Ways & Means Committee General Government Subcommittee, its specific recommendations as to which accounts the Contingency Reserve allocation should be deployed and the rationale for that decision.

Staff recommended that the Board make a preliminary allocation recommendation; staff would then prepare and present a report to the Joint Ways & Means Committee General Government Subcommittee. The item would then return to the Board for final action and include any comments received from the committee.

West added that he still has a few concerns about not returning Contingency Reserve funds into the accounts in which they originated, but that he understands the benefit of placing the funds into the Benefits in Force Reserve.

Gema moved, contingent on legislative reporting and review, to adopt the preliminary allocation of excess funds in the Contingency Reserve to the Benefits in Force Reserve, subject to adoption at a future PERS Board meeting. Furnstahl seconded the motion. The motion passed unanimously.

C.5. 2016 FINAL EARNINGS AND CREDITING

Dunn and Financial Services staff Amanda Marble presented final earnings crediting for 2016. The final crediting rates as presented includes:

| | |
|--------------------------------------|-------|
| Tier One member regular accounts: | 7.50% |
| Tier Two member regular accounts: | 7.15% |
| Individual Account Program accounts: | 7.13% |
| OPSRP Pension: | 7.08% |

Furnstahl moved to adopt the final crediting of earnings as presented for calendar year 2016. West seconded. The motion passed unanimously.

Thomas adjourned the Board meeting at 2:00 PM.

Respectfully submitted,



Steven Patrick Rodeman
Executive Director

PERS Board Meeting Forward-Looking Calendar

Friday, July 28, 2017

Biennium Closeout Report – *Moro* Project and Information Security Memo
Adoption of Employer Side Accounts Rules
Adoption of Electronic Funds Transfer Rule
Adoption of Assumed Rate Rule
Notice of Public Records Rule
Notice of Membership of Elected Officer or Fixed Term Officer Rule
2017 Legislative Session Review
Adoption of 2016 Valuation Methods and Assumptions Including Assumed Return Rate
Audit Committee Meeting

Friday, September 29, 2017

Adoption of Public Records Rule
Adoption of Membership of Elected Officer or Fixed Term Officer Rule
2016 Valuation Results

Friday, November 17, 2017

2016 Valuation Update and Financial Modeling Results
Board Scorecard Report on Agency Performance Measures
Audit Committee Meeting

Returns for periods ending APR-2017

Oregon Public Employees Retirement Fund

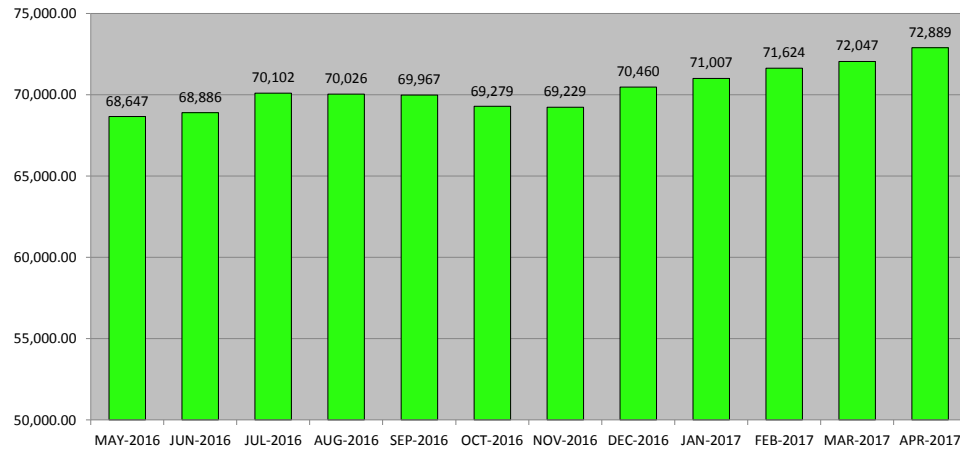
Item A.2.b.

| 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% | \$ 27,919,480 | 38.6% | 8.17 | 16.56 | 5.06 | 6.01 | 8.43 | 9.96 | 8.93 | 4.36 |
| Private Equity | 13.5-21.5% | 17.5% | \$ 13,978,395 | 19.3% | 2.99 | 8.82 | 8.15 | 8.47 | 11.44 | 11.96 | 12.13 | 8.86 |
| Total Equity | 50.0-60.0% | 55.0% | \$ 41,897,875 | 58.0% | | | | | | | | |
| Opportunity Portfolio | 0-3% | 0% | \$ 1,490,489 | 2.1% | 2.53 | 6.72 | 2.84 | 3.78 | 6.18 | 8.36 | 8.52 | 6.37 |
| Total Fixed | 15-25% | 20.0% | \$ 15,705,078 | 21.7% | 1.96 | 2.62 | 1.91 | 2.33 | 1.99 | 3.19 | 4.47 | 5.23 |
| Real Estate | 9.5-15.5% | 12.5% | \$ 8,896,547 | 12.3% | 4.60 | 7.14 | 8.34 | 10.15 | 10.24 | 11.39 | 12.00 | 4.67 |
| Alternative Investments | 0-12.5% | 12.5% | \$ 4,262,512 | 5.9% | 2.03 | 8.52 | 3.26 | 2.61 | 3.00 | 2.72 | | |
| Cash w/Overlay | 0-3% | 0% | \$ 6,379 | 0.0% | 0.48 | 1.15 | 0.94 | 0.82 | 0.77 | 0.83 | 0.80 | 1.32 |
| TOTAL OPERF Regular Account | | 100.0% | \$ 72,258,881 | 100.0% | 4.90 | 10.04 | 5.22 | 6.03 | 7.56 | 8.76 | 8.78 | 5.36 |
| OPERF Policy Benchmark | | | | | 5.11 | 10.97 | 5.63 | 6.62 | 8.44 | 9.40 | 9.14 | 5.91 |
| Value Added | | | | | (0.21) | (0.93) | (0.41) | (0.59) | (0.87) | (0.64) | (0.35) | (0.55) |
| TOTAL OPERF Variable Account | | | \$ 629,715 | | 8.66 | 15.86 | 4.93 | 5.81 | 8.07 | 9.52 | 8.56 | 3.55 |

Asset Class Benchmarks:

| | | | | | | | | |
|-------------------------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| Russell 3000 | 6.86 | 18.58 | 8.80 | 10.10 | 12.68 | 13.57 | 12.72 | 7.23 |
| OREGON MSCI ACWI EX US IMI NET | 10.43 | 12.57 | 0.50 | 1.19 | 3.36 | 5.44 | 4.54 | 1.52 |
| MSCI ACWI IMI NET | 8.50 | 15.40 | 4.46 | 5.41 | 7.68 | 9.14 | 8.18 | 3.96 |
| RUSSELL 3000+300 BPS QTR LAG | 4.97 | 16.08 | 9.61 | 11.67 | 17.62 | 18.07 | 16.28 | 10.70 |
| OREGON CUSTOM FI BENCHMARK | 1.60 | 1.69 | 1.43 | 1.89 | 1.45 | 2.52 | 3.56 | 4.30 |
| OREGON CUSTOM REAL ESTATE BENCHMARK | 1.88 | 7.79 | 10.53 | 10.95 | 10.96 | 10.88 | 11.67 | 6.91 |
| CPI +4% | 2.61 | 6.28 | 5.72 | 5.07 | 5.31 | 5.27 | 5.73 | 5.73 |
| 91 Day Treasury Bill | 0.17 | 0.40 | 0.27 | 0.19 | 0.16 | 0.15 | 0.14 | 0.65 |

Total OPERF NAV
(includes Variable Fund asset)
One year ending APR-2017
(\$ in Millions)



¹OIC Policy revised June 2015.

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

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

May 26, 2017

TO: Members of the PERS Board
FROM: Linda M. Barnett, Budget Officer
SUBJECT: May 26, 2017 Budget Execution Report

2015-17 OPERATIONS BUDGET

Operating expenditures for March 2017 and preliminary expenditures for April 2017 were \$4,202,827 and \$4,861,596, respectively. Final expenditures for April closed on May 12, 2017, in the Statewide Financial Management System (SFMS), and will be included in the July 28, 2017, report to the Board. To date, through the first 22 months (or 92%) of the 2015-17 biennium, the agency has expended a total of \$87,156,999 or 81.49% of PERS' legislatively approved operations budget of \$106,949,449. The current projected positive variance is \$4,808,166 or approximately 4.50% of the operations budget. The agency's goal is to maintain a positive variance of at least \$2.1 million (2%).

As of April 2017, PERS' budget contains \$2,491,176 unscheduled budget which was approved during the 2015 Legislative Session to accomplish the following:

- \$1,284,976 Pkg. 104 – IT Maintenance & Enhancements;
- \$981,200 Pkg. 105 – to further develop the agency's Disaster Recovery and Business Continuity technology infrastructure in support of the Oregon Retirement Information Online Network (ORION); and
- \$225,000 Pkg. 840 – to implement Senate Bill 370; this established a new benefit that allows an ex-spouse of an Oregon Public Service Retirement Plan (OPSRP) member to receive a death benefit if the member is vested and dies pre-retirement.

The 2017-19 PERS' Governor's Budget consists of \$109,143,993 in limited or operating budget and \$10,993,982,999 in non-limited budget which represents benefit payments made, health insurance premiums, and third-party administration payments for both the PERS Health Insurance Program and the Individual Account Program. In April, PERS presented Phase 2 of the budget request to the Joint Ways & Means Committee General Government Subcommittee, which provided more in-depth information about the agency's major budget issues. Phase 3, Work Session, in which the Legislative Fiscal Officer presents his recommendations for Subcommittee action, is expected to be scheduled for later this month.

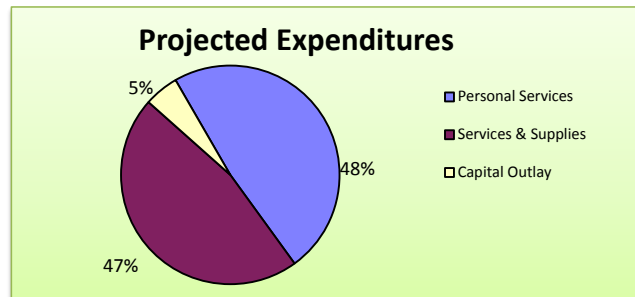
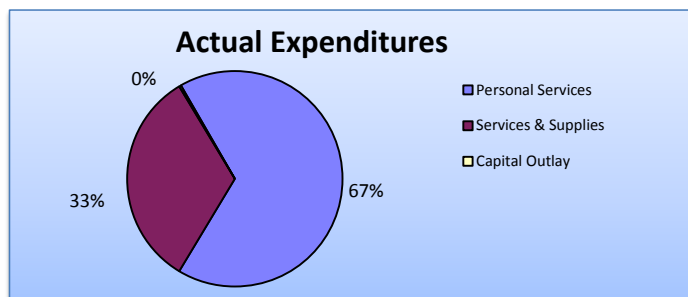
A.2.c. Attachment 1 – 2015-17 Agency-wide Budget Execution Summary Analysis

**2015-17 Agency-wide Budget Execution
Preliminary Summary Budget Analysis
For the Month of: April 2017**

Limited - Operating Budget

2015-17 Biennial Summary

| Category | Actual Exp. To Date | Projected Expenditures | Total Est. Expenditures | 2015-17 LAB | Variance |
|---------------------|------------------------|---------------------------|----------------------------|--------------------|------------------|
| Personal Services | 58,371,822 | 6,038,580 | 64,410,402 | 69,268,743 | 4,858,341 |
| Services & Supplies | 28,522,991 | 5,817,708 | 34,340,699 | 33,783,723 | (556,976) |
| Capital Outlay | 262,186 | 636,820 | 899,006 | 1,405,807 | 506,801 |
| Unscheduled | 0 | 2,491,176 | 2,491,176 | 2,491,176 | 0 |
| Total | 87,156,999 | 14,984,284 | 102,141,283 | 106,949,449 | 4,808,166 |



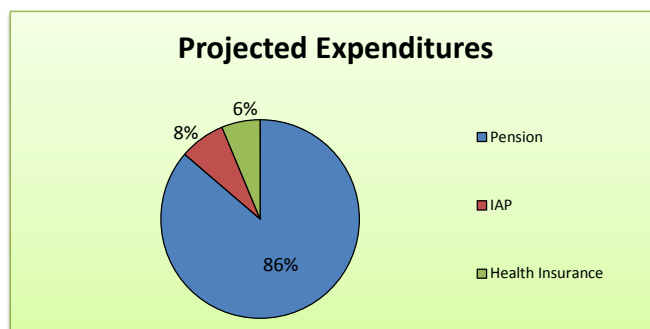
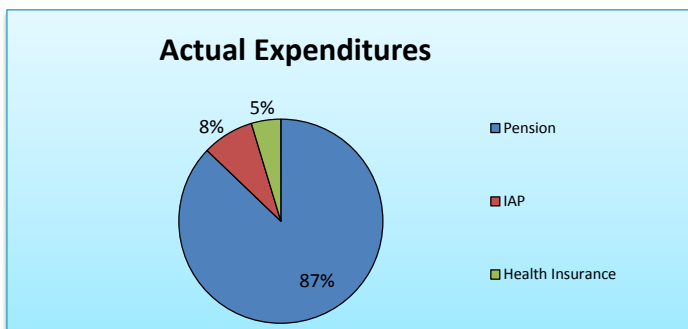
Monthly Summary

| Category | Actual Exp. | Projections | Variance | Avg. Monthly Actual Exp. | Avg. Monthly Projected Exp. |
|---------------------|------------------|------------------|----------------|-----------------------------|--------------------------------|
| Personal Services | 2,728,866 | 3,049,053 | 320,187 | 2,653,265 | 3,019,290 |
| Services & Supplies | 2,053,668 | 2,216,928 | 163,260 | 1,296,500 | 2,908,854 |
| Capital Outlay | 79,062 | 284,059 | 204,997 | 11,918 | 318,410 |
| Total | 4,861,596 | 5,550,040 | 688,444 | 3,961,683 | 6,246,554 |

Non-Limited Budget

2015-17 Biennial Summary

| Programs | Actual Exp To Date | Projected Expenditures | Total Est. Expenditures | Non-Limited LAB | Variance |
|------------------|-----------------------|---------------------------|----------------------------|----------------------|--------------------|
| Pension | 7,541,164,713 | 716,914,414 | 8,258,079,127 | 8,291,874,726 | 33,795,599 |
| IAP | 707,603,448 | 62,001,605 | 769,605,053 | 873,488,891 | 103,883,838 |
| Health Insurance | 404,376,468 | 52,099,762 | 456,476,230 | 558,094,445 | 101,618,215 |
| Total | 8,653,144,629 | 831,015,781 | 9,484,160,410 | 9,723,458,062 | 239,297,652 |





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Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
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May 26, 2017

TO: Members of the PERS Board
FROM: PERS' Outcome-Based Management System (POBMS) Council
SUBJECT: Board Scorecard Report on Agency Performance Measures

A key part of POBMS is a Quarterly Target Review of scorecards that evaluate our effectiveness in a number of Outcome and Process Measures. These measures foster accountability and transparency in key operating areas. The scorecard results help direct strategic planning, resource allocation, and risk assessment.

The attached Board Scorecard Report for first quarter 2017 focuses on several measures we currently track based on essential business operations. A targeted performance range is created for each measure:

- “Green” – performance is at or above acceptable levels.
- “Yellow” – performance is marginally below acceptable levels.
- “Red” – performance is significantly below; corrective action such as assigning a problem solving team should be directed.

Highlights include:

- 50% of the measures maintained the same range this quarter while 50% dropped to a lower range.
- We saw decreased performance across the board for this quarter. This is largely due to reallocating resources to meet special project needs as well as a number of vacant positions. We recently filled 29 positions and, as a result, anticipate increased performance in future quarters.

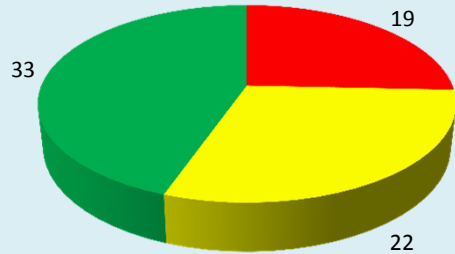
The next report will be presented at the November 17, 2017 Board meeting, showing the scorecard results for third quarter 2017. If you would like to have us report on any different measures, please let us know.

A.3. Attachment 1 – Board Scorecard Report Q1 2017

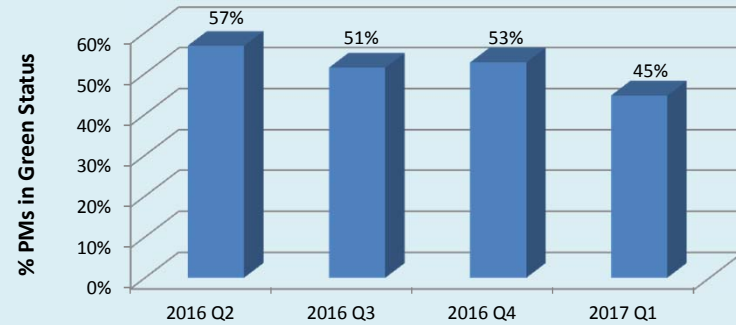
PUBLIC EMPLOYEES RETIREMENT SYSTEM Outcome-Based Performance Review

PERS Board Scorecard Report - QTR: 2017 Q1 - Quarter ended March 31, 2017

Outcome & Process Measure Performance



Quarterly Green Performance



Operating Processes - Highlighted Measures

| | Measure Name | Measure Calculation | RANGE | | | Target | Desired Perform Trend | Data Collection Frequency | Q2 2016 | Q3 2016 | Q4 2016 | Q1 2017 | Trend | Corrective Action & Comments |
|------|------------------------------|--|-------|--------|-------|--------|-----------------------|---------------------------|---------|---------|---------|---------|-------|---|
| | | | Red | Yellow | Green | | | | | | | | | |
| OP3c | Estimate KPM | % of estimate requests completed within 30 days of receipt | <75% | 75-85 | >85% | 95% | ↑ | Quarterly | 48.9% | 53.5% | 60.5% | 57.7% | - | Resources are allocated and trained from other units from within the section. Recruitments are in process to fill vacant positions. |
| OP4a | Eligibility review completed | % of applications completed by the eligibility team within 30 days of the effective retirement | <50% | 50-70 | >70% | 80% | ↑ | Monthly | 80.0% | 81.0% | 83.0% | 82.4% | - | |
| OP5b | Accuracy of calculations | % of sample calculations that are accurate within plus or minus \$5 | <95% | 95-99 | >99% | 100% | ↑ | Monthly | 98.0% | 100.0% | 99.8% | 100.0% | + | |
| OP5c | Timely benefit calculation | % of calculations completed within 15 calendar days from completed application date | <95% | 95-99 | >99% | 100% | ↑ | Monthly | 96.7% | 97.7% | 97.0% | 95.4% | - | Resources were allocated to other competing priorities to meet deadlines. The focus was on special projects, backlogs, and system testing |

PUBLIC EMPLOYEES RETIREMENT SYSTEM Outcome-Based Performance Review

Supporting Processes - Highlighted Measures

| | Measure Name | Measure Calculation | RANGE | | | Target | Desired Perform Trend | Data Collection Frequency | Q2 2016 | Q3 2016 | Q4 2016 | Q1 2017 | Trend | Corrective Action & Comments |
|------|-------------------------|---|------------|-------------|------------|-----------|-----------------------|---------------------------|---------|---------|---------|---------|-------|---|
| | | | Red | Yellow | Green | | | | | | | | | |
| OP1f | Call Wait Time | Average length of wait before caller reaches live person | >6 minutes | 6-4 minutes | <4 minutes | 2 minutes | ↓ | Monthly | 6.1 | 4.6 | 4.0 | 6.9 | - | January was very smooth; however, call volume increased in Feb and March from questions about pending legislation and last minute retirement prep; also, staff working on MAS project - almost 18,000 calls recd in March |
| SP2c | Appeal reversal rate | % of staff determinations that are reversed on appeal | >15% | 15-10 | <10% | 5% | ↓ | Quarterly | 16.0% | 10.0% | 9.0% | 11.0% | - | The bulk of the reversals (12 of 14) were tax remedy cases. |
| SP3h | System uptime | % of time systems are available during the service window | <97% | 97-98 | >98% | 100% | ↑ | Monthly | 99.37% | 99.06% | 99.22% | 97.71% | - | Jan'17: 92.17% Feb'17: 99.91% Mar'17: 94.88% |
| SP5c | Recruiting / Onboarding | % of employees completing trial service | <85% | 85-94 | >94% | 100% | ↑ | Quarterly | 100% | 100% | 100% | 92% | - | There was one trial service removal during this time period. There were 12 people who were eligible to complete TS. |



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Headquarters:
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Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

May 26, 2017

TO: Members of the PERS Board
FROM: Debra Hembree, Actuarial Services Coordinator
SUBJECT: Employer Side Account Process

BACKGROUND

On March 31, 2017, Governor Kate Brown submitted a letter asking the PERS Board to consider revising the constraints around employer side accounts to give employers more flexibility. On April 21, 2017, PERS staff met with the Employer Advisory Group (EAG) to discuss questions and concerns about the current side-account process and solicit employer input on how the process could be improved. Based on that input, staff is reviewing current rules and processes governing lump-sum payments and side accounts to determine the operational impacts and potential risks of those suggested changes.

