



OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

BOARD MEETING AGENDA

Friday March 28, 2022 9:00 A.M.		PERS 11410 SW 68 th Parkway Tigard, OR
ITEM		PRESENTER
A. Administration		
1.	January 31, 2022 Board Meeting Minutes	SHENOY
2.	Director's Report	OLINECK
	a. Forward-Looking Calendar	
	b. OPERF Investment Report	
	c. Budget Execution Report	
3.	Oregon Public Employees Retirement Fund (OPERF) Performance Review	KIM
4.	Oregon Savings Growth Plan Report Out	LARSEN
B. Administrative Rulemaking		
1.	Notice of Death and Survivor Benefits Rule	VAUGHN
2.	Notice of Employer Incentive Fund Program Rule	
3.	Second Reading of Rules to Implement SB 112	
4.	Adoption of Oregon Savings Growth Plan Rules	
5.	Adoption of Salary and Contribution Limits Rules	
6.	Adoption of Document Submission Requirements Rules	
C. Action and Discussion Items		
1.	Final 2021 Earnings Crediting and Reserving	HORSFORD, MARBLE
2.	SB 1049 Implementation Update	ELLEDDGE-RHODES
3.	Review of 2022 Legislative Session	CASE
4.	Legislative Concept Proposals – 2023 Session	CASE
5.	2023-2025 Budget Development Update	HORSFORD, GABRIEL
6.	Equal to or Better Than Testing Update	WINSHIP

PERS Board members will be attending this meeting remotely. The public will not be able to attend the meeting in person. Visit <https://www.oregon.gov/pers/Pages/Board/PERS-Board-Information.aspx> for listening options. This meeting will be recorded. An audio recording of the meeting will be available on the PERS website following the meeting.

Public testimony will be taken on action items at the Chair's discretion.
Please submit written testimony to PERS.Board@state.or.us (three days in advance of the meeting is preferred.)

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

2022 Meetings: May 27, July 22*, September 30, December 2*
*Audit Committee planned for post-Board meeting

Administration

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3. Oregon Investment Council Performance Review
4. Oregon Savings Growth Plan Report Out

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING MINUTES

January 31, 2022

Board members present:

Chair Sadhana Shenoy, Vice Chair Lawrence Furnstahl, Jardon Jaramillo, Stephen Buckley, and John Scanlan attended virtually.

Staff present:

Kevin Olineck, Amanda Marble, Anne Marie Vu, Chris Geier, Daniel Rivas, El Rossman, Heather Case, Jake Winship, Janice Ness, Janice Richards, Jason Stanley, Jonathan Yost, Jordan Masanga, Katie Brogan, Katie Davis, MaryMichelle Sosne, Matthew Graves, Melanie Chandler, Neil Jones, Phuongnam Tran, Richard Horsford, Susie Bodman, Sam Paris, Shawn Harper, Stephanie Vaughn, Yong Yang and Yvette Elledge-Rhodes attended virtually.

Others present:

Matt Larrabee, Scott Preppernau, Aruna Masih, Cari Pickett, Carol Samuels, Christina Dannenbring, Craig Ashford, David Randall, Deborah Tremblay, Gabby Hansen, Gay Lynn Bath, Jake Arnold, Jan Lewis, Jeff Gudman, Jeffrey Krueger, Jennifer Jones, Joan Ashworth-Wulf, John Kevin Balaod, Joseph Gymkowski III, Kady Strode, Karl Koenig, Kristi Jenkins, Leticia Monjaras, Lynn Tran, Maurizio Bottalico, Megan Mumey, Michelle Lisper, Michiru Farney, Nancy Brewer, Nate Carter, Peter Wong, Rex Kim, Robert Burket, Sam Hutchison, Shauna Tobiasson, Tan Cao, Ted Scheinman, Tim Collier, Tom Crawford, Tosha Bock, and Valerie Stoney attended virtually.

Chair Shenoy called the meeting to order at 9:02 a.m.