RELEVANT STATUTES/RULES

Lump-sum unfunded actuarial liability (UAL) payments and side accounts are governed by ORS 238.229 and OARs 459-009-0084, 459-009-0085, and 459-009-0090.

Most of the current procedures and limitations regarding side accounts are established by rule. Those provisions include the requirement that the PERS actuary calculate the rate impact of a proposed lump-sum payment, at the employer's expense; and a minimum lump-sum payment amount of \$1 million or 25 percent of the employer's UAL, whichever is less. The rules also provide the process and timing for obtaining a lump-sum payment calculation and submitting the lump-sum payment to PERS.

ORS 238.229 requires that a separate side account be established for each lump-sum payment made by an employer. Under current statute, employers may not make additional deposits into an existing side account.

ORS 238.229 also allows PERS to charge an administrative fee of \$2,500 for the first three years of a side account's existence, and \$1,000 per year thereafter. PERS' practice has always been to charge \$2,500 for the first year, and \$1,000 per year thereafter. The administrative fees cover the cost of PERS staff time to set up and reconcile side accounts and provide relevant information to the actuary for inclusion in annual actuarial valuations.

DISCUSSION

Employer feedback to date has focused on four potential changes:

1. Allowing additional deposits into an existing side account. This would require an amendment to ORS 238.229 to remove the requirement that each lump-sum payment be placed into a new side account. It would also require rule amendments to specify the

circumstances under which an employer could deposit additional funds into an existing side account and the procedure for doing so.

2. Reducing administrative fees. The current fee structure is allowed, but not required, by ORS 238.229. It is not addressed by rule. PERS staff is compiling information on the amount of staff time involved in side account maintenance to determine whether reduced administrative fees are appropriate.
3. Reducing the minimum lump-sum payment required. By rule, the minimum lump-sum payment PERS will accept to establish a side account is the lesser of \$1 million, or 25 percent of the employer's UAL. Employers noted that some do not have those sums available and, therefore, are unable to establish a side account.
4. Offering a shorter amortization period. Side accounts are currently amortized over the same 20-year period as the UAL developed in the most recent rate-setting valuation. For example, side accounts established in 2016 or 2017 are amortized through 2035; the same period as the UAL developed in the 2015 valuation. This change could be implemented by rule.

NEXT STEPS

Employer representatives are preparing to introduce an amendment to ORS 238.229 to remove the requirement that all lump-sum payments be deposited in a new side account. This change would allow employers to make additional deposits to an existing side account, subject to administrative rule.

Concurrently, PERS staff is initiating the rulemaking process on draft amendments to implement the change to ORS 238.229 (if enacted) and other changes requested by employers to the extent those changes are prudent and operationally feasible. Staff will continue to solicit employer and stakeholder suggestions and concerns from the EAG, as well as interested parties, during the rulemaking process.



Oregon

Kate Brown, Governor

Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

May 26, 2017

TO: Members of the PERS Board

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

SUBJECT: Notice of Rulemaking for Employer Side Accounts Rules:
OAR 459-009-0084, *Unfunded Actuarial Liability Lump-Sum Payments by Employers Participating in an Employer Actuarial Pool*
OAR 459-009-0085, *Unfunded Actuarial Liability Lump-Sum Payments by Employers Not Participating in an Employer Actuarial Pool*
OAR 459-009-0090, *Surplus Lump-Sum Payments by Employers*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: To consider options for easing the requirements around the creation of employer side accounts; and housekeeping edits relating to employer lump-sum unfunded actuarial liability payments and side accounts.
- Policy Issue: Whether the rules constraining employer lump sum payments should be eased?

BACKGROUND

Employers can make lump-sum payments to PERS in addition to the regular employer contributions calculated as a percent of payroll. Lump-sum contributions can occur when a PERS employer has a budget surplus or chooses to pre-fund their obligations by issuing pension obligation bonds. These lump-sum payments are put into side accounts that are then applied to offset a portion of the employer's PERS contribution rate.

Policy Issue: Whether the rules constraining employer lump sum payments should be eased?

On March 31, 2017, Governor Kate Brown submitted a letter asking the PERS Board to consider revising the rules around employer side accounts to give employers more flexibility. On April 21, 2017, PERS staff met with the Employer Advisory Group to discuss questions and concerns about the current side-account process and solicit employer input on how the process could be improved. Based on that input, as outlined in Ms. Hembree's memo (Item A.4.), staff is reviewing current rules and processes governing lump-sum payments and side accounts to determine the operational impacts and potential risks of those suggested changes. The rules as presented at this meeting only contain some housekeeping edits to the rules, as they have not been reviewed or updated since 2007.

In addition, the employer representatives are also preparing to introduce a bill amending ORS 238.229 that, if passed, would have an impact on these employer side account rules. Therefore, PERS staff is opening these rules for rulemaking and intends to keep the process open until at least the end of the 2017 legislative session.

Staff will return with policy recommendations as to where the current constraints should be eased to facilitate further side accounts by employers, after reviewing public comment and any further stakeholder input as well as the outcome of any efforts to amend the relevant statute.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held June 27, 2017, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends July 7, 2017, at 5:00 p.m.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Impact: The housekeeping edits more appropriately reflect current practices.

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

RULEMAKING TIMELINE

| | |
|--------------------|---|
| May 15, 2017 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| May 26, 2017 | PERS Board notified that staff began the rulemaking process. |
| June 1, 2017 | <i>Oregon Bulletin</i> publishes the Notice. Notice is sent to employers, legislators, and interested parties. Public comment period begins. |
| June 27, 2017 | Rulemaking hearing to be held at 2:00 p.m. at PERS in Tigard. |
| July 7, 2017 | Public comment period ends at 5:00 p.m. |
| July 28, 2017 | First Reading of the rules. |
| September 29, 2017 | 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 June 27, 2017, at 2:00 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the September 29, 2017 Board meeting.

B.1. Attachment 1 – 459-009-0084, *Unfunded Actuarial Liability Lump-Sum Payments by Employers Participating in an Employer Actuarial Pool*

B.1. Attachment 2 – 459-009-0085, *Unfunded Actuarial Liability Lump-Sum Payments by Employers Not Participating in an Employer Actuarial Pool*

B.1. Attachment 3 – 459-009-0090, *Surplus Lump-Sum Payments by Employers*

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

1 **459-009-0084**

2 **Unfunded Actuarial Liability Lump-Sum Payments by Employers Participating in an**
3 **Employer Actuarial Pool**

4 Purpose. The purpose of this rule is to establish procedures and requirements for the
5 adjustment of employer contribution rates when an individual public employer
6 participating in an employer actuarial pool makes an unfunded actuarial liability lump-sum
7 payment.

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

9 (a) “Amortized *[A]*amount” means the amount of a *[S]*side *[A]*account used to offset
10 contributions due from the employer.

11 (b) “Employer *[A]*actuarial *[P]*pool” means a grouping of employers for actuarial
12 purposes such as the School District and the State and Local Government Rate Pools.

13 (c) “Fair *[V]*value UAL” means the unfunded actuarial liability calculated using the
14 fair market value of assets.

15 **(d) “Side account” means an account in the Public Employees Retirement Fund**
16 **into which a UAL lump-sum payment is deposited.**

17 *[(d)](e)* “Transition liability *[Unfunded Actuarial Liabilities]*” means the unfunded
18 actuarial liability[ies] attributed to an individual employer for the period before entry into
19 the *[Local Government Rate Pool, or the]* State and Local Government Rate Pool *[if the*
20 *employer did not participate in the Local Government Rate Pool]*.

21 *[(e)](f)* “Unfunded *[A]*actuarial *[L]*liability” or “UAL” means the excess of the
22 actuarial liability over the actuarial value of assets.

1 *[(e)](g)* “[*Unfunded Actuarial Liability*] UAL [*L*] lump-*[S]* sum [*P*] payment” means
2 any employer payment that is:

- 3 (A) Not regularly scheduled;
- 4 (B) Not paid as a percentage of salary;
- 5 (C) Made for the express purpose of offsetting or reducing the employer’s unfunded
6 actuarial liability or transition liability; and
- 7 (D) Paid at the employer’s election instead of at the PERS Board’s direction.

8 (2) Lump-sum payment amount. If an individual employer elects to make a UAL
9 lump-sum payment under this rule, the payment must be at least 25 percent of the
10 individual employer’s UAL calculated under section (6) of this rule or \$1 million,
11 whichever is less. Alternatively, an employer may elect to pay up to 100 percent of the
12 individual employer’s UAL calculated under section (6) of this rule.

13 (3) Requirements. In order to make a UAL lump-sum payment, an employer must
14 comply with the process described in sections (4) through (10) of this rule.

15 (4) Initiating UAL lump-sum payment process. At least 45 calendar days before the
16 date the employer intends to make a UAL lump-sum payment, the employer must notify
17 *[the]* PERS Actuarial Services [*Employer Liability Coordinator*] in writing that it intends
18 to make a UAL lump-sum payment. The notification must specify:

- 19 (a) The amount of the intended lump-sum payment; and
- 20 *[(b) Whether the intended payment is to be for 100 percent of the individual*
21 *employer’s calculated UAL; and]*

22 *[(c)](b)* No more than two potential dates for the payment. PERS staff must notify the
23 employer within five business days of receipt of the notification if the notification is

1 incomplete or the process cannot be completed by the earliest intended date^[s] of the UAL
2 lump-sum payment.

3 (5) Payment to the actuary. The PERS consulting actuary must provide an invoice
4 charging the employer for the cost of the *[actuarial liability]* UAL calculation requested
5 by the employer. At least 30 calendar days before the date the employer intends to make a
6 UAL lump-sum payment, the employer must remit payment for the cost of the UAL
7 calculation directly to the PERS consulting actuary according to the instructions on the
8 invoice. Failure to remit payment according to the terms of this section may result in the
9 PERS consulting actuary not completing the employer’s UAL calculation by the proposed
10 UAL lump-sum payment date.

11 (6) Calculation of the individual employer’s UAL. Upon receipt of *[a complete*
12 *notification and verification of payment to the actuary for actuarial services,]* payment in
13 full from the employer for the requested UAL calculation, PERS staff shall request that
14 the PERS consulting actuary calculate:

15 (a) 100 percent of the employer’s share of the UAL for the employer actuarial pool in
16 which the employer *[is participating]* participates. This calculation must be:

17 (A) Based on the fair value UAL of the actuarial pool in which the employer
18 participates, from the most recent actuarial valuation;

19 (B) Based on the covered salary, as a proportion of the pool, reported by the employer
20 for the year of most recent actuarial valuation; and

21 (C) Adjusted to reflect the effect of time from the most recent actuarial valuation to
22 the intended date(s) of payment, using generally recognized and accepted actuarial
23 principles and practices.

1 (b) The effect of the following UAL lump-sum payment amount^[s] on the individual
2 employer’s contribution rates^s using the one or two potential dates for payment specified by
3 the employer in its notification in section (4) above:

4 (A) 100 percent of the individual employer’s UAL calculated in subsection (6)(a) of
5 this rule;

6 (B) The UAL lump-sum payment amount specified by the employer in its notification,
7 if provided; and

8 (C) The minimum amount of the UAL lump-sum payment under section (2) of this
9 rule.

10 (7) Notification of calculation. PERS staff must notify the employer in writing of the
11 results of the individual employer’s calculation in section (6) above, including the effective
12 date(s) for the reduced employer contribution rates based on the one or two potential dates
13 for payment. In addition, PERS must send the employer a notification describing risks and
14 uncertainties associated with the calculation of the individual employer’s UAL.

15 (8) Notification of UAL lump-sum payment. The employer *[or its agent]* must notify
16 *[the]* PERS Actuarial Services *[Employer Liability Coordinator]* in writing at least three
17 business days before making a UAL lump-sum payment. This notification shall be in
18 addition to the notification in section (4) of this rule and must specify the amount of the
19 payment and the date *[it]* the employer intends to make the payment.

20 (9) Method of payment. A UAL lump-sum payment must be made by either electronic
21 transfer or check payable to the Public Employees Retirement System.

22 (10) Receipt of UAL lump-sum payment. In order to adjust the employer contribution
23 rate to that reported by PERS in section (7) of this rule, PERS must receive the correct
24 funds no later than five business days after the *[corresponding]* intended date of the UAL

1 lump-sum payment specified by the employer in the notification described in section (8)
2 of this rule.

3 (a) If the UAL lump-sum payment is received by PERS on or before the intended date
4 specified in the notification described in section (8) of this rule or within the five business
5 days following the intended date, the new employer contribution rate shall be effective for
6 payrolls dated on or after:

7 (A) The date specified in the notification; or

8 (B) The first of the month following receipt of the UAL lump-sum payment by PERS,
9 whichever is later.

10 (b) If the UAL lump-sum payment is received by PERS more than five business days
11 after the intended payment date, the employer’s contribution rate shall be adjusted
12 *[in]* based on the next rate-setting actuarial valuation *[based on]* after the date of receipt
13 of the UAL lump-sum payment.

14 (c) If the UAL lump-sum payment received is other than any amount specified in the
15 notification under section (8) of this rule, the employer’s contribution rate shall be adjusted
16 to the rate the payment amount fully funds using the actuarial calculation in subsection
17 (6)(b) of this rule.

18 (d) If the UAL lump-sum payment received is less than the minimum amount
19 described in section (2) of this rule, the *[funds]* payment will be returned to the employer
20 and no adjustment will be made to the employer contribution rate.

21 (e) Nothing in this rule shall be construed to prevent the Board from:

22 (A) Adjusting employer contribution rates based upon the date of receipt of funds or
23 errors in the notification described in section (7) of this rule; or

24 (B) Taking action pursuant to ORS 238.225.

1 (11) Actuarial treatment of the UAL lump-sum payment. For actuarial purposes, the
2 UAL lump-sum payment made by the employer shall first be applied to any transition
3 *[unfunded actuarial liabilities]* liability. The remainder of the payment, if any, shall be
4 held in a side account to offset any pooled unfunded actuarial liabilities and shall be treated
5 as pre-funded contributions and additional assets for the payment of obligations of the
6 employer under ORS chapters 238 or 238A, rather than as a reduction of those obligations
7 of that employer.

8 (12) Side *[A]*account. The amount of a *[n]* UAL lump-sum payment that exceeds the
9 employer’s transition liability, if any, shall be held in a *[S]*side *[A]*account for the
10 benefit of the employer making the UAL lump-sum payment. The amortized amount for
11 each payroll reporting period shall be transferred from the *[S]*side *[A]*account to the
12 appropriate employer actuarial pool in which the employer is participating.

13 (13) Crediting earnings or losses. Side accounts shall be credited with earnings and
14 losses in accordance with OAR 459-007-0530.

15 (14) Nothing in this rule shall be construed to convey to an employer making a UAL
16 lump-sum payment any proprietary interest in the Public Employees Retirement Fund or in
17 the UAL lump-sum payment made to the fund by the employer.

18 Stat. Auth.: ORS 238.650

19 Stats. Implemented: ORS 238.225 - 238.229

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

1 **459-009-0085**

2 **Unfunded Actuarial Liability Lump-Sum Payments by Employers Not Participating**
3 **in an Employer Actuarial Pool**

4 Purpose. The purpose of this rule is to establish procedures and requirements for the
5 adjustment of employer contribution rates when an individual public employer not
6 participating in an actuarial group makes an unfunded actuarial liability lump-sum
7 payment.

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

9 (a) “Amortized *[A]*amount” means the amount of a *[S]*side *[A]*account used to offset
10 contributions due from the employer.

11 (b) “Fair *[V]*value UAL” means the unfunded actuarial liability calculated using the
12 fair market value of assets.

13 **(c) “Side account” means an account in the Public Employees Retirement Fund**
14 **into which a UAL lump-sum payment is deposited.**

15 *[(c)](d)* “Unfunded *[A]*actuarial *[L]*liability” or “UAL” means the excess of the
16 actuarial liability over the actuarial value of assets.

17 *[(d)](e)* “[*Unfunded Actuarial Liability*] **UAL** *[L]*lump-*[S]*sum *[P]*payment” means
18 any employer payment that is:

19 (A) Not regularly scheduled;

20 (B) Not paid as a percentage of salary;

21 (C) Made for the express purpose of *[reducing]* **offsetting** the employer’s unfunded
22 actuarial liability; and

1 (D) Paid at the employer’s election instead of at the PERS Board’s direction.

2 (2) Lump-sum payment amount. If an employer elects to make a UAL lump-sum
3 payment under this rule, the payment must be at least 25 percent of the employer’s UAL
4 calculated under section (6) of this rule or \$1 million, whichever is less. Alternatively, an
5 employer may elect to pay up to 100 percent of the employer’s UAL calculated under
6 section (6) of this rule.

7 (3) Requirements. In order to make a UAL lump-sum payment, an employer must
8 comply with the process described in sections (4) through (10) of this rule.

9 (4) Initiating UAL lump-sum payment process. At least 45 calendar days before the
10 date the employer intends to make a UAL lump-sum payment, the employer shall notify
11 *[the]* PERS Actuarial Services *[Employer Liability Coordinator]* in writing that it
12 intends to make a UAL lump-sum payment. The notification shall specify:

13 (a) The amount of the intended lump-sum payment; and

14 *[(b) Whether the intended payment is to be for 100 percent of the employer’s*
15 *calculated UAL; and]*

16 *[(c)](b)* No more than two potential dates for the payment. PERS staff must notify
17 the employer within five business days of receipt of the notification if the notification is
18 incomplete or the process cannot be completed by the earliest intended date*[s]* of the
19 UAL lump-sum payment.

20 (5) Payment to the actuary. The PERS consulting actuary must provide an invoice
21 charging the employer for the cost of the *[actuarial liability]* UAL calculation requested
22 by the employer. At least 30 calendar days before the date the employer intends to make
23 a UAL lump-sum payment, the employer must remit payment for the cost of the UAL

1 calculation directly to the PERS consulting actuary according to the instructions on the
2 invoice. Failure to remit payment according to the terms of this section may result in the
3 PERS consulting actuary not completing the employer’s UAL calculation by the
4 proposed UAL lump-sum payment date.

5 (6) Calculation of an employer’s UAL. Upon receipt of a *[complete notification and*
6 *verification of]* payment **in full from the employer for the requested UAL calculation,**
7 to the actuary for actuarial services, PERS staff shall request that the PERS consulting
8 actuary calculate:

9 (a) 100 percent of the employer’s UAL. This calculation must be:

10 (A) Based on the fair value UAL from the most recent actuarial valuation; and

11 (B) Adjusted to reflect the effect of time from the most recent actuarial valuation to
12 the intended date(s) of payment, using generally recognized and accepted actuarial
13 principles and practices.

14 (b) The effect of the following UAL lump-sum payment amount~~[s]~~ on the
15 employer’s contribution rates~~s~~ using the one or two potential dates for payment specified
16 by the employer in its notification in section (4) above:

17 (A) 100 percent of the employer’s UAL calculated in subsection (6)(a) of this rule;

18 (B) The UAL lump-sum payment amount specified by the employer in its
19 notification, if provided; and

20 (C) The minimum amount of the UAL lump-sum payment under section (2) of this
21 rule.

22 (7) Notification of calculation. PERS staff must notify the employer in writing of the
23 results of the employer’s calculation in section (6) above, including the effective date(s)

1 for the reduced employer contribution rates based on the one or two potential dates for
2 payment. In addition, PERS must send the employer a notification describing risks and
3 uncertainties associated with the calculation of the individual employer’s UAL.

4 (8) Notification of UAL lump-sum payment. The employer *[or its agent]* must
5 notify *[the]* PERS Actuarial Services *[Employer Liability Coordinator]* in writing at
6 least three business days before making a UAL lump-sum payment. This notification
7 shall be in addition to the notification in section (4) of this rule and must specify the
8 amount of the payment and the date *[it]* the employer intends to make the payment.

9 (9) Method of payment. A UAL lump-sum payment must be made by either
10 electronic transfer or check payable to the Public Employees Retirement System.

11 (10) Receipt of UAL lump-sum payment. In order to adjust the employer
12 contribution rate to that reported by PERS in section (7) of this rule, PERS must receive
13 the correct funds no later than five business days after the *[corresponding]* intended date
14 of the UAL lump-sum payment specified by the employer in the notification described
15 in section (8) of this rule.

16 (a) If the UAL lump-sum payment is received by PERS on or before the intended
17 date specified in the notification described in section (8) of this rule or within the five
18 business days following the intended date, the new employer contribution rate will be
19 effective for payrolls dated on or after:

20 (A) The date specified in the notification; or

21 (B) The first of the month following receipt of the UAL lump-sum payment by
22 PERS, whichever is later.

1 (b) If the UAL lump-sum payment is received by PERS more than five business days
2 after the intended payment date, the employer’s contribution rate shall be adjusted
3 *[in]* based on the next rate-setting actuarial valuation *[based on]* after the date of
4 receipt of the UAL lump-sum payment.

5 (c) If the UAL lump-sum payment received is other than any amount specified in the
6 notification under section (8) of this rule, the employer’s contribution rate shall be
7 adjusted to the rate the payment amount fully funds using the actuarial calculation in
8 subsection (6)(b) of this rule.

9 (d) If the UAL lump-sum payment received is less than the minimum amount
10 described in section (2) of this rule, the *[funds]* payment will be returned to the employer
11 and no adjustment will be made to the employer contribution rate.

12 (e) Nothing in this rule shall be construed to prevent the Board from:

13 (A) Adjusting employer contribution rates based upon the date of receipt of funds or
14 errors in the notification described in section (7) of this rule; or

15 (B) Taking action pursuant to ORS 238.225.

16 (11) Actuarial treatment of the UAL lump-sum payment. For actuarial purposes, the
17 UAL lump-sum payment made by the employer shall be treated as pre-funded
18 contributions and additional assets for the payment of obligations of the employer under
19 ORS chapters 238 or 238A, rather than as a reduction of those obligations.

20 (12) Side *[A]*account. The UAL lump-sum payment shall be held in a *[S]*side
21 *[A]*account for the benefit of the employer making the UAL lump-sum payment. The
22 amortized amount for each payroll reporting period shall be transferred from the *[S]*side
23 *[A]*account to the employer’s *[Employer]* *[C]*contribution *[A]*account.

1 (13) Crediting earnings or losses. Side accounts shall be credited with earnings and
2 losses in accordance with OAR 459-007-0530.

3 (14) Nothing in this rule shall be construed to convey to an employer making a UAL
4 lump-sum payment any proprietary interest in the Public Employees Retirement Fund or
5 in the UAL lump-sum payment made to the fund by the employer.

6 Stat. Auth.: ORS 238.650

7 Stats. Implemented: ORS 238.225 - 238.229

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

1 **459-009-0090**

2 **Surplus Lump-Sum Payments by Employers**

3 Purpose. The purpose of this rule is to establish procedures and requirements for the
4 adjustment of employer contribution rates when an individual public employer that does
5 not have an existing unfunded actuarial liability (UAL) makes a lump-sum payment. An
6 employer with an existing unfunded actuarial liability must first submit a lump-sum
7 payment for the full amount of that unfunded actuarial liability under OAR 459-009-0084
8 or 459-009-0085, as applicable, before the employer may make a payment under this
9 rule.

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

11 (a) “Actuarial **[S]**urplus” means the excess of the actuarial value of an employer’s
12 assets over the employer’s actuarial liability.

13 (b) “Allocated **[A]**ctuarial **[L]**iability” means the actuarial liability calculated using
14 the fair market value of assets.

15 (c) “Amortized **[A]**mount” means the amount of a **[S]**ide **[A]**ccount used to offset
16 contributions due from the employer.

17 (d) “IAP” means the Individual Account Program of the Oregon Public Service
18 Retirement Plan.

19 (e) “Pension **[P]**rogram **[C]**ontribution~~**[s]**~~” means the total calculated employer
20 contribution due in any reporting period for both the Chapter 238 and OPSRP pension
21 programs, excluding any IAP or retiree health insurance program contribution due.

22 (f) “Surplus **[L]**ump-~~**[S]**~~um **[P]**ayment” means any employer payment that is:

- 1 (A) Not regularly scheduled;
- 2 (B) Not paid as a percentage of salary;
- 3 (C) Made for the express purpose of creating an actuarial surplus or increasing an
- 4 existing actuarial surplus; and
- 5 (D) Paid at the employer’s election instead of at the PERS Board’s direction.
- 6 (g) “UAL” or “Unfunded *[A]*actuarial *[L]*liability” means the excess of the actuarial
- 7 liability over the actuarial value of assets.
- 8 (h) “UAL *[L]*lump-*[S]*sum *[P]*payment” means any employer payment:
 - 9 (A) That is not regularly scheduled;
 - 10 (B) That is not paid as a percentage of salary;
 - 11 (C) That is made for the express purpose of reducing the employer’s unfunded
 - 12 actuarial liability; and
 - 13 (D) Where the employer has control over the timing or whether to make the
 - 14 payment.
- 15 (2) For employers with an existing UAL that wish to make a payment in excess of
- 16 the existing UAL, the surplus lump-sum payment must be made after and separately from
- 17 the UAL lump-sum payment. *[and t]*The provisions of this rule apply only to the surplus
- 18 lump-sum payment.
- 19 (3) Limitation on surplus lump-sum payments. An employer may make only one
- 20 payment per every three calendar years under the provisions of this rule.
- 21 (4) Minimum surplus lump-sum payment amount. If an individual employer elects to
- 22 make a surplus lump-sum payment under this rule, the payment must result in a 50 basis

1 point reduction in the employer’s pension program contribution rate based on the
2 individual employer’s reported payroll in the most recent actuarial valuation.

3 (5) Maximum surplus lump-sum payment amount. If an individual employer elects
4 to make a surplus lump-sum payment under this rule, the payment may not be greater
5 than the amount required to bring the employer’s lowest pension program contribution
6 rate to zero based upon the individual employer’s reported payroll in the most recent
7 actuarial valuation.

8 (6) Requirements. In order to make a surplus lump-sum payment, an employer must
9 comply with the process described in sections (7) through (15) of this rule.

10 (7) Initiating surplus lump-sum payment process. At least 45 calendar days before
11 the date the employer intends to make a surplus lump-sum payment, the employer must
12 notify *[the]* PERS [Actuarial Services](#) *[Employer Liability Coordinator]* in writing that it
13 intends to make a surplus lump-sum payment. The notification must specify:

14 (a) Whether the intended payment shall be for the maximum payment amount as
15 provided in section (5) of this rule, or, if other than the maximum amount, the percent of
16 payroll reduction in the individual employer’s rate or dollar amount of the intended
17 payment; and

18 (b) No more than two potential dates for the payment.

19 (8) PERS staff must notify the employer within five business days of receipt of the
20 notification if the notification is incomplete or the process cannot be completed by
21 the [earliest](#) intended date*[(s)]* of the surplus lump-sum payment.

22 (9) Payment to the actuary. The PERS consulting actuary must provide an invoice
23 charging the employer for the cost of the rate reduction calculation requested by the

1 employer. At least 30 calendar days before the date the employer intends to make a
2 surplus lump-sum payment, the employer must remit payment for the cost of the rate
3 reduction calculation directly to the PERS consulting actuary according to the
4 instructions on the invoice. Failure to remit payment according to the terms of this
5 section may result in the PERS consulting actuary not completing the employer’s rate
6 reduction calculation by the proposed surplus lump-sum payment date.

7 (10) Calculation of the individual employer’s actuarial liability. Upon receipt of *[a*
8 *complete notification and verification of payment to the actuary for actuarial*
9 *services]* **authorization from PERS staff and payment in full from the employer for**
10 **the requested actuarial liability calculation**, PERS staff shall request that the PERS
11 consulting actuary calculate:

12 (a) The minimum amount of the surplus lump-sum payment under section (4) of this
13 rule;

14 (b) The maximum amount of the surplus lump-sum payment under section (5) of this
15 rule;

16 (c) The alternative percentage or dollar amount specified by the employer in its
17 notification under section (7) of this rule; and

18 (d) The effect of each of the amounts calculated in subsections (a) to (d) of this
19 section on the individual employer’s contribution rate using the potential date(s) for
20 payment specified by the employer in its notification.

21 (11) The calculations described in section (10) of this rule must be:

22 (a) Based on the individual employer’s pension program contribution rate from the
23 most recent rate setting actuarial valuation;

1 (b) Based on the covered salary, for the individual employer or as a proportion of the
2 pool, as applicable, reported by the employer for the year of the most recent actuarial
3 valuation; and

4 (c) Adjusted to reflect the effect of time from the most recent actuarial valuation to
5 the intended date(s) of payment, using generally recognized and accepted actuarial
6 principles and practices.

7 (12) Notification of calculation. PERS staff must notify the employer in writing of
8 the results of the individual employer’s calculation under section (10). In addition, PERS
9 must send the employer a notification describing risks and uncertainties associated with
10 making a lump-sum payment.

11 (13) Notification of payment. The employer *[or its agent]* must notify *[the]*
12 PERS Actuarial Services *[Employer Liability Coordinator]* in writing at least three
13 business days before making a surplus lump-sum payment. This notification must be in
14 addition to the notification in section (7) of this rule and must specify the dollar amount
15 of the payment and the date the employer intends to make the payment.

16 (14) Method of payment. A surplus lump-sum payment must be made by either
17 electronic transfer or check payable to the Public Employees Retirement System.

18 (15) Receipt of payment. In order to adjust the employer contribution rate to that
19 reported by PERS in section (12) of this rule, PERS must receive the correct funds no
20 later than five business days after the corresponding intended date of the surplus lump-
21 sum payment specified in the notification described in section (13) of this rule.

22 (a) If the surplus lump-sum payment is received by PERS on or before the intended
23 date specified in the notification described in section (13) of this rule or within the five

1 business days following the intended date, the new employer contribution rate shall be
2 effective for payrolls dated on or after the first of the month following receipt of the
3 payment by PERS.

4 (b) If the surplus lump-sum payment is received by PERS more than five business
5 days after the intended payment date, the employer’s contribution rate shall be adjusted
6 *[in] based on* the next rate-setting actuarial valuation *[based on] after* the date of
7 receipt of the payment.

8 (c) Except as provided in subsection (15)(d), if the surplus lump-sum payment
9 received by PERS is other than any amount specified in the notification under section
10 (13) of this rule, the employer’s contribution rate shall be adjusted to the rate the payment
11 amount fully funds using the actuarial calculation in section (10) of this rule.

12 (d) If the surplus lump-sum payment received by PERS is less than the minimum
13 amount described in section (4) of this rule, or greater than the maximum amount
14 described in section (5) of this rule, the *[funds] payment* shall be returned to the
15 employer and no adjustment shall be made to the employer contribution rate.

16 (e) Nothing in this rule shall be construed to prevent the Board from:

17 (A) Adjusting employer contribution rates based upon the date of receipt of funds or
18 errors in the notification described in section (12) of this rule; or

19 (B) Taking action pursuant to ORS 238.225.

20 (16) Actuarial treatment of the payment. For actuarial purposes, the surplus lump-
21 sum payment made by the employer shall be treated as pre-funded contributions and
22 additional assets for the payment of obligations of the employer under ORS Chapters 238
23 or 238A, rather than as a reduction of those obligations.

1 (17) Side *[A]*account. The surplus lump-sum payment shall be held in a *[S]*side
2 *[A]*account for the benefit of the employer making the surplus lump-sum payment. The
3 amortized amount for each payroll reporting period shall be applied from the *[S]*side
4 *[A]*account to the Employer Contribution Account of the individual employer or of the
5 employer actuarial pool in which the employer is participating, as applicable. The side
6 account amortization period shall be equal to the remaining period that new Tier One and
7 Tier Two gains and losses were amortized in the last rate-setting valuation.

8 (18) Crediting earnings or losses. Side accounts shall be credited with earnings and
9 losses in accordance with OAR 459-007-0530.

10 (19) Nothing in this rule shall be construed to convey to an employer making a
11 surplus lump-sum payment any proprietary interest in the Public Employees Retirement
12 Fund or in the surplus lump-sum payment made to the fund by the employer.

13 Stat. Auth.: ORS 238.650

14 Stats. Implemented: ORS 238.225 - 238.229



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Kate Brown, Governor

Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

May 26, 2017

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Notice of Rulemaking for Electronic Funds Transfer (EFT) Rule:
OAR 459-005-0225, *Requirement to Make Payments by Electronic Funds Transfer*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: To exempt non-PERS participating employers from EFT payment requirements.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

ORS 293.525 allows state agencies to require payments via Electronic Funds Transfer (EFT). In 2005, PERS began requiring public employers to make payments via EFT, which provides for safer, more efficient processing of payments. However, the definition of “public employer” in OAR 459-005-0225 includes non-PERS participating employers that pay only an annual fee to PERS for their share of the expenses incurred in administering the state Social Security Program, as required by ORS 237.500. Currently, 889 PERS-participating employers pay this annual fee via EFT, and 189 non-PERS participating employers pay the annual fee via check. The non-PERS participating employers make no other payments to PERS, and to require the Social Security annual fee be paid by EFT would put an undue burden on these small employers that typically only have a few employees. To continue allowing non-PERS participating employers to pay the Social Security annual fee via check, staff proposes to amend OAR 459-005-0225 to clarify that the EFT requirements apply only to PERS-participating employers.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held June 27, 2017, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends July 7, 2017, at 5:00 p.m.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Impact: The proposed rule benefits non-PERS participating employers and PERS staff by clarifying the EFT requirements for payments made to PERS.

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

RULEMAKING TIMELINE

| | |
|---------------|---|
| May 15, 2017 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| May 26, 2017 | PERS Board notified that staff began the rulemaking process. |
| June 1, 2017 | <i>Oregon Bulletin</i> publishes the Notice. Notice is sent to employers, legislators, and interested parties. Public comment period begins. |
| June 27, 2017 | Rulemaking hearing to be held at 2:00 p.m. at PERS in Tigard. |
| July 7, 2017 | Public comment period ends at 5:00 p.m. |
| July 28, 2017 | 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 June 27, 2017, at 2:00 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the July 28, 2017 Board meeting.

B.2. Attachment 1 – 459-005-0225, *Requirement to Make Payments by Electronic Funds Transfer*

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

1 **459-005-0225**

2 **Requirement to Make Payments by Electronic Funds Transfer**

3 (1) As used in this rule, the following words and phrases have the following
4 meanings:

5 *[(a) “Public employer” has the same meaning given the term in ORS 238.005 and
6 includes all public school districts and educational service districts.]*

7 *[(b)](a)* “Electronic funds transfer” has the same meaning given the term in ORS
8 293.525.

9 *[(c)](b)* “ACH credit” means the electronic funds transfer from the *[public]*
10 participating employer’s account, initiated by the *[public]* participating employer and
11 cleared through the Automated Clearing House (ACH) network for deposit to PERS.

12 *[(d)](c)* “ACH debit” means the electronic funds transfer from the *[public]*
13 participating employer’s account, initiated by PERS and cleared through the ACH
14 network to debit the *[public]* participating employer’s account and credit the PERS
15 account.

16 (2) Participating *[public]* employers are required to make all payments to PERS by
17 means of electronic funds transfer (EFT).

18 (3) On a form provided by PERS, *[public]* participating employers shall authorize
19 EFT payments to PERS, and submit the form to PERS by December 1, 2005.

20 (a) The *[public]* participating employer shall provide PERS with all information
21 necessary to allow for EFT payments, including the method of EFT payment (ACH debit
22 or ACH credit).

1 (b) A *[public]* participating employer must complete a new EFT authorization form
2 to change the method of transfer or to update the employer’s account information.

3 (4) ACH debits from a *[public]* participating employer’s account will be processed
4 on the third business day after the statement date and be effective on the fifth business day
5 after the statement date.

6 (5) Effective on and after January 1, 2006, a penalty shall be assessed equal to one
7 percent of payments by participating employers made by means other than EFT. This
8 penalty is in addition to any penalties incurred under ORS 238.705 and 238.710 *[and OAR*
9 *459-020-0025]*.

10 (6) The PERS Executive Director will have the discretion to waive the penalty
11 described in section (5) of this rule. The employer must submit any such requests in
12 writing.

13 Stat. Auth.: ORS 238.650

14 Stats. Implemented: ORS 293.525



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Kate Brown, Governor

Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

May 26, 2017

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Notice of Rulemaking for Assumed Rate Rule:
OAR 459-007-0007, *Assumed Rate*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Specify the effective date to implement an assumed rate change for PERS transactions.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

The PERS Board reviews the assumed rate in odd-numbered years as part of the Board's adoption of actuarial methods and assumptions. That rate is then adopted in an administrative rule; even though the actual assumed rate will not be determined until the PERS Board's July 28, 2017 meeting, we have to open the relevant rule at this time to allow for adoption at that subsequent meeting. For now, these rule modifications include a blank space to show the assumed rate once it is adopted by the Board in July 2017.

The rule specifies that the new assumed rate will be effective for PERS transactions with an effective date of January 1, 2018, consistent with this Board's policy decision from 2013 that changes to the assumed rate will be effective January 1 following the Board's adoption of the new rate, giving staff ample time to perform the necessary preparations and communicate with members and employers. A January 1 effective date also provides equitable treatment to all members who retire in a year that a change is adopted, no matter which month they retire. The new assumed rate will be aligned with the new actuarial equivalency factors (AEFs), which will allow for a clear effective date for all transactions that involve calculations using both the latest year-to-date rate and AEF components.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held June 27, 2017, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends July 7, 2017, at 5:00 p.m.

LEGAL REVIEW

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

IMPACT

Mandatory: Yes, the assumed rate determined by the Board must be adopted by rule and clearly describe the effective date of the assumed rate change on PERS transactions.

Impact: The proposed rule benefits members, employers, and staff by setting forth the assumed rate and a clear effective date for implementing a change in the rate.

Cost: There are no discrete costs directly attributable to specifying the assumed rate in rule.

RULEMAKING TIMELINE

| | |
|---------------|---|
| May 15, 2017 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| May 26, 2017 | PERS Board notified that staff began the rulemaking process. |
| June 1, 2017 | <i>Oregon Bulletin</i> publishes the Notice. Notice is sent to employers, legislators, and interested parties. Public comment period begins. |
| June 27, 2017 | Rulemaking hearing to be held at 2:00 p.m. at PERS in Tigard. |
| July 7, 2017 | Public comment period ends at 5:00 p.m. |
| July 28, 2017 | 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 June 27, 2017, at 2:00 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the July 28, 2017 Board meeting.

B.3. Attachment 1 – 459-007-0007, *Assumed Rate*

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

1 **459-007-0007**

2 **Assumed Rate**

3 (1) The Board will review the assumed rate in odd-numbered years as part of the
4 Board's review and adoption of actuarial assumptions and methods.

5 (2) The Board may adopt a change in the assumed rate at any time. A change in the
6 assumed rate is effective the first of the year following the Board's adoption of the change.

7 (3) The assumed rate is set at ~~[7.50]~~ ____ percent, effective on January 1, ~~[2016]~~ 2018.

8 Stat. Auth.: ORS 238.650 & 238A.450

9 Stats. Implemented: ORS Chapters 238 & 238A



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Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

May 26, 2017

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Adoption of Insolvent Employer Rule:
OAR 459-009-0400, *Insolvent Employer*

OVERVIEW

- Action: Adopt the Insolvent Employer rule.
- Reason: Define “insolvent employer” and establish that the PERS Board has the authority to take action to satisfy some or all outstanding liability of an insolvent employer to the PERS Fund through the Contingency Reserve.
- Policy Issue: None identified.

BACKGROUND

ORS 238.670(1)(a) authorizes the PERS Board to use funds in the Contingency Reserve established under ORS 238.670(1) to “prevent any deficit in the fund by reason of the insolvency of a participating public employer.” Note that the funding for this purpose can only come from earnings from employers deposited in the Contingency Reserve; \$25 million has currently been set aside in the reserve for this purpose.

The Board has not previously used the Contingency Reserve to address the liabilities of insolvent employers, principally because there has never been a framework to determine that an employer is insolvent. There are a number of PERS employers that have ceased to exist as ongoing entities; many of them have remaining PERS liabilities, whether outstanding invoices or unfunded actuarial liabilities.

The new administrative rule provides a definition of insolvent employer to assist in assessing when the Contingency Reserve can be used for this purpose. A simple balance sheet analysis is not sufficient to determine solvency; PERS should also determine whether the liabilities of the entity have been assigned to or assumed by another entity. Once PERS determines, after making all reasonable efforts to collect as required by OAR 459-005-0620, that there is no resource from which to collect, then PERS will consider whether the employer is insolvent.

SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

No modifications have been made to the rule. In response to comments made at the last meeting, staff considered whether to clarify section (1)(c) of the rule but since it is currently unclear whether PERS can assign a liability to a non-PERS participating employer or a private sector entity, the rule’s language accommodates both situations in one section.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held April 25, 2017, at 3:00 p.m. at PERS headquarters in Tigard. No members of the public provided comment on the rule. The public comment period ended May 3, 2017, at 5:00 p.m. No public comment was received.

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: Yes. Without a clear definition of “insolvent employer,” the Board would not be able to carry out its discretion in the use of the reserve account money as specified in the statute.

Impact: This rule sets the definition for an “insolvent employer” so that once an employer is determined to be insolvent, the Board may then exercise its discretion under ORS 238.670(1)(a) to use the reserve account money to satisfy any outstanding PERS liability the insolvent employer may have left behind.

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

RULEMAKING TIMELINE

| | |
|----------------|--|
| March 15, 2017 | Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State. |
| April 1, 2017 | <i>Oregon Bulletin</i> published the Notice. Notice was sent to employers, legislators, and interested parties. Public comment period began. |
| April 3, 2017 | PERS Board notified that staff began the rulemaking process. |
| April 25, 2017 | Rulemaking hearing held at 3:00 p.m. at PERS in Tigard. |
| May 3, 2017 | Public comment period ended at 5:00 p.m. |
| May 26, 2017 | Board may adopt the permanent rule modifications. |

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt the Insolvent Employer 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: Define “insolvent employer” and establish that the PERS Board has the authority to take action to satisfy some or all outstanding liability of an insolvent employer to the PERS Fund through the Contingency Reserve.