ADMINISTRATION

A.1. MEETING MINUTES OF DECEMBER 3, 2021

Vice Chair Furnstahl moved to approve the minutes as presented from the December 3, 2021, PERS Board meeting. Board Member Buckley seconded the approval of the minutes. The motion passed unanimously.

A.2. DIRECTOR'S REPORT

Director Kevin Olineck presented the Director's Report. The Director's Report contains information on other activities that the organization is working on that do not appear on the agenda.

Olineck presented the forward-looking calendar. The dates for the 2022 meetings are included on the calendar with a scheduled start time of 9:00 a.m. Audit Committee dates also are listed. The Oregon Investment Council meeting noted on September 7 may be a joint meeting but that is still to be confirmed.

The Oregon Public Employees Retirement Fund (OPERF) returns, for the period ending December 31, 2021, were 20.05%.

Operating expenditures for November, December, and preliminary expenditures for January are \$4,135,005, \$4,477,216, and \$5,353,453 respectively.

Through January 9, 2022, the agency has expended a total of \$29,381,120 or 23.8% of PERS' legislatively approved operations budget of \$123,378,866. At this time, the agency's projected variance is \$1,884,337.

Olineck reviewed the meeting agenda. Chair Shenoy provided comments on the Director's Report.

Jason Stanley, Chief Compliance Audit and Risk Officer, presented the transactions of PERS Director Kevin Olineck for the period of July 1, 2020, through June 30, 2021 (Item A.2.d.). This is an annual report required by the Oregon Accounting Manual. There were no unusual or inappropriate transactions.

On behalf of the board, Chair Shenoy acknowledged receipt of the Annual Report of Director's Financial Transactions.

ADMINISTRATIVE RULEMAKING

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

B.1. NOTICE OF OREGON SAVINGS GROWTH PLAN RULES

Vaughn presented notice of Rulemaking of Oregon Savings Growth Plan (OSGP) rules: OAR 459-050-0001, Definitions, OAR 459-050-0025, Deferred Compensation Advisory Committee, OAR 459-050-0030, Deferred Compensation Administrator, OAR 459-050-0037, Trading Restrictions, OAR 459-050-0050, Eligibility and Enrollment, OAR 459-050-0060, OSGP Designation of Beneficiary, OAR 459-050-0070, Catch-Up Programs, OAR 459-050-0072, Military Leave Catch-up, OAR 459-050-0075, Distributions During Employment, OAR 459-050-0077, Loan Program, OAR 459-050-0080, Distribution of Funds After a Severance of Employment, OAR 459-050-0150, Unforeseeable Emergency Withdrawal, and OAR 459-050-0240, Deferred Compensation Program Notifications.

A rulemaking hearing will be held remotely on February 22, 2022, at 2:00 p.m. The public comment period ends March 1, 2022, at 5:00 p.m.

No board action was required.

B.2. NOTICE OF SALARY AND CONTRIBUTION LIMITS RULES

Vaughn presented notice of Rulemaking for Salary and Contribution Limits Rules: OAR 459-005-0525, Ceiling on Compensation for Purposes of Contributions and Benefits, OAR 459-005-0545, Annual Addition Limitation, OAR 459-017-0060, Reemployment of Retired Members, OAR 459-080-0400, Employee Pension Stability Account (EPSA), and OAR 459-080-0500, Limitation on Contributions.

A rulemaking hearing will be held remotely on February 22, 2022, at 2:00 p.m. The public comment period ends March 1, 2022, at 5:00 p.m.

No board action was required.

B.3. NOTICE OF DOCUMENT SUBMISSION REQUIREMENTS RULES

Vaughn presented notice of Rulemaking for Document Submission Requirements Rules: OAR 459-005-0210, Transmittal of Reports and Documents, and OAR 459-001-0010, Filing Papers (repeal).

A rulemaking hearing will be held remotely on February 22, 2022, at 2:00 p.m. The public comment period ends March 1, 2022, at 5:00 p.m.

No board action was required.