Adoption – Insolvent Employer

05/26/17

Page 3 of 3

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 - 459-009-0400, *Insolvent Employer*

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

1 **459-009-0400**

2 **Insolvent Employer**

3 **(1) For the purposes of this rule, an “insolvent employer” is an employer that**
4 **meets all of the following requirements:**

5 **(a) The employer has dissolved either by statute or administrative action as an**
6 **on-going entity;**

7 **(b) There are no assets from which PERS can collect to cover the dissolved**
8 **employer’s PERS liability or there are inadequate assets to cover all PERS liability;**
9 **and**

10 **(c) There is no entity either by operation of law or contractual agreement that is**
11 **responsible for the dissolved employer’s remaining liability, or PERS is unable to**
12 **assign the remaining liability to an entity.**

13 **(2) If PERS determines an employer is insolvent, the board may take action to**
14 **satisfy some or all of the outstanding liability of an insolvent employer to the fund**
15 **through the Contingency Reserve established under ORS 238.670(1).**

16 **Stat. Auth.: ORS 238.650 & 238A.450**

17 **Stats. Implemented: ORS 238.670**



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Kate Brown, Governor

Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

May 26, 2017

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Adoption of Restoration of Forfeited Service Credit Rule:
OAR 459-011-0050, *Forfeiture and Restoration of Service Rights*

OVERVIEW

- Action: Adopt modifications to the Restoration of Forfeited Service Credit rule.
- Reason: Clarify administration of membership termination and restoration of forfeited credit by reason of withdrawal, including how membership forfeiture impacts other PERS statutes. Specify that the five-year clock for separation from service begins from the date of last separation from employment in a “qualifying position” and clarify what types of membership forfeiture may be restored under ORS 238.105 and 238.115.
- Policy Issue: Should PERS extend the ability to purchase loss of membership (LOM) time through December 1, 2017 effective retirement dates, to allow adequate notice to impacted retirees?

BACKGROUND

There are two ways a Tier One/Tier Two member ceases to be a member: through withdrawal or through loss of membership (LOM). Withdrawal occurs under ORS 238.265, when a member withdraws their account and terminates their membership. The withdrawal terminates all of the member’s rights in the system; if that person later returns to PERS membership (after serving another six-month waiting period in a qualifying position), their rights for the employment before the withdrawal remain forfeited. ORS 238.105 provides one way for such persons to restore the rights forfeited by the withdrawal: if the reemployment is within five years from when they left the PERS-covered employment that preceded the withdrawal, the member repays the amount previously withdrawn plus interest that would have accrued on the withdrawn amount within the first year of reemployment (commonly known as a “voluntary redeposit”). If the member does not restore their account through a voluntary redeposit and is an active member for 10 or more years (on subsequent employment), they can purchase some or all of their forfeited time at retirement under ORS 238.115.

A member also loses their membership if they leave PERS-covered employment before becoming vested and does not work for a PERS participating employer for five or more years (commonly known as “Loss of Membership” or “LOM”). After the member goes into LOM status, all rights in the system are terminated under ORS 238.095(2), and their account ceases to accrue additional earnings under ORS 238.095(4). If they return to PERS-covered employment, they must serve another six-month waiting period and establish new membership; there is no statutory provision that allows for this time to be restored or purchased.

OAR 459-011-0050 was adopted to address PERS administration of membership forfeiture and restoration. However, that rule only addresses the voluntary redeposit under ORS 238.105. That rule does not address the restoration of forfeited time by the purchase that is available under ORS 238.115 nor does it clarify that restoration under ORS 238.115 is not available to those who lost their membership rights through LOM. The proposed rule modifications provide these clarifications. Given that these statutes do not use consistent terminology, staff have been inconsistent in applying these provisions to members who are trying to restore their prior service and accounts so the rule modifications draw these distinctions more clearly. Members' expectations about whether they can restore these rights have also been inconsistently communicated, so the rule modifications will provide that clarity as well. Given the inconsistencies in the statutes, PERS does not intend to review prior purchases but has directed staff to follow these strictures on a going-forward basis.

POLICY ISSUE

Should PERS extend the ability to purchase LOM time through December 1, 2017 effective retirement dates, to allow adequate notice to impacted retirees?

Forfeited LOM Time Purchase Misconception

Prior to November 2016, PERS staff did not distinguish between forfeited withdrawn time and forfeited LOM time for purposes of purchases under ORS 238.115. In both circumstances, former members receive a distribution of their member account after they have terminated their membership; staff treated the LOM distribution as a “withdrawal” and allowed persons whose membership had terminated by reason of LOM to purchase LOM time under ORS 238.115 as if their membership had been terminated by the withdrawal. PERS communicated this to members with forfeited LOM time (for example, in estimate letters, such a purchase may have been included). Members no doubt have relied on this representation in their retirement decisions. As noted above, we do not intend to review prior purchases but will direct staff to follow these strictures on a prospective basis.

Consequently, the proposed rule will likely adjust expectations of members who have not yet retired; for example, one such member is Ms. Dilles, who filed a public comment on the rule. As she points out in her comment, the ability to purchase LOM time can have a significant impact on a member's decision and eligibility to retire. To allow proper notification to affected members, the proposed rule has a delayed implementation until December 1, 2017 effective retirement dates. This additional time would ensure adequate notice to members of the policy changes so as to allow them to plan appropriately for their retirement. If a delayed implementation is approved, staff will send letters to affected members by June 30, 2017. Purchases of LOM time would be disallowed beginning with January 1, 2018 effective dates.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held April 25, 2017, at 3:00 p.m. at PERS headquarters in Tigard. One member of the public attended. Mary Dilles, a Portland Public Schools teacher intending to retire this year who is currently a Tier Two member, testified in opposition to the rule modifications that remove the ability to purchase forfeited LOM time under ORS 238.115. Ms. Dilles expressed frustration with the lack of notification to members who would be affected by

the change, and requested delayed implementation of the policy. She had planned her retirement based on communications with PERS and benefit estimates that indicated she would be able to purchase the forfeited LOM time, and with the change in policy she would receive a much lower benefit. She stated that had she known of the policy change in advance, she would have retired on January 1, 2017, rather than at the end of the school year, in order to purchase her forfeited LOM time and qualify as a Tier One member. Ms. Dilles' testimony was also submitted as written comment in a letter dated April 30, 2017, and is included as Attachment 2. In addition to Ms. Dilles, several other members who are nearing retirement communicated with staff regarding their opposition to the policy that disallows purchase of distributed LOM segments and the waiting times associated with the forfeited LOM segments. The public comment period ended May 3, 2017, at 5:00 p.m.

SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

On page 2, lines 14-17, section (4) was modified to more clearly align with ORS 238.115(1)(a)(B) and 238.115(1)(b).

On page 2, lines 21-22, section (6) was modified to add a January 1, 2018, effective date for the clarification that persons who forfeited their membership under LOM may not restore that forfeited time.

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, the Board need not adopt the rule modifications.

Impact: Clarification of procedures and administration will benefit members and staff.

Cost: There are no discrete costs attributable to the rule. Statute requires the administration of voluntary redeposits and forfeited time purchases as provided under ORS 238.095, 238.105, 238.115, and 238.265.

RULEMAKING TIMELINE

| | |
|----------------|--|
| March 15, 2017 | Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State. |
| April 1, 2017 | <i>Oregon Bulletin</i> published the Notice. Notice was sent to employers, legislators, and interested parties. Public comment period began. |
| April 3, 2017 | PERS Board notified that staff began the rulemaking process. |
| April 25, 2017 | Rulemaking hearing held at 3:00 p.m. at PERS in Tigard. |
| May 3, 2017 | Public comment period ended at 5:00 p.m. |
| May 26, 2017 | Board may adopt the permanent rule modifications. |

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt modifications to the Restoration of Forfeited Service Credit rule, allowing purchases of LOM time through December 1, 2017 effective retirement dates, as presented.”
2. Pass a motion to “adopt modification to the Restoration of Forfeited Service Credit rule without extending time to purchase LOM time.”
3. Direct staff to make other changes to the rule or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Clarify administration of membership termination and restoration of forfeited credit. Extend ability to purchase LOM time through December 1, 2017 effective retirement dates, to allow adequate notice to impacted retirees.

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 - 459-011-0050, *Forfeiture and Restoration of Service Rights*

B.5. Attachment 2 – Public Comment Letter from Mary Dilles

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 011 – RETIREMENT CREDIT**

1 **459-011-0050**

2 **Forfeiture and Restoration of Service Rights**

3 (1) A member who, pursuant to ORS 238.265, withdraws the amount credited to the
4 member's account ceases to be a PERS Chapter 238 Program member and forfeits all
5 membership rights accrued under ORS Chapter 238 before the effective date of *[the]*
6 withdrawal, including any service rights attributable to employment before the effective
7 date of *[the]* withdrawal.

8 (2) Any such person may elect to restore credit forfeited by the withdrawal of
9 the member account as provided in ORS 238.105 or 238.115.

10 *[(2)](3)* Pursuant to ORS 238.105, [A]any such person who reenters the service of
11 a participating employer in a qualifying position within five years from the date of the
12 last separation from employment in a qualifying position that preceded the member's
13 withdrawal may, at any time during the one-year period immediately following the date
14 of reemployment, repay to PERS, in a single lump sum payment, an amount equal to the
15 amount withdrawn plus the earnings the amount withdrawn would have accumulated
16 from the effective date of withdrawal to the date of repayment.

17 *[(3)](a)* Upon repayment as described in section *[(2)](3)* of this rule, the PERS
18 Chapter 238 Program membership and service rights forfeited by the withdrawal will be
19 restored. The former member will reestablish membership in the PERS Chapter 238
20 Program on the first day of the month following the date of the repayment. Service by the
21 former member from date of reemployment to the date membership is reestablished shall

1 be attributed to the PERS Chapter 238 Program. The withdrawn member account will be
2 reestablished in the amount of the repayment.

3 ~~[(4)]~~**(b)** An employee who is terminated from employment, withdraws the member
4 account under ORS 238.265, and is reinstated to employment in connection with a
5 retroactive payment may restore membership and service rights within the time period
6 described in section ~~[(2)]~~**(3)** of this rule or within one year from the date the employee
7 actually returns to employment, whichever is later. A retroactive payment must be
8 allocated pursuant to ORS 238.008. So allocated, the payment must be used in the
9 determination of employee and employer contributions and in the calculation of benefits.

10 **(4) Pursuant to ORS 238.115, a person described in section (1) of this rule who**
11 **reenters the service of a participating employer in a qualifying position and serves**
12 **as an active member for 10 years after such reentry may obtain restoration of**
13 **creditable service forfeited by the withdrawal if the member repays to PERS, in a**
14 **single lump sum payment, an amount equal to the amount withdrawn plus 7.5%**
15 **interest on the amount withdrawn compounded annually for each year or portion of**
16 **a year after the effective date of withdrawal and before the effective date of**
17 **retirement, for the period of creditable service restored.**

18 **(5) Restoration of credit forfeited by withdrawal of the member account under**
19 **section (4) of this rule is not available to persons who already restored membership**
20 **and service rights under section (3) of this rule.**

21 **(6) Beginning with January 1, 2018 effective retirement dates, a person whose**
22 **membership is terminated under ORS 238.095(2) may not restore forfeited credit**
23 **under ORS 238.115.**

1 ~~[(5)]~~(7) Notwithstanding the provisions of this rule, a member who withdraws
2 pursuant to ORS 238.265 and receives an additional amount pursuant to section 2,
3 chapter 276, Oregon Laws 2003, may not reestablish membership under section ~~[(2)]~~(3)
4 of this rule.

5 Stat. Auth.: ORS 238.650

6 Stats. Implemented: ORS 238.008, 238.095, 238.105, 238.115, 238.125, 238.265,
7 2003 OL Ch. 276 ~~[2007 OL Ch. 769]~~

Testimony Regarding Changes to OAR 459-011-0050: Forfeiture and Restoration of Service Rights

by Mary Dilles, PERS Member #531582, April 2017

Brief Summary: I retire in 2 months. All PERS communications (including written estimates for retirement Jan. 1 this year, online estimates, conversations with PERS personnel) confirmed that I could buy back forfeit time to my prior Tier 1 position. I was not notified of the changes to OAR 459-011-0050. Instead, when my final written estimate came in the mail March 15, it had been slashed by 20% and I was denied Tier 1 buyback. This was AFTER I had give notice at my job and AFTER I had made serious financial plans based upon ALL prior PERS communication. Had I retired January 1, 2017, I would have received a higher benefit than I will now receive, and my benefit is small. PERS essentially committed a Breach of Contract, and I am outraged that PERS members are not given a 1-3 year notice of changes in implementation of statutes such as OAR 459-011-0050. I am asking the PERS Board to allow members such as myself to buy back forfeit time, as was in essence promised in at least 14 separate written and verbal PERS communications.

My testimony, which was also presented orally at the Public Testimony Hearing at PERS Headquarters April 25, 2017:

My name is Mary Dilles. I am currently an ESL Teacher in Portland Public Schools and a 40-year resident of Oregon. I hold 2 degrees from Oregon colleges, and my two children are currently attending Oregon public Universities. I am retiring from PPS in June of this year.

Prior to re-marrying 3 years ago, I was a single mother while serving as an educator with some of Oregon's most vulnerable children. I have been an ESL teacher in PPS for 16 years, working in high-poverty schools with immigrants and refugees from all over the world, and my current school whose boundaries draw from downtown Portland, and include students living

in homeless shelters and transitional housing. Prior to my time in PPS, I worked in the West Linn-Wilsonville School District as a Tier 1 PERS employee. Upon leaving that job, I was home for a few years when my children were very young, and I also scored tests for the State of Oregon, and worked as a supervising teacher for student teachers at Lewis and Clark's MAT program. I also taught briefly at private schools before rededicating myself to public service. All together I have taught for approximately 30 years, though only somewhat more than half those years were in PERS positions.

A good teacher gives his or her all to their job, and I am proud of my exhilarating and exhausting teaching career, and make no mistake that if you work with children in poverty and children who have experienced trauma, and you care, it is exhausting work, and it grows more complex and challenging each day. I turn 58 this summer and know it is time for someone passionate and youthful to step into my position.

When preparing for my imminent retirement, I did everything right. I attended 4 separate Retirement Readiness workshops over the past 5 years: one here at the PERS headquarters in July 2014, one at the PPS Administration building where PERS personnel presented in March 2016, and 2 at On Point Credit Union, the final one in April 2016 with PERS Personnel present. I took notes, I raised my hand, and I stayed afterward and asked a very specific question each time.

At each of these PERS workshops, I asked whether I was in fact eligible to buy back my forfeit time from my first PERS teaching job in the West Linn Wilsonville School District. The answer in person, from Pam Parks, Dan Gregory, and the 3rd PERS employee from the 2014 workshop whose name I do not have, was all a definitive, unqualified yes, that I could buy back my forfeit time, and that I would then be buying back to my original Tier 1 position. The answer on paper, from the PERS handouts at these workshops, was yes, I was eligible to buy back wait and forfeit time. I have this documentation with me today.

I read the fine print of the "Purchase of Forfeited Service" section in the Tier One/Tier Two Pre-Retirement Guide published by PERS, and yes, I met eligibility for buy-back of forfeit time there.

I ran approximately eight separate on-line estimates with the PERS online benefit calculator over the last 3 years. Every one showed that I was eligible to buy back both wait and forfeit time, and that I would then be considered eligible Tier 1 for benefits.

Last calendar year, 2016, I ordered two separate written PERS benefits, as allowed each year. For both of those written estimates, I was offered buy back of wait and forfeit time, and it is written that I would then be considered Tier 1 for benefit purposes. In fact one of those written documents, which I have here today, shows that had I retired on January 1st of this year, 2017, I would have been able to purchase wait and forfeit time, and be considered Tier 1.

My husband and I have based all of our retirement financial calculations upon the understanding that I would buy back wait and forfeit time, back to my first Tier 1 service, and be eligible for full retirement this summer when I turn 58. My estimates, including that final estimate were I to retire from PERS this January 1, 2017, showed that after the approximately \$8,000 wait and forfeit time purchase I would make, my monthly benefit from PERS would be just over \$1,800/month.

My husband and I have made important life decisions based upon these spoken understandings by PERS personnel, and also the online and written estimates, -these are decisions having to do with my own children's college education, very real risks having to do with uncertain health insurance costs and covering my children's insurance until age 26 (they are currently 20 and 22), and more. Upon receiving those estimates, my husband and I purchased a very modest retirement house in Washington State where we plan to relocate this summer. I gave notice in PPS in February for my upcoming June retirement. (Note: I am currently working without a contract in PPS since June 2016, and may face additional cuts to my retirement benefits when those negotiations are finalized.)

When I phoned PERS in November of 2016 to inquire about final estimates in preparation for retirement, they instructed me to submit requests for 2 last written estimates, and to do so at the beginning of the year, in early January. I did so, sending those off January 2nd, and received the final written estimates from PERS on March 15, ten weeks later. I was shocked to see that the forfeit time and Tier 1 status were nowhere to be seen on those last written estimates. I phoned PERS, thinking that it was a mistake,

and they said, no, that there had been a policy review and I was no longer eligible to purchase forfeit time, and that because I would no longer be Tier 1 eligible, my full retirement age would be 60, rather than 58, and I would have further deductions due to retiring before that full retirement age of 60. Note that by the time I received this notice in mid-March, I had already given notice to PPS, and plans were moving forward for retirement and our relocation.

The very bad surprise of being denied purchase of forfeit time was a punch in the gut. I was and still am furious. My retirement benefit has been cut a full 20%, from approximately \$1800/month to approximately \$1450/month. My benefit is small, and my future will be plenty uncertain financially, and this cut of almost \$400 a month is now creating more financial hardship. I was planning to work as a part time dyslexia tutor in retirement, but now I may have to work full-time to cover even basic costs.

Had I retired from PERS January 1st of this year, I would have received \$210 more per month in my PERS benefit than I will be receiving when I retire July 1st. My pension benefit has just been reduced, and the part that is the worst is that I made every good faith effort to ask the right questions and follow due procedure from PERS. I know there is no certainty until the ink is dry on the final retirement papers, but a devastating cut like this coming as a surprise in the final 3 months before retirement is just not right.

This policy review change came with no warning and no communication to PERS members such as myself. Did I miss something? Was there a statute change out of Salem? I asked PERS these questions on the phone. No, they said, we just made a change; we had a policy revue in November. What? And I hadn't been notified about this? This was a policy revue railroaded through with no communication, - in effect, a breach of contract. Had I been forewarned, I would have retired in January, but it was too late by the time PERS mailed out their final written estimate to me with the substantial cuts.

I am asking you today to consider the real life damage this sort of surprise policy change has on real working people such as myself. I have worked so hard for this modest pension, I was a Tier 1 employee, I followed PERS rules, and now out of nowhere my family's financial system is thrown into stress and real hardship. I am not getting one of those pensions that are published in The Oregonian that are contributing to the Tier 1 hardships

PERS is facing. My pension will be at best, if PERS reconsiders the timeline of this policy change, some \$1,800 a month for me, or about one-quarter of my current salary. Without the forfeit time buyback, which I had been assured in every way would be available, my pension will be closer to 20% of my current salary.

I am asking you to consider giving PERS member such as myself some time before changing this policy. Let PERS members know of the policy review, and set a time of 1 to 3 years, before its implementation. Communicate with us; don't cut us down with no warning. It seems to be the decent thing to do. If that does not happen, it is my understanding that the law firm of Bennett Hartman Morris and Kaplan LLP may well take up litigation on this issue of behalf of members such as myself.

I thank each of you for your service and your serious consideration on this matter, and hope the Forfeited Service and Credit Rule will undergo revision by the PERS Board.

Mary Dilles, ESL Teacher, Chapman Elementary School, Portland Public Schools

marydilles@gmail.com 503-351-5663



Oregon

Kate Brown, Governor

Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
888-320 -7377
TTY (503) 603-7766
www.oregon.gov/pers

May 26, 2017

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Disability Rules Update

At the January 27, 2017 Board meeting, we presented modifications to the Disability Rules and indicated we anticipated presenting them for adoption at the April 3, 2017 Board meeting.

The modifications are the result of meeting with a focus group comprised of staff and employer representatives. We received public comment on the rules and anticipate additional modifications to them. However, with the legislature in session, we have not had sufficient time to properly vet any additional changes to the rules to have them ready for adoption at this meeting.

We will bring the rules forward for adoption once they are fully vetted.



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May 26, 2017

TO: Members of the PERS Board
FROM: Yvette Elledge-Rhodes, Chief Operations Officer
SUBJECT: *Moro* Implementation Project Update

PROJECT ACTIVITIES

For the *Moro* project, we have completed notifying the final population which represents successors to all benefit recipients (about 7,400) who passed away before their cost-of-living adjustment (COLA) was restored. About 300 benefit recipients pass away every month, so this population is those who did so between the time that the 2013 legislation was implemented (which was partially reversed when Oregon Supreme Court's *Moro* decision was issued) and when we adjusted the COLA in accordance with that decision.

Of the 6,306 accounts that were due a retroactive payment, the chart below shows the various stages for this population:

| | % of Total | # Accounts |
|---|-------------|--------------|
| No action | 0% | 0 |
| Initial notification (letter #1) | 31% | 1,947 |
| Notification and forms sent (letter #2) | 50% | 3,148 |
| Forms received | 3% | 194 |
| Partially paid | 0% | 35 |
| Fully paid | 16% | 982 |
| Total | 100% | 6,306 |

For the 16% of the population that has been fully paid, the total amount was \$222,294.94.