B.4. FIRST READING OF RULES TO IMPLEMENT SB 112

Vaughn presented First Reading of Rules to Implement SB 112 (2021): OAR 459-005-0020, Determination of Employee or Non-Employee Status, OAR 459-010-0030, Determination of Employee Status (repeal), and OAR 459-010-0032, Determination of Independent Contractor Status (repeal). PERS will continue working with stakeholder groups on this rulemaking.

The extended public comment period will end on March 7, 2022. The rules are scheduled to be brought before the PERS Board for adoption at the March 28, 2022 board meeting.

No board action was required.

B.5. ADOPTION OF 2021 LEGISLATIVE IMPLEMENTATION RULES

Vaughn presented adoption of Rules to Implement 2021 Legislation: OAR 459-005-0560, Required Minimum Distributions, Generally, OAR 459-009-0130, Employee Contributions for Prior Periods, OAR 459-013-0310, Payment of Increased Benefits under ORS 238.372 to 238.384, OAR 459-014-0045, Valid Request for Distribution of Pre-Retirement Death Benefits, and OAR 459-080-0020, Withdrawal of Individual Accounts.

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

Board Member Buckley moved to adopt the rules to implement 2021 legislation, as presented. Vice Chair Furnstahl seconded. The motion passed unanimously.

B.6. ADOPTION OF BENEFITS-IN-FORCE EARNINGS CREDITING RULE

Vaughn presented adoption of Benefits-In-Force Earnings Crediting Rule: OAR 459-007-0005, Annual Earnings Crediting.

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

Vice Chair Furnstahl moved to adopt the Benefits-In-Force earnings crediting rule, as presented. Board Member Jaramillo seconded. The motion passed unanimously.

ACTION AND DISCUSSION ITEMS

C.1. LEGISLATIVE PREVIEW/UPDATE

Heather Case, Senior Policy Advisor, presented.

Case provided an update on the 2022 legislative session and reporting requirements for the session. A preview of the 2023 legislative concepts was provided.

No board action was required.

C.2. SB 1049 IMPLEMENTATION UPDATE

Yvette Elledge-Rhodes, Deputy Director, presented.

Elledge-Rhodes reviewed the ongoing activities of the individual projects that make up the SB 1049 Implementation Program. She highlighted program activities that have been completed, or

are in process, since the last board meeting. PERS staff will continue to update the board as project implementation continues throughout the year.

Program health will remain in yellow status as Member Redirect is scheduled past the end of the 2021-2023 biennium. The open projects are in green status.

No board action was required.

C.3. SB 1566 REPORTING REQUIREMENTS

MaryMichelle Sosne, Actuarial Business Specialist, presented.

As required by Senate Bill 1566(2018), PERS filed a report with the Legislative Fiscal Office and the Joint Committee on Ways and Means, providing the status of the Employer Incentive Fund, the School Districts Unfunded Liability Fund, and the Unfunded Actuarial Liability Resolution Program as of December 2021.

No board action was required.

C.4. REPORTING AND FUNDING OVERPAYMENTS TO MEMBERS WITH DATA VERIFICATION

Sam Paris, Chief Operations Officer, and Amanda Marble, Financial Reporting Manager, presented about the funding issue created by overpayments to members with a completed data verification.

PERS has compiled and reviewed all accounts with an error in a locked data verification going back to 2011, identifying eight overpayments needing funding. Moving forward, PERS will be reporting any new overpayments to the board on an annual basis.

Vice Chair Furnstahl moved to authorize the transfer of Contingency Reserve funds to fund the overpayments, as listed, in the amount of \$48,513.79. Board Member Buckley seconded. The motion passed unanimously.

C.5. EQUAL TO OR BETTER THAN TESTING

Jake Winship, Actuarial Manager, presented.

Winship discussed the “equal to or better” (ETOB) study process for those police and fire employers who do not participate in PERS that are required to provide retirement benefits that are “equal to or better.”

Board Member Buckley moved to award the “equal to or better than” actuarial determination contract to Independent Actuaries, Inc. Board Member Scanlan seconded. The motion passed unanimously.

C.6. PRELIMINARY 2021 EARNINGS CREDITING AND RESERVING

Richard Horsford, Chief Financial Officer presented the preliminary rates for 2020.

Board Member Jaramillo moved to adopt the preliminary crediting of earnings as presented for calendar year 2021, subject to final adoption at the March 28, 2022 PERS Board meeting. Vice Chair Furnstahl seconded. The motion passed unanimously.

Staff will prepare and present the required report to the Joint Legislative Committee on Ways and Means. Any comments received from the committee will be presented to the board, prior to the final crediting decision, at its meeting on March 28, 2022.

C.7. VERBAL UPDATE REFLECTING ON EARNINGS THROUGH DECEMBER 31, 2021

Scott Preppernau and Matt Larrabee of Milliman presented a preliminary estimate of system-wide December 31, 2021 results, updated with year-end 2021 returns published by Oregon State Treasury.

Chair Shenoy adjourned the board meeting at 10:12 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin Olineck", is written over a light blue rectangular background.

Kevin Olineck, Director

Administration

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Director's Report

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

Kevin Olineck, Director



Overview

This Director's Report tries to encapsulate, at a high level, noteworthy changes that have taken place since the last board meeting, while highlighting staff accomplishments.

Ongoing efforts

Senate Bill (SB) 1049 Work on the Member Redirect and Technical Debt projects continues while the Work After Retirement project was formally closed out in late February. More detailed SB 1049 implementation reports on these and other projects will be provided in the board packet.

Reopening to the Public As noted in my January report, PERS was positioned to reopen to the public on January 3, however, reopening of state agencies was postponed. While we awaited a new reopen date, we

continued to prepare our workforce. We now know we will be reopening to the public on May 1.

Over the weekend of March 18, PERS staff moved from the Tualatin building to our headquarters in Tigard.

This means that, except for staff in our Salem office, all staff who will be working either on a full-time or hybrid basis will be doing so from the Tigard building. Work

will continue in the background to close out the Tualatin building over the remainder of the biennium.



On March 11, the statewide mask requirement was lifted and state employees working in state facilities were no longer required to wear a mask.

On April 1, the current mask and vaccine mandates will end. Consequently, all staff will be able to work in our offices without having to wear a mask, unless they so choose. Social distancing requirements have also been relaxed; however, we have set up permanent and hybrid workstations in a manner that allows for appropriate distancing between staff.





Highlights

The following are accomplishments that deserve to be highlighted, with staff publicly acknowledged for their efforts.

Agency initiatives and accomplishments

I want to continue to highlight where PERS staff have not only made great progress with standard operational processes, but also made significant progress on strategic initiatives. The following are undertakings that deserve to be highlighted, with staff publicly acknowledged for their efforts.

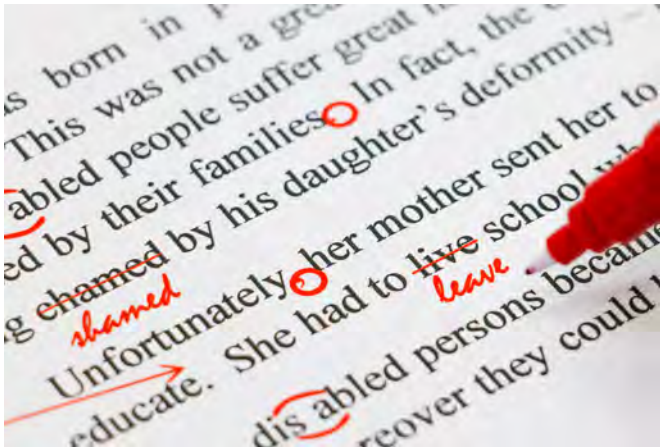
Production Data Center Migration This project has PERS migrating our servers, in a co-location model, to the State Data Center (SDC) in Salem. This is in alignment with state directives. After delays, primarily due to the worldwide chip shortage, as well as internal resource constraints, most of the new equipment was received, racked, and cabled at the SDC this past fall. Project tasks then slowed down during the fourth quarter of 2021 as resources focused on the Microsoft Office 365 migration. However, in early 2022, the team was able to have all next generation hardware and networking equipment physically installed at the SDC. Professional Services have completed configuration of the new equipment and any new servers needed by PERS staff are being setup at the SDC. With the final setup of equipment completed,

the first cluster of pilot servers and applications were migrated in January.