We are also in process of finalizing all the project closure activities which include:

- Identifying data to include in the closure report;
- Budget reconciliation;
- How future requests are handled; and
- Post-project point of contact.



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May 26, 2017

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

LEGISLATION IMPACTING PERS

After the April 3, 2017 Board meeting, the Senate Workforce Committee held work sessions on the following bills that impact PERS and moved them to the Joint Committee on Ways and Means for possible consideration.

| Bill | Relating Clause | General Summary |
|--------|--|--|
| SB 200 | Relating to retirement credit for periods of service in uniformed services | Expands the definition of “uniformed service” to include former employees of US Public Health Service and NOAA as members who may purchase retirement credit. |
| SB 201 | Relating to salary of employees of universities with a governing board under OPSRP | Clarifies that, for a specific period of time, salary paid to some OPSRP members who worked for universities but lived out-of-state will be included as salary for PERS benefit calculation. |
| SB 214 | Relating to the eligibility of post-doctoral scholars for retirement benefits | Eliminates participation of post-doctoral scholars at universities and OHSU from PERS. |
| SB 559 | Relating to the calculation of final average salary under PERS | Changes the Final Average Salary calculation from three to five years. |
| SB 560 | Relating to public employee retirement | Redirects the six percent member contribution from the IAP to a member pension account. Establishes a cap of \$100,000 on salary used for Final Average Salary. |
| SB 712 | Relating to credit for periods of disability under OPSRP | Provides service credit to OPSRP members who receive workers’ compensation disability payments and are reemployed by a PERS-covered employer. |

A series of amendments were drafted for Senate Bill 560 in the Senate Workforce Committee, but it remains unclear if the concepts contained in those amendments will be discussed further. The Joint Committee on Ways and Means may consider approval of any or none of these bills through the end of this legislative session.

CONTINGENCY RESERVE REPORT

The Ways and Means Subcommittee on General Government heard a report on April 26, 2017, regarding the Board decision to redeploy excess funds from the Contingency Reserve to the Benefits in Force Reserve. The report acknowledged that this action will ultimately reduce the unfunded actuarial liability (UAL) as of the December 31, 2017 system valuation, which will be used to set employer contribution rates for the 2019-2021 biennium. On May 5, 2017, the Joint Committee on Ways and Means acknowledged the General Government subcommittee reports on 2016 earnings crediting and redeployment of Contingency Reserve funds, with further direction to consider the reserve’s appropriate funding level in light of permitted uses.

SENATE BILL 5534 PERS BUDGET BILL – PHASE 2 HEARING

On April 27, 2017, during the Phase 2 budget presentation for Senate Bill 5534, the Ways and Means Subcommittee on General Government heard more details about the technology policy packages included in the agency budget request. Conversations will continue to determine how important information security work at PERS will be folded into plans for comprehensive statewide information security reforms. We also continue to work through funding and deliverables for technology modernization, disaster recovery and business continuity plans, and agency administration of the Individual Account Program.

COST CONTAINMENT WORK GROUP

On April 21, 2017, the Cost Containment Work Group reported to the Ways and Means Subcommittee on Capital Construction regarding proposed actions to curb future state budget growth. Among their recommendations were four steps to reduce PERS costs:

1. Increase current and future employees' share in retirement costs for all public employees who are members of PERS.
2. Require all PERS employers to set aside excess operating funds for the prepayment of future employer costs.
3. Determine whether the amortization period is set for the appropriate length of time.
4. Ensure the PERS administrative reserves are at an appropriate level and use any excess administrative reserves to reduce the unfunded liability.

We will continue to monitor legislative discussions around these four topics.

GOVERNOR'S TASK FORCE ON UNFUNDED ACTUARIAL LIABILITY

On April 27, 2017, Governor Brown issued a directive to the Department of Administrative Services to convene a task force to evaluate financial methods and assets to reduce the UAL. Specifically, the Governor directed that the task force should plan to leverage \$5 billion in payments that can be made to the UAL in a lump sum, in regular payments, or a combination of both, within the next 10 years. The task force is encouraged to consider:

- Assets owned by the state that can be sold, bonded against, or leveraged;
- Assets owned by other public employers that can be sold, bonded against, or leveraged;
- One-time funds, revenue streams, or savings; and
- Any other means available to earmark dollars for UAL payments.

The task force is to report back to the Governor by November 1, 2017.

TALKING POINTS REGARDING PERS BILLS AND RETIREMENT

As with any legislative session when PERS is a prominent topic, the agency staff have received many requests for comments and prognostications about what changes the legislature will make. Of course, PERS cannot and does not speculate on the impact of various proposals until they are adopted; the Legislature is the plan sponsor and laws they approve control the benefits PERS pays to members. In response to these many inquiries, we have generally responded along the

following lines; what follows should not be considered legal advice, but general commentary on the potential impact of legislative discussions on future PERS benefits:

“Several bills and a variety of amendments that impact PERS have been considered by legislators. We appreciate that members are trying to plan for retirement, and that legislative proposals may impact future benefits. Instead of focusing on specific provisions of bills and amendments, let’s look at the overall potential impact of legislation on a member’s benefit. Deciding whether to retire should involve thorough planning and preparation; possible approval of PERS legislation should not be much of a factor for those deciding whether to retire soon.

“As PERS understands the 2015 Oregon Supreme Court *Moro* decision, legislation cannot reduce benefits earned before any changes are in effect, but may only reduce benefits earned for service after the changes are in effect (this date may NOT be the same date that an emergency clause adds to a bill).

- Generally, member benefits increase with each additional month of service. If a member retires today, they’ll get less in benefits than if they retire tomorrow; if legislation alters that paradigm, then it probably fails the court’s *Moro* decision.
- Legislation may reduce the pace at which benefits grow for future service, but a member will still earn more in retirement benefits for future service, just “less more” than before potential reform.

“If legislation is adopted, PERS’ assumption after *Moro* is that part of a member’s total benefit at retirement will be based on the service and calculations BEFORE legislation and part of their benefit attributed to service and calculation AFTER legislation. The exact impact will be different for every member, so any effect is necessarily dependent on an individual’s circumstances.

“PERS will provide information to members about the potential impact of legislation when, or if, the legislature and Governor approve reforms this session.”

To reiterate, generally, every month a person continues to work their pension benefit will increase – if legislation is approved, their benefit might not increase as much as it would have before legislation is in effect.

PERS appreciates that members are trying to plan for retirement in these uncertain times. We encourage members to consider their whole retirement income stream, the role of PERS benefits, and also consider the impact of costs they may incur during retirement.



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May 26, 2017

TO: Members of the PERS Board
FROM: Mini Kobbervig, PERS Health Insurance Program Manager
SUBJECT: PERS Health Insurance Program (PHIP) 2018 Plan Renewals and Rates

BACKGROUND

The 2018 PHIP renewals posed several unique challenges for PERS' Contracted Health Plans (CHPs), staff, and consultants. These challenges are the result of:

- Uncertainty regarding the American Health Care Act (AHCA) that recently passed the House and its potential impact to current regulations under the Affordable Care Act (ACA).
- Pending Oregon legislative activity that could impact the Non-Medicare and Dental benefit plans.

None of the above impacts the Medicare Supplement plan (medical only) that PHIP offers. However, the impacts of these changes are different between Medicare Advantage, Non-Medicare, and Dental plans as noted below.

Medicare Advantage

The unique challenge for the Medicare Advantage plans pertains to the application of the Health Insurance Tax (HIT) which in 2017 is under a moratorium. Under the ACA, this tax was scheduled to be reinstated in 2018. However, the AHCA legislation would eliminate this tax entirely.

PHIP CHPs would be impacted differently by the reinstatement of this tax. PacificSource Community Health Plans, Inc. and Providence Health Plan offer their PHIP Medicare Advantage plans (medical and Rx combined) under a *not for profit* corporation that exempts their plans from this tax. Kaiser Permanente NW as a *not for profit* plan could be assessed this tax in 2018 at less than 1% and, therefore, chose not to include it in their 2018 pricing. The Moda Medicare Advantage plan and the prescription drug plan (PDP) for those enrolled under the Medicare Supplement plan are offered under a *for profit* corporation that is not exempt; thus, this tax is included in Moda's 2018 pricing.

The monthly premium impact is nearly \$35 for Moda members enrolled under the Medicare Advantage plan (medical and Rx combined) and \$5 for those enrolled under the Medicare Supplement Part D (Rx only) plan. Due to the impact of this tax, Moda has built this into the 2018 rates to avoid significant premium underfunding. PHIP and Moda have agreed that in the event this tax is fully or partially eliminated in 2018, Moda would refund the excess taxes to PHIP, and PHIP would then include them in Plan reserves for use in future years to subsidize rates.

Non-Medicare

The HIT fee noted above would also apply to the Non-Medicare plans. Unlike Medicare Advantage plans, there are no exemptions from this tax for Non-Medicare plans. However, the tax rate for *not for profit* corporations is lower than *for profit* corporations. The range of monthly premium impacts for the HIT fee is \$10-\$45 across the CHPs. As noted above, PHIP has negotiated refunds of this tax in the event this tax is fully or partially eliminated.

In addition to the HIT fee, there are several items being considered by the Oregon legislature; the item with the greatest impact would be the imposition of a premium tax. PHIP staff and consultants are fairly certain that a premium tax will be instituted to assist the state in closing a large projected budget deficit; the question is how large the tax will be.

PHIP requested that the CHPs include this tax in their 2018 rates. CHPs responded by including an additional rate load between 0-1.5%. Unlike the HIT fee, no refunds or additional revenues will be paid in 2018 in the event that either no premium tax is instituted or that a tax rate different from what the carrier included in rates is implemented. The range of monthly premium impacts for this tax across CHPs that have included an additional load is \$10-\$20.

Dental

Both the HIT fee and the premium tax discussed above also impact the dental plans. Due to the lower premium rate basis, the range of monthly premium impacts for the HIT fee is \$0.60-\$0.70 and roughly \$1 for the premium tax.

Other

As is customary, the contract renewal process began in February. After CHPs had an opportunity to present their renewals and preliminary rate offers in March, separate meetings were held with each. At the end of April, an additional meeting with PHIP staff, the PHIP Advisory Committee, and consultants was held to present and discuss the 2018 renewal.

Several scenarios to contain costs to maintain PHIP's member-centric focus were reviewed while waiting for the final positions to be submitted on April 28, 2017. After several exchanges, the proposed 2018 premium rate changes were finalized and detailed by each CHP for each line of coverage for both Medicare and Non-Medicare enrollees.

PHIP is a voluntary insurance program where enrolled members pay all of the premiums for the plan of their choice, either through direct payment or a combination of direct payment and supplemental RHIA or RHIPA funds. In addition to the premium, PERS retirees also cover the cost of program administration. The premium rates that members pay are inclusive of these costs.

2018 PLAN RENEWAL OVERVIEW

Medicare Plans

The Medicare membership at roughly 57,000 members represents the majority of the PHIP plan membership.

Each CHP is anticipating different levels of revenue from the Centers for Medicare and Medicaid Services (CMS) in 2018 compared to what was used in the 2017 rates. Most are projecting flat CMS revenue changes for Part C (medical) except those CHPs that realized improvement in their Medicare Star rating. The rates paid to PHIP CHPs are a combination of CMS revenue and

member premium. As claims cost are projected to continue to increase, the amount of additional premium revenue that must be funded by members is growing. All CHPs are estimating further reductions in CMS revenue for the Part D (Rx) program. Prescription claims cost trends are continuing to escalate in the 9-10% range, placing further pressure on the resulting required member premium. Most of the increase in pharmacy costs is being driven by new, expensive specialty drugs and ongoing increases in the cost of generics.

The 2016 Plan Year represents the first full year the PDP was administered by each non-Kaiser CHP for their own medical membership. As a result, some of the 2018 premium change is due to expected versus actual costs realized once the Rx benefits were transferred. PHIP staff and consultants continue to work closely with each CHP to monitor and review trends and costs associated with their plans.

PHIP staff, consultants, retiree advisors, and CHPs participated in numerous meetings and discussions to review Plan Year 2018 proposals. In 2018, there are significant rate increases to some of the PHIP Medicare plans; regardless, it was determined that it would not be to the member's benefit to make any benefit changes or cause member disruption in Plan Year 2018 to solely garner what would be minimal rate relief.

In working with PHIP CHPs, rate concessions from Providence and PacificSource were negotiated which resulted in reduced rate increases without affecting existing benefits. From the beginning of the renewal process, Kaiser NW presented the lowest Medicare rate increase of all CHPs and should be commended for the management of the plan on behalf of PHIP members.

The Moda Supplement plan, which continues to cover the majority of PHIP members, will renew with a single digit rate increase of 1.1% reflected, but members will effectively see a 4.6% increase because of the elimination of the subsidy for 2018. Unfortunately, we were unable to garner any significant rate concession from Moda for the Moda PPORx Medicare Advantage Plan. This results in a plan that is priced significantly higher than other Medicare Advantage plans offered by PHIP; a 21.4% increase over the next costliest plan. Moda's \$50 premium increase is driven mostly by the \$35 HIT fee discussed previously. Other CHPs have been able to minimize or eliminate the impact of this fee.

Non-Medicare Plans

The Non-Medicare membership represents roughly 2,300 members spread over four CHPs. One CHP has less than 25 members with the highest membership by CHP representing approximately 1,050 members.

CHPs with the lowest Non-Medicare membership have all experienced significant deterioration in the experience of their Non-Medicare population with claims costs trending upwards between 35-45% for those CHPs with statistically credible membership. This is resulting in significant rate pressure on these programs. These rate pressures are similar to those that the current ACA individual marketplace is experiencing.

PHIP was unable to garner any rate concessions from CHPs on Non-Medicare rate renewals. As such, the resulting rate increases range between 9-42%. Providence Health Plan, which has the largest Non-Medicare membership, has the lowest rate increase; Moda rates are increasing the highest. PHIP does not believe these rates are sustainable. For 2018, members in the higher cost plans will have the ability to enroll in the lower cost Select Plan and/or switch to a lower cost

CHP that serves their area. However, there will be members that have limited options under PHIP if they reside in areas not served by lower cost CHPs. The individual ACA marketplace may also represent a better purchasing opportunity for some members.

PHIP is convinced that the current Non-Medicare overall plan structure needs to be changed. As such, a review of benefit plan membership consolidation for risk pooling purposes will be evaluated for this population for Plan Year 2019.

Dental

The dental membership represents roughly 38,000 members spread over two CHPs. Dental claims cost trends have remained relatively flat. As a result of the flat trends, rate increases are approximately 1-6% with the combination of the HIT fee and premium tax representing 1-2.5% of this increase.

Rate Premium Methodology

2017 marked the first year of utilizing the Per Member Per Month (PMPM) rating methodology. The PMPM methodology was reviewed for Plan Year 2018 to determine if the practice should continue or change. It was determined that the PMPM rate structure is consistent with rate development in the individual marketplace, where each member, up to a capped number of dependents, receives an additional rate charge. Therefore, this method is an appropriate approach for PHIP as well.

CURRENT 2017 PHIP PLANS OFFERED

PHIP contracts with four CHPs for Medical, Dental and PDPs, allowing participants a range of choices while maintaining overall program stability. Contracts that are in place and/or proposed are as follows:

- 1) Kaiser Permanente NW
 - a) Medicare Advantage - Senior Advantage HMO Plan
 - b) Traditional HMO (Core) Non-Medicare Plan
 - c) \$1,000 Deductible (Select) Non-Medicare HMO plan
 - d) PDP that covers: Kaiser Permanente NW Medicare and Non-Medicare participants
 - e) DMO Dental Plan
- 2) Moda Health Plan – ODS/Delta Dental of Oregon
 - a) Medicare Supplement – Moda Health Medicare Supplement Plan
 - b) Medicare Advantage - PERS Moda Health PPORX (PPO) Plan
 - c) \$500 Deductible (Core) Non-Medicare PPO Plan
 - d) \$1,000 Deductible (Select) Non-Medicare PPO Plan
 - e) PDP that covers: Moda Health Medicare and Non-Medicare participants
 - f) Indemnity Dental Plan
- 3) PacificSource Community Health Plans, Inc.
 - a) Medicare Advantage - Medicare Essentials RX 803 HMO Plan
 - b) \$500 Deductible (Core) Non-Medicare PPO Plan
 - c) \$1,000 Deductible (Select) Non-Medicare PPO Plan
 - d) PDP that covers: PacificSource Health Plan Medicare and Non-Medicare participants

- 4) Providence Health Plan
 - a) Medicare Advantage - Medicare Align Group Plan + Rx (HMO)
 - b) Medicare Advantage - Medicare Flex Group Plan + Rx (POS)
 - c) \$500 Deductible (Core) Non-Medicare PPO Plan
 - d) \$1,000 Deductible (Select) Non-Medicare PPO Plan
 - e) PDP that covers: Providence Health Plan Medicare and Non-Medicare participants

Additionally, PHIP contracts with UNUM for Long Term Care (LTC) coverage offered to PERS retirees under age 84 and qualified through the UNUM application process. In 2016, note that UNUM received approval from the state for a rate increase of 20% in both 2017 and 2018; the net result for members will be approximately 44% over the two-year period. While PHIP holds the group policy, it does not negotiate rates for LTC as the Oregon Insurance Division works directly with UNUM on rate settings.

SUMMARY OF PROPOSED RENEWAL ACTION REQUIRING BOARD APPROVAL

PHIP recommends the following for the 2018 Plan Year:

- PHIP will continue to contract with Kaiser Permanente NW, PacificSource Health Plans, Providence Health Plan (non-Medicare), Providence Health Assurance (Medicare), and Moda Health Plan for medical, prescription drugs, and dental (where applicable) insurance coverage for eligible retired Medicare and Non-Medicare members, spouses, and eligible dependents.
- Provide a premium subsidy of \$50 to the PacificSource Core Value Non-Medicare medical plan in 2018.
 - The \$50 subsidy is a phased-in transition from the current \$95 in 2017 to a future \$0 subsidy. The relatively small number of members impacted and the total estimated annual subsidy amount is not a major overall issue as approximately \$10,000 is drawn down from reserves for the year.
 - PHIP determined that immediate and complete withdrawal of the subsidy creates too much disruption to members. PHIP is able to provide this subsidy from credits back to PHIP from PacificSource for taxes or fees that were less than expected.
- No other use of reserves are being proposed due to the drawdown that has occurred over the past few years and reserve balances are no longer in excess of desired levels.

PHIP staff and consultants are pleased to present these proposals and, thereby, conclude another year of hard work. With the PERS Board's approval today, PHIP's third-party administrator (TPA) staff and consultants will begin updating the PHIP Member Handbook and Benefit Guide and plan change materials. Beginning in mid-September, PHIP staff, the TPA, and CHP staff will begin holding retiree Plan Change meetings throughout the state.

Traditionally, these meetings have been very well attended and it is anticipated that there will be the same or greater attendance this year; this being a legislative year and with retiree interest in the program increasing, we anticipate our membership to continue to grow.

In response to the increased interest in the PHIP plans and offerings, PHIP staff along with representatives from the CHPs now offer evening presentations at PERS Headquarters each

month, in addition to the state-wide presentations given throughout the year. These presentations have been extremely well received, attendance has been at capacity for each meeting, and they are fully booked three months in advance. A special thanks to all the people that make these presentations possible. Members are very appreciative of this and PHIP continues to receive very positive feedback after each presentation.

BOARD OPTIONS

The Board may:

1. Pass a motion to “approve the proposed PHIP contract renewals, benefits, and rates for 2018 as presented.”
2. Direct staff to make changes to these terms or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: PHIP terms are the results of an extensive, months-long process of engagement with our CHPs so further discussions or negotiations would jeopardize the development of materials and other member information needed for the plan renewal cycle this fall.