In early February, the project team developed the migration schedule based on positive early migration results. Mass migrations will take place gradually over the course of an estimated four-to-five-month period. Clusters of servers will be migrated during maintenance windows — typically nights and weekends. Migration will start with the lower environments (approximately 200 infrastructure and application servers) with learning and tuning taking place before moving the production servers and applications, which will happen toward the end of the migration period. Test scripts will be used to ensure applications are operating as intended after the servers are migrated to the SDC.

The downgrade of the data center at PERS' headquarters building will take place after mass migrations have been completed. Servers necessary to support the Tigard location will be transitioned to next generation hardware. Finally, the wireless refresh at all PERS offices will include new wireless access points and cabling, ensuring advanced coverage for staff members' on-site needs.





PERS Style Guide In late March, the Communications Section released a new *PERS Style Guide*. A project that had been delayed because of SB 1049 implementation, this guide has been a long time in the making. The *PERS Style Guide* provides a quick reference for drafting many types of communications and clarifies internal and external use. The guide also codifies the way the agency refers to its stakeholders, helps with common acronyms, and provides clarity on PERS-specific spellings, capitalization use, abbreviations, and other confusing grammar- and style-related practices.

Our Communications Section has several seasoned writers and editors, and together they worked to produce this document, which incorporates style guidance from the Department of Administrative Services (DAS) and the *Associated Press Stylebook*. While the Communications Section will still be supporting review of, and providing feedback for, documents, messaging, and other communications, the agency wanted an easy-to-use resource that addresses frequent problem areas and answers the common questions the Communications Section receives.

OPERF Relative Ranking *Pensions & Investments* magazine's annual ranking shows Oregon PERS as the 24th overall largest pension plan and 18th largest public sector pension plan in the United States, based on assets under management (total assets as of December

31, 2021, which include the defined benefit, Individual Account Program (IAP), and Oregon Savings Growth Plan assets).

Team of the Year Award Last year, the agency asked teams to reflect on how they were able to survive — and even excel — in 2020 better than any other team at PERS. This year, managers were asked to describe how their team built upon the innovations and successes of the previous year to help PERS evolve to meet today's challenges.

On March 1, we announced that the Calculations Pension Team was the winner out of 12 nominations, with the Data Integrity Group receiving honorable mention.

Senate Bill 1049 introduced new processes and complexities that created Employee Pension Stability Account (EPSA) calculations and reduced the percentage of fast-track calculations available, resulting in new and more complex calculations that take additional time. The increased effort of having to do an additional 8,000 manual EPSA calculations meant a challenging year for the Calculations Pension Team, however, it ended up resulting in new leaders, improved metrics, and better positioning for the future.

Members of the Calculation Pension Team are Thuy Vu, Kimberly Bunn, Jacob Searle, Chris Long, Jane Patterson, Chrissy Cheel, Blair Hughes, Dione Kappa, Rebecca Acosta-Castro, Nakia Holste, Diana Martinez, Michiko Okubo, Nhung Bui, Alison Embler Brown, Kira Spurr, Kathy Kalugin, Megan Mumey, Laurie Kosche, Juan Vasquez Jr., Linda Dell, Dave Anderson, Lisa Frederick, Katy Benjamin, and Aaditya Kumar.

I'd also like to acknowledge the work of the Employee Recognition Team in coordinating this event and working through great nominations from all 12 teams to select this year's winner.



Supporting our community

Food Drive As part of the annual Governor's State Employees Food Drive, staff members were encouraged to think about what food insecurity looks and feels like in our communities. Food insecurity isn't just about hunger, it's also about the related issues associated with food insecurity. Housing insecurity, childcare insecurity, employment insecurity, and other aspects of situational poverty are intimately related, causing people to feel scared, anxious, and vulnerable. This year, PERS employees had the opportunity to have a local, meaningful experience, as we reached out to support

the organizations closest to our office buildings that are also the most active in fighting food insecurity.