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

Attachment 1 - PERS Health Insurance Program Statistics

Attachment 2 - PERS Health Insurance Program Proposed 2018 Renewal Rates




PHIP Statistics

| Program Enrollment (March 2017) | Medicare | Non-Medicare Core & Select Value Plans | Totals |
|---|----------|--|--------|
| Covered Lives | 57,147 | 2,305 | 59,452 |
| Retirees (or surviving spouses) | 46,851 | 1,445 | 48,296 |
| Spouses/Dependents | 10,296 | 860 | 11,156 |
| Average Age of Enrolled Retirees | 75 | 57 | |

| Health Plan Membership Enrollment | | | |
|---|--------|---|-------|
| Medicare | | Non-Medicare (Core & Select Plans) | |
| Kaiser Permanente NW (Portland to Salem) | 9,860 | Kaiser Permanente NW (Portland to Salem) | 520 |
| Kaiser Permanente (No. California) | 33 | Kaiser Permanente (No. California) | 0 |
| Kaiser Permanente (So. California) | 31 | Kaiser Permanente (So. California) | 0 |
| Moda - Advantage (Oregon) | 7,980 | Moda | 715 |
| Moda - Supplement (all 50 States) | 25,249 | | |
| PacificSource | 1,220 | Pacific Source | 23 |
| Providence - Medicare Flex | 3,034 | Providence | 1,047 |
| Providence - Medicare Align | 9,740 | | |
| Dental | | Dental | |
| Kaiser Dental | 4,290 | Kaiser Dental | 293 |
| ODS/Delta Dental | 31,519 | ODS/Delta Dental | 1,440 |

| Statutory Health Insurance Premium Subsidies (March 2017) | |
|---|---------------------|
| Retirees Receiving RHIA | 44,804 |
| Retirees Receiving RHIPA | 1,189 |
| RHIA Monthly Payment - \$60 PMPM | \$2,688,240 |
| RHIPA Monthly Payment - \$245 (avg) PMPM | \$356,790 |
| Total Monthly Premium Paid to Health Plans | \$18,834,104 |

|  PHIP 2018 RENEWAL RATES 2018 vs. 2017 All Contracted Health Plan Rates <i>Including All Contracted Health Plan Administrative Fees</i> <i>Effective January 1, 2018</i> | | | | |
|--|--|-------------------------------|--|--|
| SUMMARY | | | | |
| <i>Rates shown are for 'Adult' only premium. Medical/RX rates do not include any subsidies</i> | Enrollment as of March 2017 | Current 2017 Rates | 2018 Proposed Renewal Rates | Percentage Change 2018 vs. 2017 |
| MODA HEALTH PLAN - MEDICAL / RX | | | | |
| <i>(Includes Fixed Costs)</i> | | | | |
| Adult w/Medicare - Supplement Plan | 25,249 | \$299.84 | \$303.09 | 1.1% |
| Adult w/Medicare - PPORX Plan | 7,980 | \$360.57 | \$410.47 | 13.8% |
| Adult w/o Medicare - Core Value Plan | 628 | \$934.00 | \$1,326.72 | 42.0% |
| Adult w/o Medicare - Select Value Plan | 87 | \$880.00 | \$1,245.25 | 41.5% |
| PROVIDENCE HEALTH PLANS - MEDICAL / RX | | | | |
| Adult w/Medicare - Align Plan | 9,740 | \$249.15 | \$288.84 | 15.9% |
| Adult w/Medicare - Flex Plan | 3,034 | \$215.37 | \$245.77 | 14.1% |
| Adult w/o Medicare - Core Value Plan | 568 | \$947.84 | \$1,035.35 | 9.2% |
| Adult w/o Medicare - Select Value Plan | 479 | \$799.94 | \$860.39 | 7.6% |
| PACIFICSOURCE COMMUNITY HEALTH PLANS - MEDICAL / RX | | | | |
| Adult w/Medicare - Essentials RX 803 Plan | 1,220 | \$310.70 | \$338.07 | 8.8% |
| Adult w/o Medicare - Core Value Plan | 16 | \$1,044.06 | \$1,226.77 | 17.5% |
| Adult w/o Medicare - Select Value Plan | 7 | \$879.38 | \$1,033.27 | 17.5% |
| KAISER PERMANENTE NW - MEDICAL / RX * | | | | |
| Adult w/Medicare - Sr. Advantage Plan | 9,860 | \$220.24 | \$226.87 | 3.0% |
| Adult w/o Medicare - Core Value Plan | 428 | \$821.00 | \$944.15 | 15.0% |
| Adult w/o Medicare - Select Value Plan | 92 | \$682.00 | \$784.30 | 15.0% |
| DENTAL | | | | |
| Kaiser Permanente NW Dental * | 4,583 | \$63.79 | \$64.35 | 0.9% |
| Delta Dental of Oregon Dental | 32,959 | \$63.15 | \$66.88 | 5.9% |

* Kaiser numbers include Oregon participants only



Economic Assumptions & Actuarial Methods

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

Presented by:

Matt Larrabee, FSA, EA

Scott Preppernau, FSA, EA

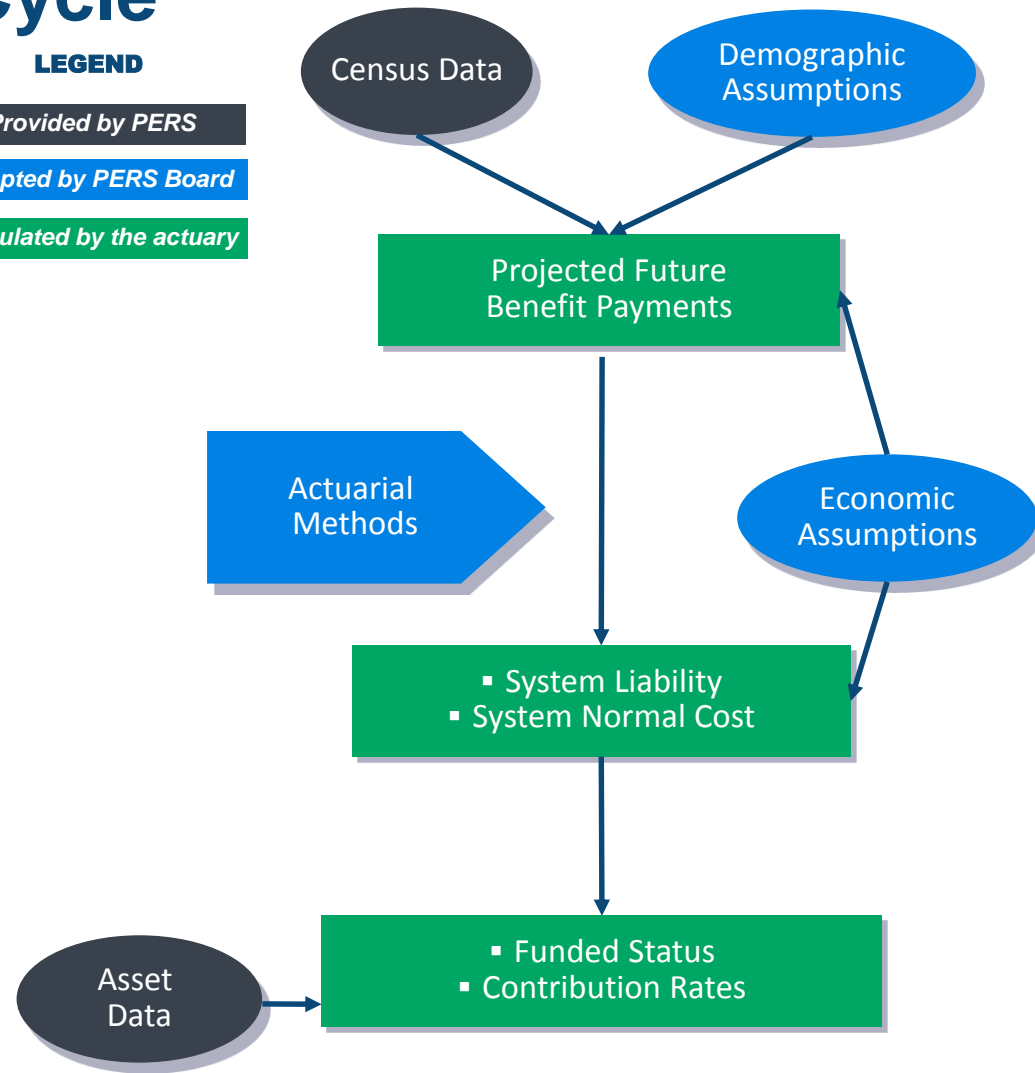
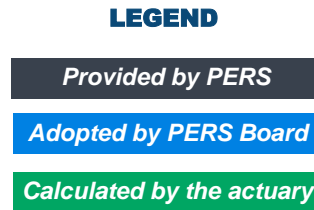
May 26, 2017

Agenda

- Review of non-investment economic assumptions
- Long-term investment return assumption
- Actuarial methods
 - Cost allocation method
 - UAL/shortfall amortization technique
 - Rate collaring

Two-Year Rate-Setting Cycle

- July 2017: Assumptions & methods adopted by Board in consultation with the actuary
- September 2017: System-wide 12/31/16 “advisory” actuarial valuation results
- November 2017: Advisory 2019-2021 employer-specific contribution rates
- July 2018: System-wide 12/31/17 “rate-setting” actuarial valuation results
- September 2018: Disclosure & adoption of employer-specific **2019-2021** contribution rates



Board Objectives - Methods & Assumptions

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

Some of the objectives can conflict, particularly in periods with significant volatility in investment return or projected benefit levels. Overall system funding policies should seek an appropriate balance between conflicting objectives.

The Fundamental Cost Equation

- Long-term program costs are the contributions, which are governed by the “fundamental cost equation”:

$$\mathbf{BENEFITS = EARNINGS + CONTRIBUTIONS}$$

Governance Structure

- Benefits:
 - Plan design set by Oregon Legislature
 - Subject to judicial review
- Earnings:
 - Asset allocation set by OIC
 - Actual returns determined by market
- Contributions:
 - Funding, including methods & assumptions, set by PERS Board
 - Since contributions are the balancing item in the fundamental cost equation, PERS Board policies primarily affect the **timing** of contributions
 - Different actuarial methods and assumptions produce different projected future contribution patterns



Review of Non-Investment Economic Assumptions

Assumptions to Be Reviewed

| | 12/31/2015 Valuation “Current” Assumptions |
|---------------------------------|---|
| Inflation | 2.5% |
| Real Wage Growth | <u>1.0%</u> |
| Payroll Growth | 3.5% |
| <u>Administrative Expenses:</u> | |
| - OPSRP | \$5.5 million |
| - Tier 1/ Tier 2 | \$33.0 million |

Economic Assumptions

Inflation

- The inflation assumption affects other assumptions, including payroll growth, investment return, and health care inflation
- Inflation can vary significantly over time
- One estimate of future inflation can be derived from yields of Treasury securities and Treasury Inflation Protected Securities (TIPS)
- Social Security’s current “intermediate cost” 30-year average inflation assumption is 2.61%
- In our opinion, the current assumption of 2.5% is reasonable

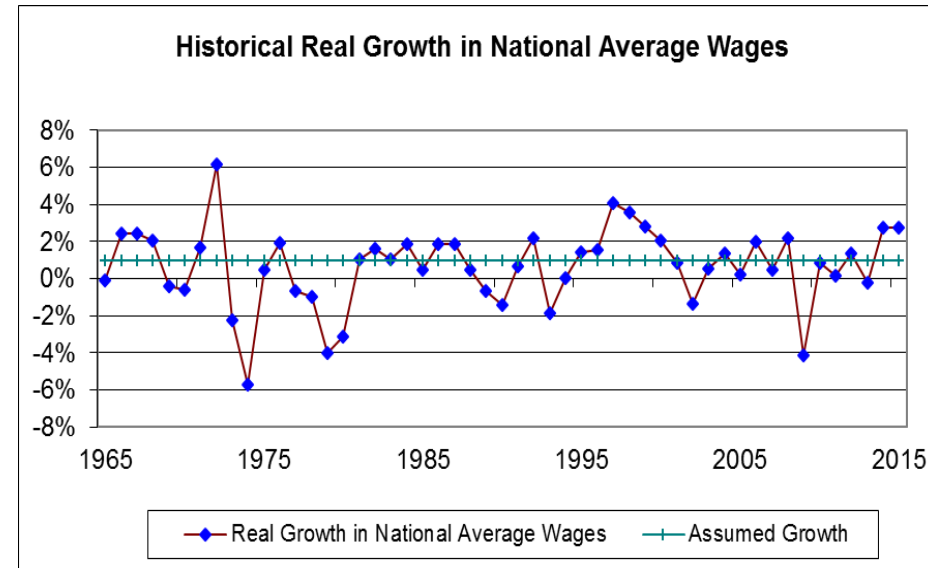
| Period Ending 12/31/2016 | Average Inflation |
|-----------------------------|----------------------|
| 10 years | 1.81% |
| 20 years | 2.12% |
| 30 years | 2.64% |
| 40 years | 3.62% |

| As of 12/31/2016 | 10 Year | 30 Year |
|----------------------------------|--------------|--------------|
| Treasury Yield | 2.45% | 3.06% |
| TIPS Yield | <u>0.50%</u> | <u>0.99%</u> |
| “Breakeven” Inflation | 1.95% | 2.07% |

Economic Assumptions

Real Wage Growth

- An individual member’s assumed annual salary increase is composed of:
 - Inflation
 - Real wage growth
 - Individual merit/longevity component
- Real wage growth represents the increase in wages in excess of inflation for the entire group due to improvements in productivity and competitive market pressures
- Social Security’s long-term “intermediate cost” real wage growth assumption is 1.2%
- In our opinion, the current assumption of 1.0% is reasonable



| Most Recently Available | Average Real Wage Growth |
|-------------------------|--------------------------|
| 10 Years | 0.80% |
| 20 Years | 1.18% |
| 30 Years | 0.93% |
| 40 Years | 0.67% |

Economic Assumptions

Payroll Growth

- Overall system payroll growth is assumed to equal the sum of:
 - Inflation
 - Real wage growth
- The system payroll growth assumption determines the shape of the curve of payments to amortize the unfunded liability
- Given that in our opinion both an inflation assumption of 2.5% and a real wage growth assumption of 1.0% are reasonable, the current payroll growth assumption of 3.5% is also reasonable in our opinion
 - Over the past ten years, average annualized system valuation payroll growth has been approximately 3.5%

Economic Assumptions

Administrative Expenses

- Actual administrative expenses for recent years are shown below

| (\$ millions) | Tier 1/Tier 2 | | OPSRP | |
|---------------|-----------------|-------------------------------|-----------------|-------------------------------|
| | Actual Expenses | % of Beginning of Year Assets | Actual Expenses | % of Beginning of Year Assets |
| 2012 | \$26.4 | 0.06% | \$5.3 | 0.63% |
| 2013 | \$29.6 | 0.06% | \$4.5 | 0.38% |
| 2014 | \$30.1 | 0.06% | \$5.0 | 0.30% |
| 2015 | \$31.5 | 0.06% | \$5.7 | 0.28% |
| 2016 | \$35.8 | 0.07% | \$5.9 | 0.25% |

- Overall, 2016 admin expenses were 0.08% of total assets
- Proposed assumed annual expenses for 2017 and 2018:

Tier 1/Tier 2: \$37.5 million
 OPSRP: \$6.5 million

Assumptions to Be Reviewed

| | 12/31/2015 Valuation Assumptions | 12/31/2016 Valuation Proposed* Assumptions |
|---------------------------------|----------------------------------|--|
| Inflation | 2.5% | 2.5% |
| Real Wage Growth | <u>1.0%</u> | <u>1.0%</u> |
| Payroll Growth | 3.5% | 3.5% |
| <u>Administrative Expenses:</u> | | |
| - OPSRP | \$5.5 million | \$6.5 million |
| - Tier 1/Tier 2 | \$33.0 million | \$37.5 million |

No explicit assumption is made for investment-related expenses, which are accounted for implicitly in the analysis of the long-term investment return assumption.

*No action is needed on “proposed” assumptions today, since all assumptions and methods will be adopted at the July 2017 Board meeting

Long-Term Investment Return Assumption

Long-Term Investment Return Assumption

- Uses of the investment return assumption
 - As a “discount rate” for establishing the:
 - Actuarial accrued liability, which is a net present value
 - Associated unfunded actuarial liability, also called the UAL or actuarial shortfall
 - Guaranteed crediting level for regular Tier 1 active member account balances
 - Annuitization rate for converting member account balances to lifetime money match monthly benefits



Reflecting expectations for both investment earnings and benefit levels for certain members, the assumption helps set a reasonable and appropriate budgeting glide path for projected employer contribution rates

Investment Return Estimates

- To assist the Board, we developed return estimates based on capital market outlook assumptions from four sources and an industry standard mean/variance model
 - Milliman
 - Callan – Consultant to OIC
 - Pension Consulting Alliance (PCA) – Consultant to OIC
 - 2016 Horizon survey of capital market assumptions (survey of 35 advisors)
- Estimates do not reflect any possible “alpha” due to selected managers potentially outperforming market benchmarks over the long term, net of fees
- Today’s speakers are not credentialed investment advisors
 - We are presenting Milliman capital market outlook model results based on assumptions developed by Milliman’s credentialed investment professionals

Details on each set of capital market outlook assumptions are in the Appendix

Investment Return Estimates

- Capital market outlooks change over time
 - Milliman outlook updated every six months
 - Recent changes and key factors shown below for Milliman model of PERS asset allocation

| Milliman 20-year outlook | May 2015 | Nov 2016 | May 2017 |
|---------------------------------|--------------|--------------|--------------|
| Median Annualized Return | 6.99% | 6.84% | 6.70% |
| US Public Equity | 6.74% | 6.38% | 6.36% |
| Private Equity | 7.97% | 7.68% | 7.82% |
| US Core Fixed Income | 4.00% | 4.08% | 3.49% |
| US Short-term Bonds | 3.61% | 3.55% | 3.38% |
| Real Estate | 5.84% | 5.68% | 5.51% |

Asset category returns shown above are 20-year annualized geometric mean returns

Investment Return Estimates

- Estimates are based on OIC’s target long-term asset allocation
 - Current actual allocation differs somewhat from the target allocation
- Callan, PCA, and Horizon estimates are calibrated over a shorter investment timeframe than Milliman’s estimates
 - Also reflect lower level of assumed inflation

| | Milliman | Callan | PCA | Horizon |
|---------------------------------|-----------------|---------------|--------------|----------------|
| Median Annualized Return | 6.70% | 7.05% | 7.40% | 7.24% |
| Assumed Inflation | 2.50% | 2.25% | 2.25% | 2.16% |
| Timeframe Modeled | 20 years | 10 years | 10 years | 10 years |

The median returns shown above are geometric annualized average returns over the timeframes indicated above for each provided set of capital market assumptions

Effects of Lowering the Assumed Return

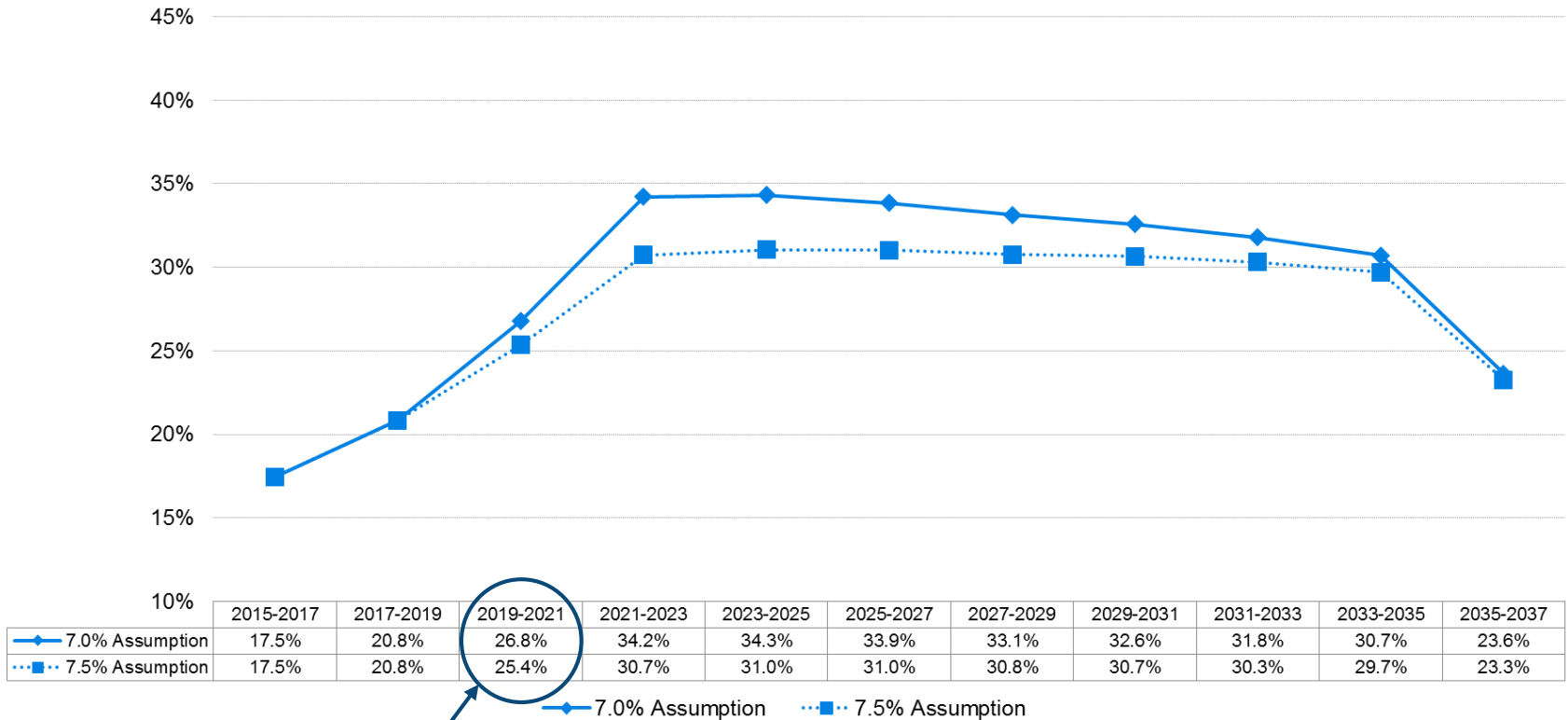
- A lower investment return assumption would produce higher calculated liabilities and contribution rates
- Liabilities are net present values, as of the valuation date, of a benefit payment projection that stretches far into the future
 - Changing the assumption modifies the projected balance of the fundamental cost equation between future investment earnings and future contributions
 - The actual balance will depend on actual investment earnings, not on the assumed return adopted by the PERS Board
 - The effect of lowering the assumed return to 7.00% is estimated as a 3.5% of payroll increase (or 1.8% of payroll increase at a 7.25% assumption) in the uncollared system average base employer contribution rate
- For PERS, such an assumption change would also lower benefits for future retirements calculated under Money Match
 - From “PERS by the Numbers”, in 2016 the Money Match formula determined benefits for 34% of retirees (typically long-service General Service members)
 - Illustration for a hypothetical Tier 1 member shown in Appendix

Financial Modeling & The Return Assumption

- Milliman prepared additional financial modeling projections, building on work from the November 2016 Board meeting
- Includes projections under both:
 - 7.5% investment return assumption (as presented in November 2016)
 - 7.0% investment return assumption (as requested for subsequent analysis)
- Results are illustrative, not presuming a specific Board decision on investment return assumption
- See November 2016 Board materials for discussion of modeling basis and assumptions

Actual Return 7.0%; Assumption either 7.0% or 7.5% Employer Contribution Rates

System Average Employer Collared Base Pension Rates

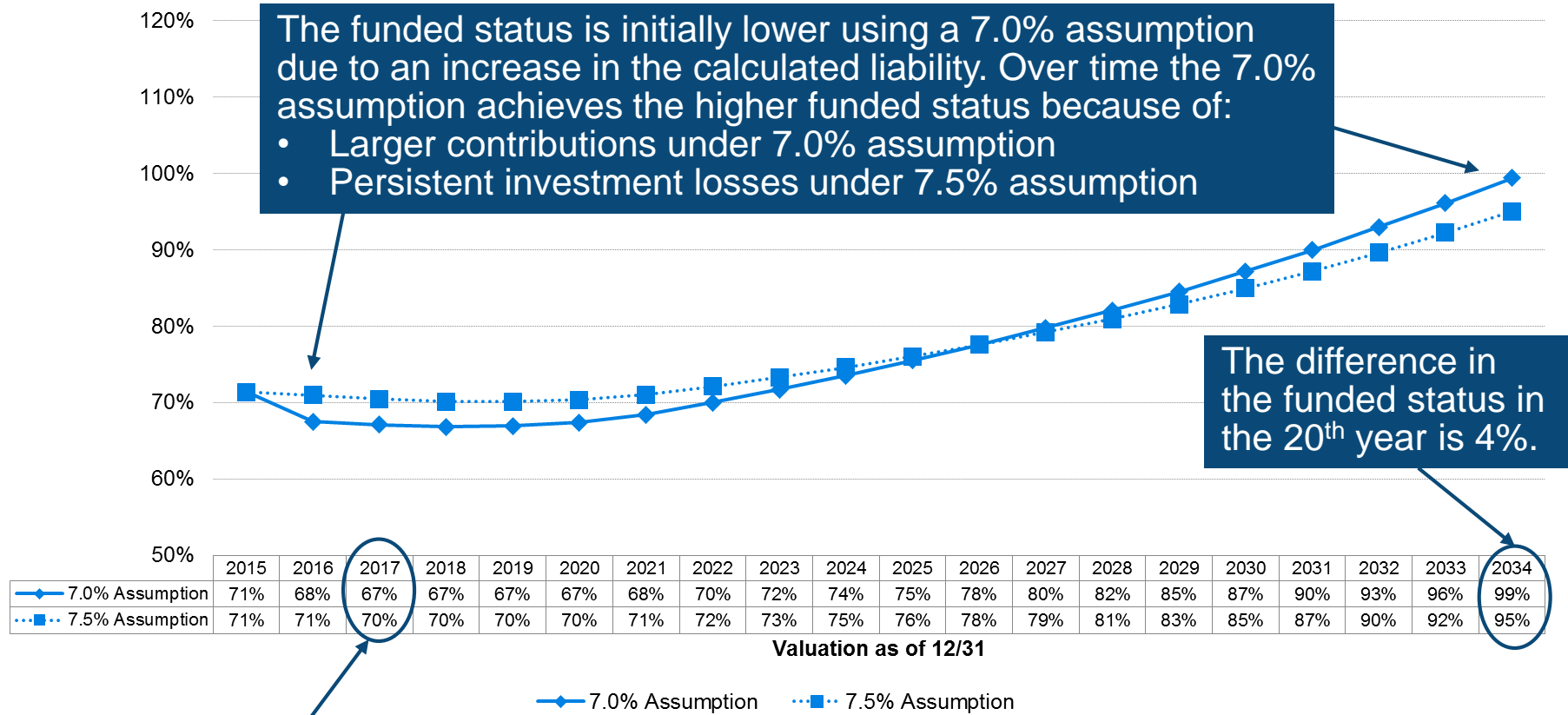


Contribution rates for 2019-2021 will be calculated in the rate-setting actuarial valuation as of year-end 2017, summary results of which will be presented to the Board in July 2018.

Actual Return 7.0%; Assumption either 7.0% or 7.5%

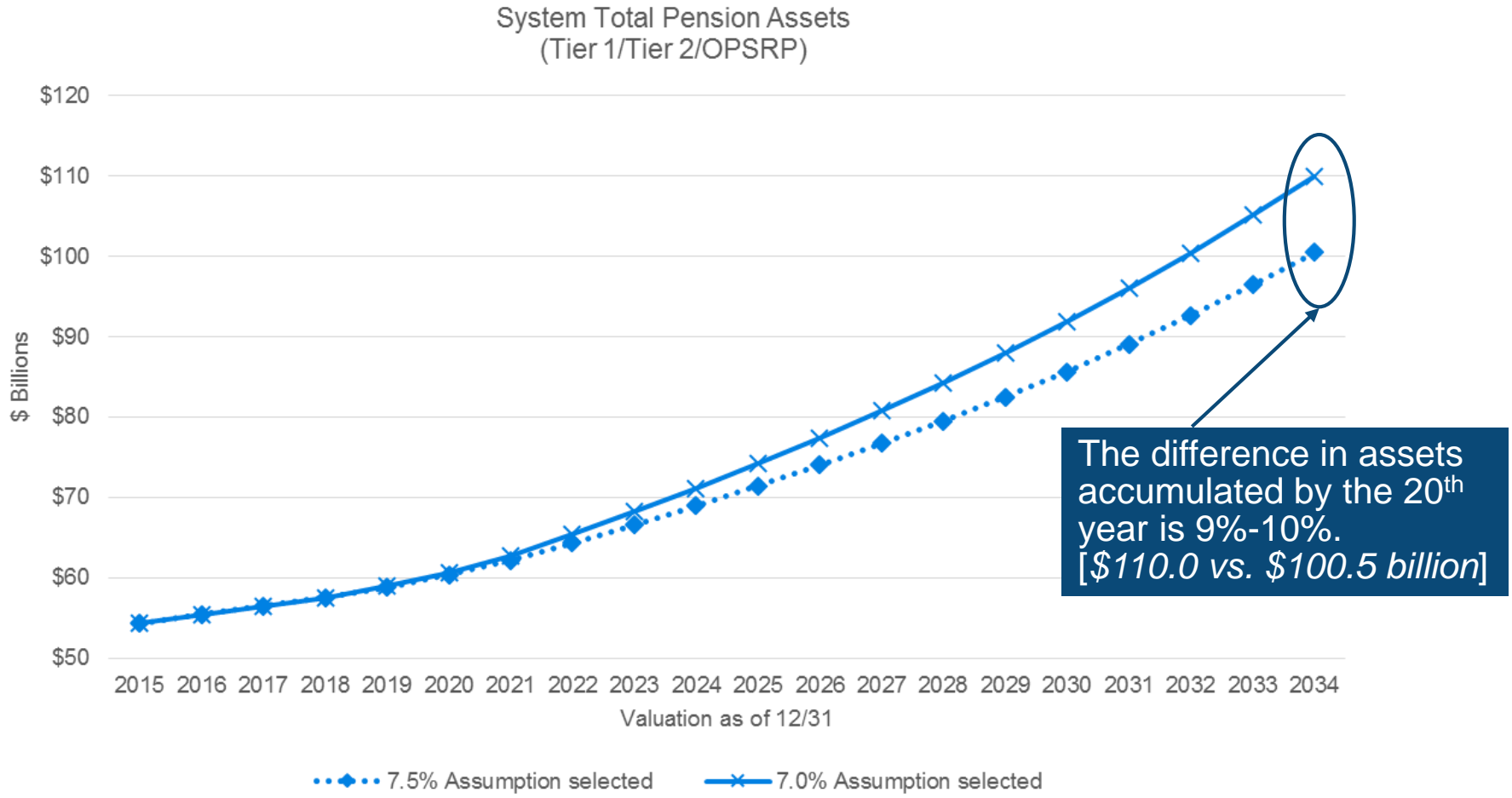
Year-End Funded Status

System Average Funded Status (Excluding Side Accounts)



The year-end 2017 valuation will calculate 2019-2021 rates. The largest potential variability source from the above projections is likely to be actual investment returns through year-end 2017. For example, actual 2017 return differing from assumption by +/-5% would modify funded status by 3%-4%.

Actual Return 7.0%; Assumption either 7.0% or 7.5% Valuation Assets (Excluding Side Accounts)



GASB and Actuarial Assumptions

- GASB Statements 67 & 68 require financial reporting actuarial assumptions to follow Actuarial Standards of Practice (ASOPs)
- Under ASOPs, if a selected assumption “*significantly conflicts*” with what the actuary considers reasonable, the actuary must make a statement to this effect in the report
- GASB recently published Statement 82 amending (or clarifying) how GASB 67 & 68 apply in such a situation
 - Per GASB 82, employer financial reporting produced using a disclaimed assumption might not be considered GAAP-compliant
- Assumptions requiring disclaimer language could lead to:
 - Need for second set of results on different assumption basis, or
 - Potential for modified audit opinions

Wrap-up & Next Steps on the Return Assumption

- In our opinion, the long-term future investment return assumption should be lowered based on the current data from the capital market outlook models, review of the guiding principles, and our perspective regarding Actuarial Standards of Practice
- At the July meeting, we will ask the Board to adopt an assumption for use in the upcoming valuation

Actuarial Methods

Key Actuarial Methods

| | 12/31/2015 Valuation Methods | 12/31/2016 Valuation Proposed* Methods |
|-------------------------------|--|--|
| Cost Allocation Method | Entry Age Normal | No change |
| Shortfall Amortization Method | Level percent of pay, layered fixed periods: Tier 1/Tier 2: 20 years OPSRP: 16 years RHIA/RHIPA: 10 Years | No change |
| Rate Collar | Limits change in based contribution rate to larger of 20% of current rate or 3.00% of payroll; Collar widens incrementally when funded status below 70% | No change |

*No action is needed on “proposed” methods today, since all assumptions and methods will be adopted at the July 2017 Board meeting

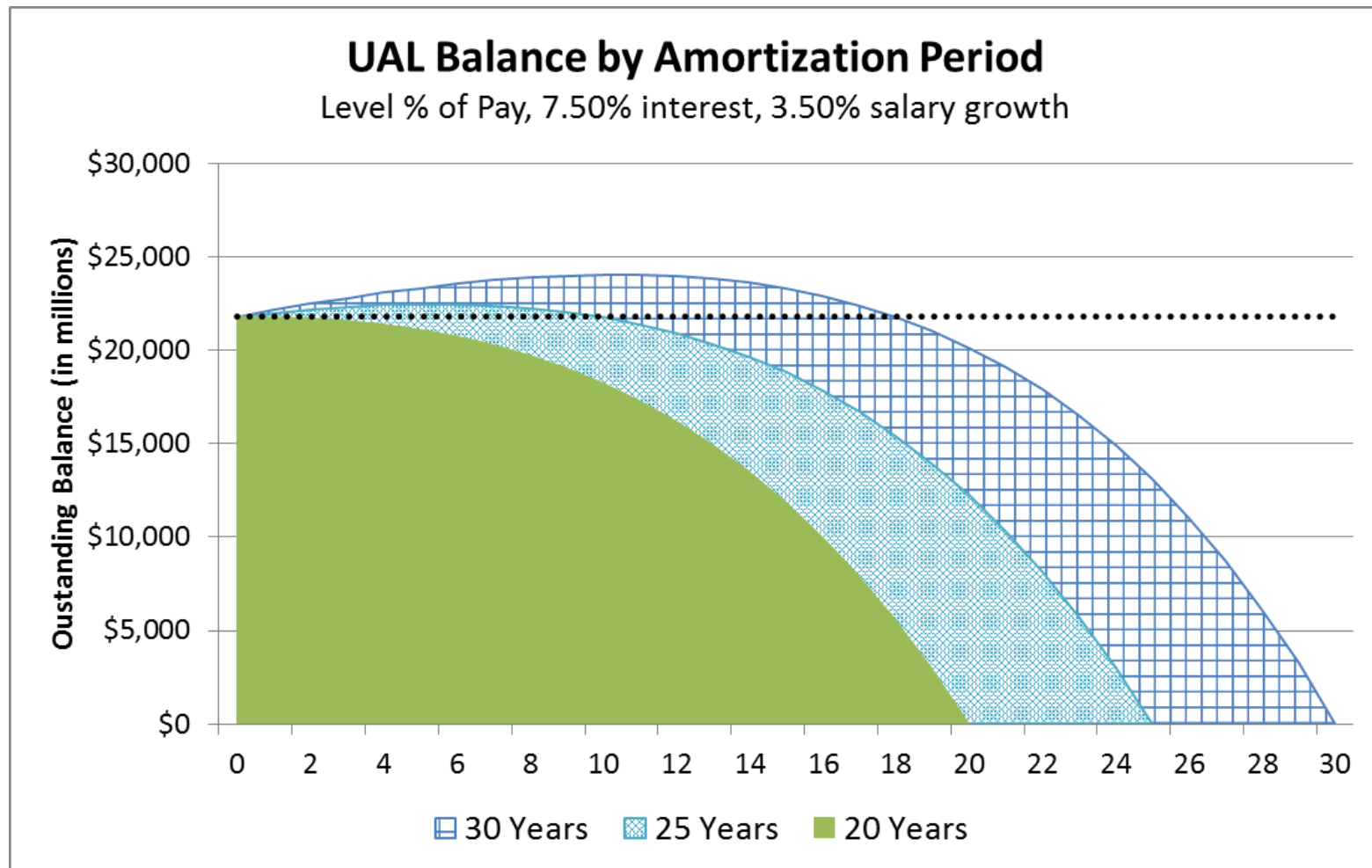
Cost Allocation Method

- Rates are calculated to pre-fund retirement benefits during a member's working career if all assumptions are met
- The present day value of projected future benefits allocated to a particular working year is the Normal Cost
- The present day value of projected future benefits allocated to prior years is the Accrued Liability
- The division between past, current & future service is done through use of an actuarial cost allocation method
- PERS currently uses GASB-compliant cost allocation method of Entry Age Normal (EAN)
 - We recommend no change to the cost allocation method

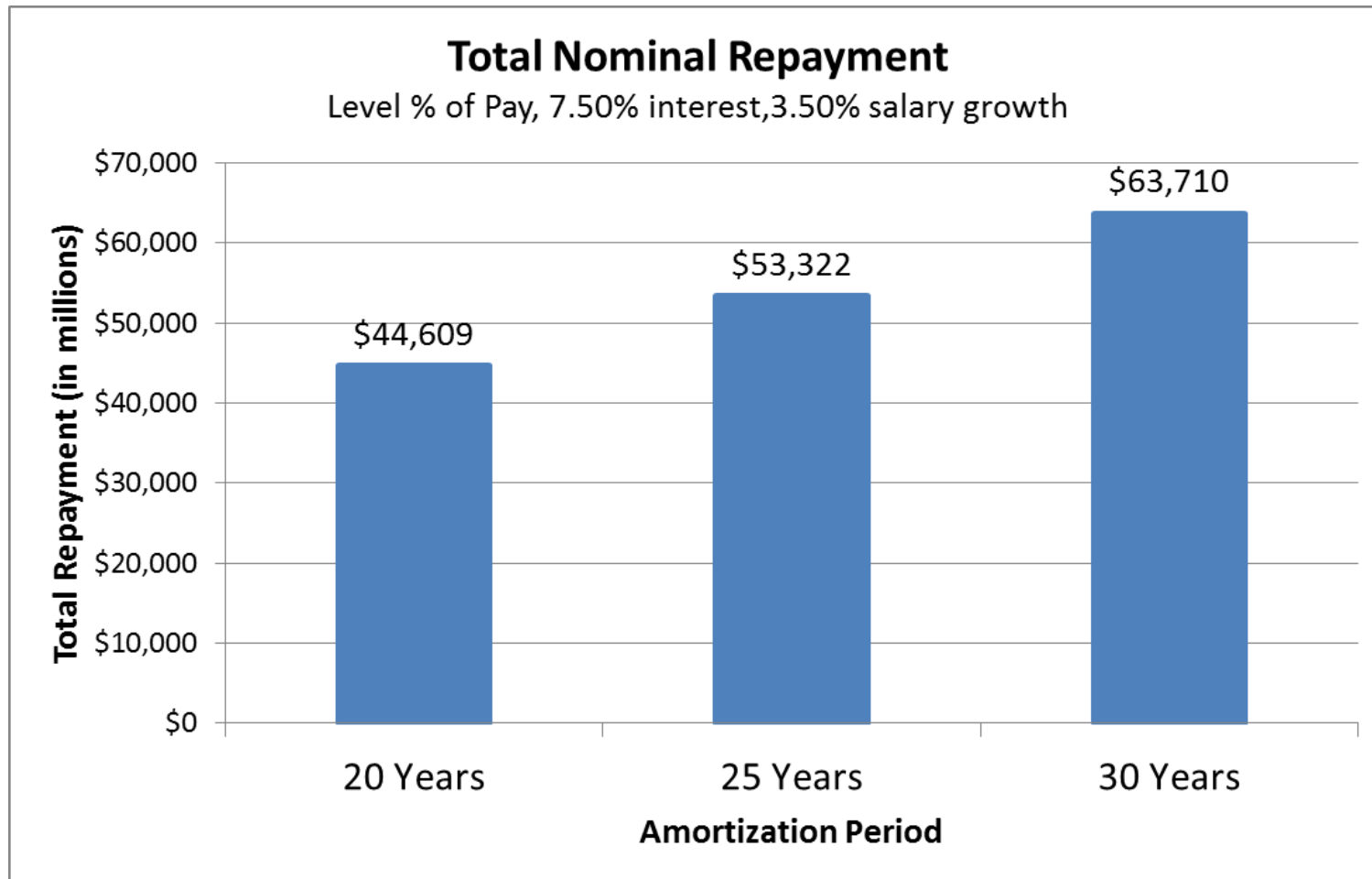
Shortfall Amortization Periods

- A key part of contribution rate calculations is amortization of Tier 1 / Tier 2 shortfalls over twenty years as a level percentage of payroll
 - As part of changes made in a prior experience study, UAL as of December 31, 2013 was re-amortized over twenty years
 - Subsequent gains or losses, including loss as of December 31, 2015, amortized over twenty years from the rate-setting valuations in which they are recognized
- Twenty years avoids significant negative amortization, where shortfall actually increases in the initial “pay down” years even if assumptions are met and contributions are made
 - The following slide illustrates pay down of a \$22 billion shortfall over periods of 20, 25 or 30 years at current assumptions

Shortfall Amortization Periods



Shortfall Amortization Periods



The Rate Collar

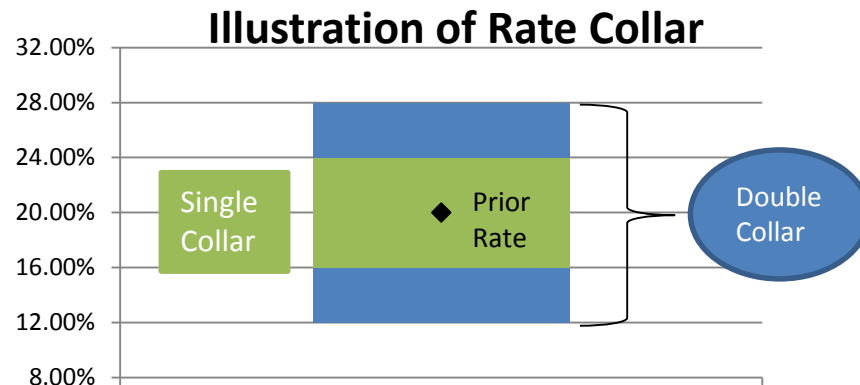
- In 2005, the Board adopted an employer contribution rate smoothing method called the “rate collar”
- After a major change in unfunded actuarial liability (UAL), the difference between the current contribution rate and the updated actuarially calculated rate can be large
 - The rate collar is a formulaic approach that spreads large employer contribution rate changes systematically across several biennia
- It allows employers to see both:
 - An advanced estimate of the maximum base rate change per biennium
 - The currently estimated long-term (20-year) contribution rate on a current market value of assets basis

Rate Collaring

- The rate collar approach has three steps:
 - Calculate shortfall based on fair market asset values (excluding side accounts)
 - Calculate the actuarially determined UAL Rate based on shortfall amortization period and other key assumptions
 - Check the calculated overall rate (Normal Cost Rate plus UAL Rate) against the contribution rate currently in effect
 - If the actuarial rate change is too large, part of the calculated increase is “collared” and deferred to subsequent periods
 - The UAL Rate actually charged to employers is adjusted downward to reflect the rate collar’s effects

The Rate Collar's Current Design

- The maximum change typically permitted by the collar is:
 - 20% of the rate currently in effect (3% of payroll minimum collar width)
- If funded status is 60% or lower, the width of the collar doubles
 - 40% of rate currently in effect (6% of payroll minimum collar width)
- If the funded status is between 60% and 70%, the collar size is pro-rated between the initial collar and double collar level



- Collars are calculated at a rate pool level and limit the biennium to biennium increase in the UAL Rate for a given rate pool

Agenda for July Meeting

- Review demographic assumptions
- Adopt all methods and assumptions for use in:
 - December 31, 2016 “advisory” actuarial valuation that estimates 2019-2021 contribution rates
 - December 31, 2017 “rate-setting” actuarial valuation that sets recommended 2019-2021 contribution rates for PERS Board adoption

Caveats and Disclaimers

This presentation discusses actuarial methods and assumptions for use in the valuation of the Oregon Public Employees Retirement System (“PERS” or “the System”). For the most recent complete actuarial valuation results, including cautions regarding the limitations of use of valuation calculations, please refer to our formal Actuarial Valuation Report as of December 31, 2015 (“the Valuation Report”) published on September 27, 2016. The Valuation Report, including all supporting information regarding data, assumptions, methods, and provisions, is incorporated by reference into this presentation. The statements of reliance and limitations on the use of this material is reflected in the actuarial report and still apply to this presentation.

In preparing this presentation, we relied, without audit, on information (some oral and some in writing) supplied by the System’s staff, as well as capital market expectations provided by Callan and information presented to the Oregon Investment Council. This information includes, but is not limited to, statutory provisions, employee data, and financial information. We found this information to be reasonably consistent and comparable with information used for other purposes. The results depend on the integrity of this information. If any of this information is inaccurate or incomplete our results may be different and our calculations may need to be revised.

Milliman’s work product was prepared exclusively for Oregon PERS for a specific and limited purpose. It is a complex, technical analysis that assumes a high level of knowledge concerning PERS’ operations, and uses PERS’ data, which Milliman has not audited. It is not for the use or benefit of any third party for any purpose. To the extent that Milliman's work is not subject to disclosure under applicable public records laws, Milliman’s work may not be provided to third parties without Milliman's prior written consent. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work product. Any third party recipient of Milliman’s work product who desires professional guidance should not rely upon Milliman’s work product, but should engage qualified professionals for advice appropriate to its own specific needs.

The consultants who worked on this assignment are pension actuaries. Milliman’s advice is not intended to be a substitute for qualified legal or accounting counsel. The signing actuaries are independent of the plan sponsors. We are not aware of any relationship that would impair the objectivity of our work.

On the basis of the foregoing, we hereby certify that, to the best of our knowledge and belief, this report is complete and accurate and has been prepared in accordance with generally recognized and accepted actuarial principles and practices. We are members of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

Effects of Lowering the Assumed Return

- Lowering the assumption to either 7.00% or 7.25% would affect the Money Match calculation for a member age 59½ with a \$135,000 member account balance as of 6/30/2017 as shown:

| Benefit Commencement | Starting Benefit Under Assumed Rate | | |
|----------------------|-------------------------------------|---------|---------|
| | 7.50% | 7.25% | 7.00% |
| 7/1/2017 | \$1,971 | | |
| 12/1/2017 | \$2,040 | | |
| 1/1/2018 | | \$2,010 | \$1,965 |
| 3/1/2018 | | \$2,039 | \$1,993 |
| 6/1/2018 | | \$2,081 | \$2,033 |

- At a 7.00% assumption, it would take about six months without retirement for the December 2017 initial benefit level to be reached
 - At a 7.25% assumed return, it would take about three months
 - Illustration ignores Full Formula “floor”, which may mitigate any benefit decrease

Appendix

Actuarial Basis

Capital Market Assumptions - Milliman

For assessing the expected portfolio return under Milliman's capital market assumptions, we considered the Oregon PERS Fund to be allocated among the model's asset classes as shown below. This allocation is based on the Oregon Investment Council's Statement of Investment Objectives and Policy Framework for the Oregon PERS Fund, as revised December 3, 2014, and changes adopted in June 2015.

| | Annual Arithmetic Mean | 20-Year Annualized Geometric Mean | Annual Standard Deviation | Policy Allocation |
|---|------------------------|-----------------------------------|---------------------------|-------------------|
| US Large/Mid-Cap Equity | 7.45% | 6.30% | 16.25% | 15.75% |
| US Small Cap Equity | 8.49% | 6.69% | 20.55% | 1.31% |
| US Micro-Cap Equity | 9.01% | 6.80% | 22.90% | 1.31% |
| Non-US Developed Equity | 8.21% | 6.71% | 18.70% | 13.13% |
| Emerging Markets Equity | 10.53% | 7.45% | 27.35% | 4.13% |
| Non-US Small Cap Equity | 8.67% | 7.01% | 19.75% | 1.88% |
| Private Equity | 11.45% | 7.82% | 30.00% | 17.50% |
| US Core Fixed Income | 3.59% | 3.49% | 4.55% | 8.00% |
| US Short-Term Bonds | 3.42% | 3.38% | 2.70% | 8.00% |
| US Bank/Leveraged Loans | 5.34% | 5.09% | 7.50% | 3.00% |
| High Yield Bonds | 6.90% | 6.45% | 10.00% | 1.00% |
| Real Estate | 6.15% | 5.51% | 12.00% | 10.00% |
| Global REITs | 8.26% | 6.37% | 21.00% | 2.50% |
| Timber | 6.37% | 5.62% | 13.00% | 1.88% |
| Farmland | 6.90% | 6.15% | 13.00% | 1.88% |
| Infrastructure | 7.54% | 6.60% | 14.65% | 3.75% |
| Commodities | 5.43% | 3.84% | 18.95% | 1.88% |
| Hedge Fund of Funds - Diversified | 4.36% | 4.09% | 7.80% | 2.50% |
| Hedge Fund Event-Driven | 6.21% | 5.86% | 8.90% | 0.63% |
| US Inflation (CPI-U) | | 2.50% | 1.85% | N/A |
| Fund Total (reflecting asset class correlations) | 7.48% | 6.74%* | 12.97% | 100.00% |

* Reflects 0.10% average reduction to model passive investment expenses. The model does not try to assess the actual investment expenses for active management. The model's 20-year annualized geometric median is **6.70%**.

Appendix

Actuarial Basis

Capital Market Assumptions - Callan

For assessing the expected portfolio return under Callan's capital market assumptions, we applied the assumptions shown below provided by Callan.

| | 10-Year Annualized Geometric Mean | Annual Standard Deviation | Policy Allocation |
|---|--|--------------------------------------|------------------------------|
| Large Cap Equity | 6.68% | 17.40% | 15.38% |
| Small/Mid Cap Equity | 7.04% | 22.60% | 3.00% |
| Emerging Markets Equity | 7.24% | 27.45% | 4.50% |
| Global ex-US Equity | 6.98% | 21.00% | 12.75% |
| International Small Cap Equity | 7.00% | 24.30% | 1.88% |
| OIC Private Equity | 9.50% | 26.30% | 17.50% |
| US Fixed Income | 2.98% | 3.75% | 20.00% |
| Diversifying Strategies | 6.25% | 11.00% | 5.00% |
| OIC Real Assets | 6.60% | 15.00% | 20.00% |
| Inflation | 2.25% | 1.50% | N/A |
| Fund Total (reflecting asset class correlations) | 7.15%* | 14.11% | 100.00% |

* 10-year annualized geometric median is **7.05%**.

Appendix

Actuarial Basis

Capital Market Assumptions - PCA

For assessing the expected portfolio return under PCA's capital market assumptions, we applied the assumptions shown below provided by PCA in their April 26 presentation to OIC.

| | 10-Year Annualized Geometric Mean | Annual Standard Deviation | Policy Allocation |
|---|--|----------------------------------|--------------------------|
| Global Equity | 7.15% | 20.00% | 37.50% |
| Private Equity | 8.50% | 27.00% | 17.50% |
| OIC Real Estate | 7.90% | 21.00% | 12.50% |
| OIC Fixed Income | 2.90% | 7.70% | 20.00% |
| OIC Liquid Alternatives | 6.10% | 14.00% | 6.00% |
| OIC Illiquid Alternatives | 6.80% | 14.90% | 6.50% |
| Inflation | 2.25% | 1.50% | N/A |
| Fund Total (reflecting asset class correlations) | 7.49%* | 13.51% | 100.00% |

* 10-year annualized geometric median is 7.40%.

Appendix

Actuarial Basis

Capital Market Assumptions - Horizon

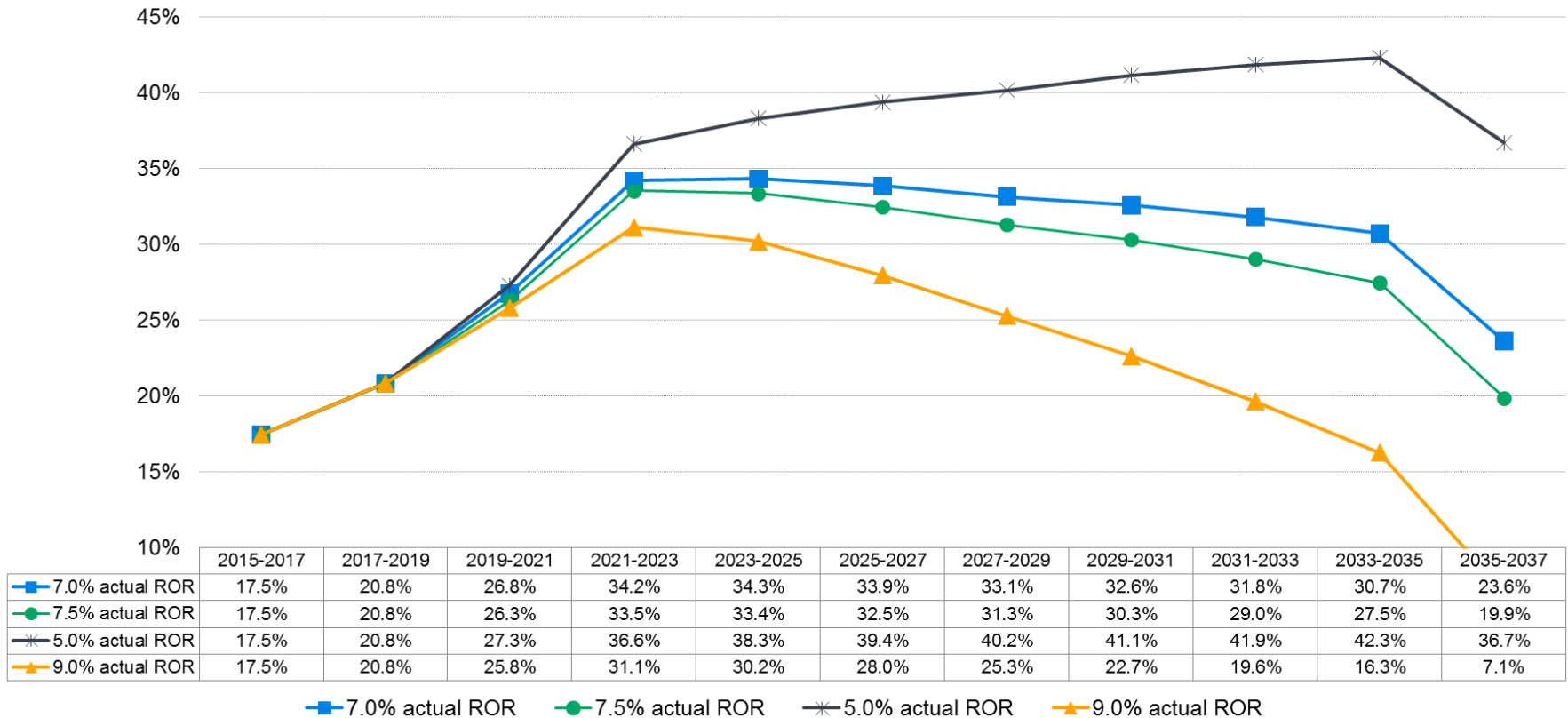
For assessing the expected portfolio return under an additional set of capital market assumptions, we applied the assumptions from the 2016 Survey of Capital Market Assumptions published by Horizon Actuarial Services, LLC. According to the survey report, the 10-year return assumptions shown below represent an average of the expectations for 35 investment advisors responding to the survey.

| | 10-Year Annualized Geometric Mean | Annual Standard Deviation | Policy Allocation |
|---|--|----------------------------------|--------------------------|
| US Equity – Large Cap | 6.64% | 16.92% | 15.75% |
| US Equity – Small/Mid Cap | 7.00% | 21.01% | 5.13% |
| Non-US Equity – Developed | 7.12% | 19.50% | 15.00% |
| Non-US Equity – Emerging | 8.48% | 26.35% | 4.13% |
| US Corporate Bonds – Core | 3.41% | 5.96% | 12.00% |
| US Corporate Bonds – High Yield | 5.90% | 11.01% | 4.00% |
| US Treasuries (Cash Equivalents) | 2.14% | 2.79% | 4.00% |
| Real Estate | 6.36% | 14.74% | 13.75% |
| Hedge Funds | 5.41% | 8.39% | 3.13% |
| Commodities | 3.98% | 18.50% | 1.88% |
| Infrastructure | 6.59% | 13.78% | 3.75% |
| Private Equity | 9.22% | 23.12% | 17.50% |
| Inflation | 2.16% | 1.78% | N/A |
| Fund Total (reflecting asset class correlations) | 7.31%* | | 100.00% |

* 10-year annualized geometric median is 7.24%.

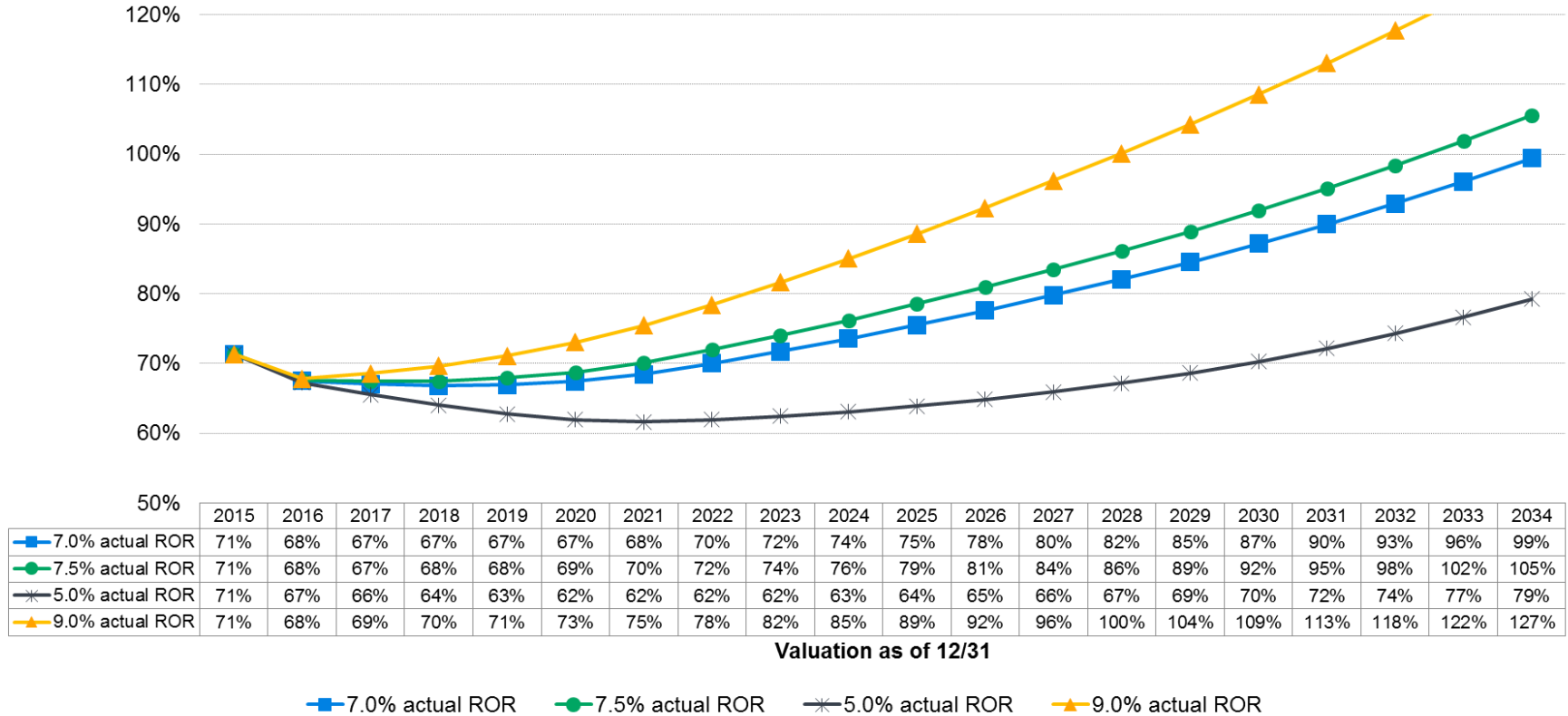
Financial Modeling: 7.0% Return Assumption

System Average Employer Collared Base Pension Rates



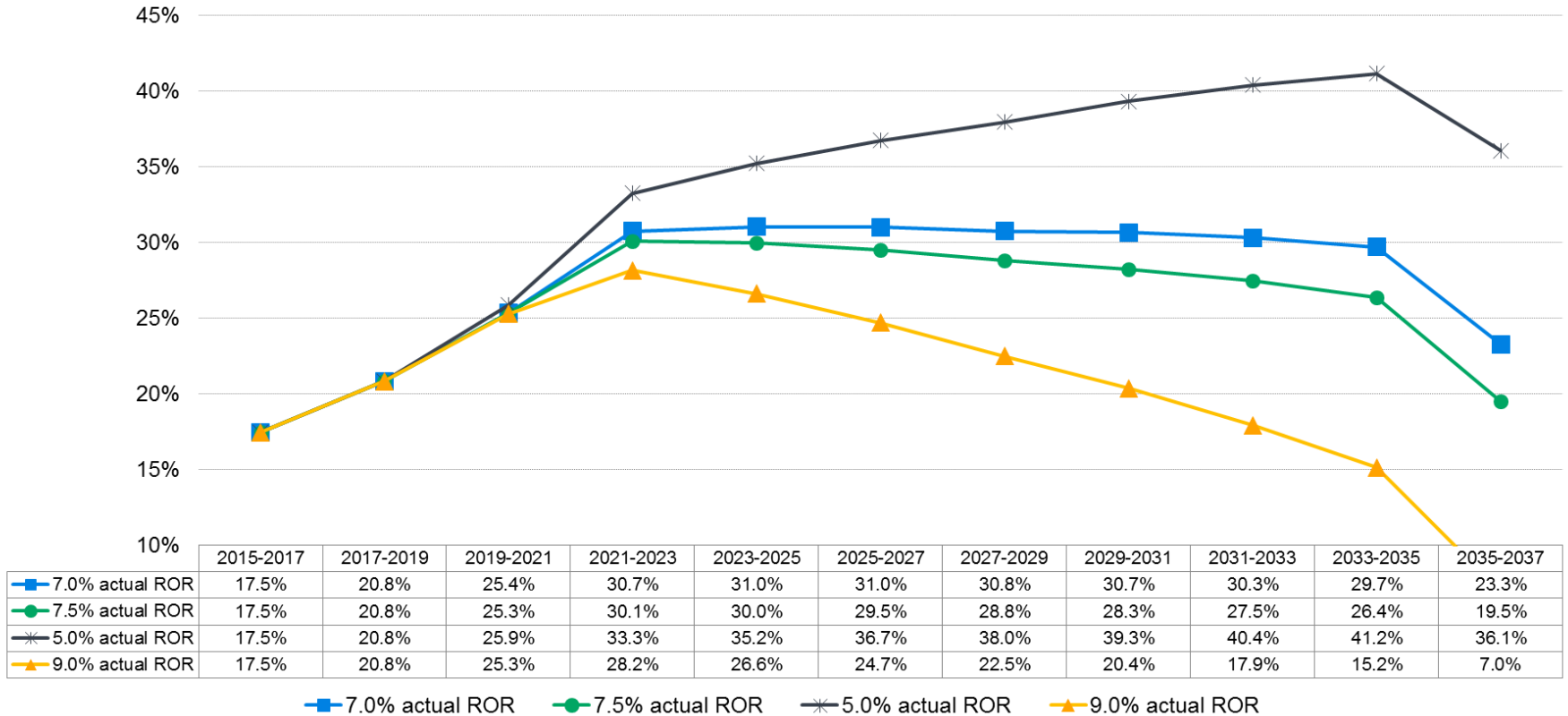
Financial Modeling: 7.0% Return Assumption

System Average Funded Status (Excluding Side Accounts)



Financial Modeling: 7.5% Return Assumption

System Average Employer Collared Base Pension Rates



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Financial Modeling: 7.5% Return Assumption

System Average Funded Status (Excluding Side Accounts)