PERS staff members got involved this year in three ways:

1. State stewardship in practice – the opportunity to practice volunteerism by assisting at local food banks.
2. Quick-click giving – staff made direct donations to support a regional Oregon Food Bank branch or by making a one-time donation to a food bank online.
3. Showing that each voice matters – participating in the Oregon Food Bank Five-Click Survey. We added our voice to the food insecurity conversation and helped the Oregon Food Bank prioritize its work.



OREGON FOOD BANK



PERS Board Meeting Forward-Looking Calendar

Friday, May 27, 2022

PERS Health Insurance Program (PHIP) Renewals and Rates
PHIP Report Out
Agency Budget Development
POBMS Presentation
Propose 2023 Board Meeting Dates

Friday, July 22, 2022*

Approval to Submit Agency Request Budget
CEM Benchmarking Presentation
Presentation of December 31, 2021 System Valuation Results

Wednesday, September 7, 2022 (OIC Meeting – recommend board members to attend)

Results of Asset/Liability Study

Friday, September 30, 2022

Board Adoption of Actual 2023 – 2025 Contribution Rates
Legislative Update (if needed)
2023-28 Strategic Plan Preview
Member and Employer Survey Results
Review Board Education Policy and Training

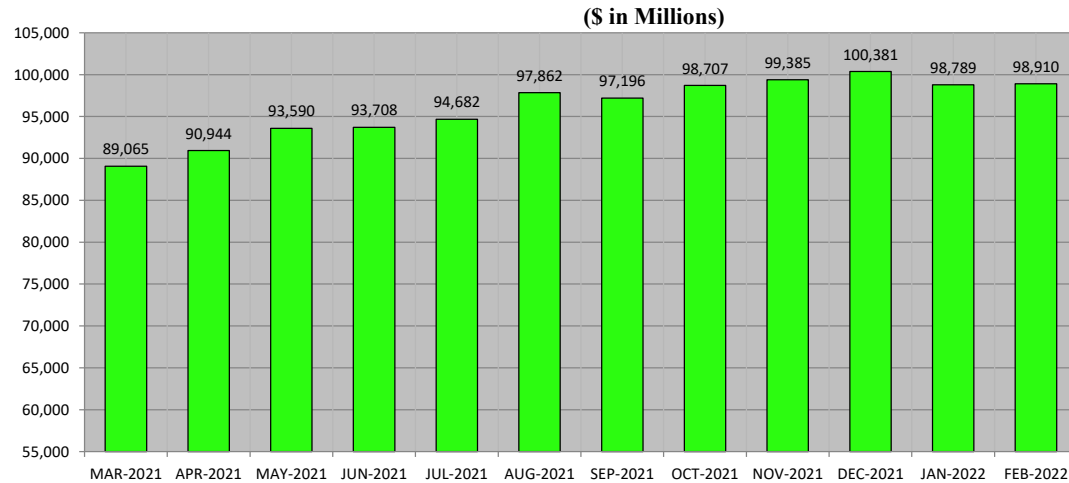
Friday, December 2, 2022*

Presentation of Legislative Concept Drafts before Filing
POBMS Presentation
2023-28 Strategic Plan Approval
Financial Modeling Presentation

**Audit Committee planned for post-board meeting*

OPERF	Regular Account				Historical Performance (Annual Percentage)							
	Policy ¹	Target ¹	\$ Thousands ²	Actual	Year-To-Date ³	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS	7 YEARS	10 YEARS
Public Equity	25.0-35.0%	30.0%	\$ 24,004,578	25.2%	(6.43)	7.97	18.62	12.56	8.88	10.90	9.02	10.10
Private Equity	15.0-27.5%	20.0%	\$ 25,716,029	27.0%	4.23	40.52	28.19	23.38	21.10	20.78	16.57	16.25
Total Equity	45.0-55.0%	50.0%	\$ 49,720,607	52.3%								
Opportunity Portfolio	0-5%	0%	\$ 2,414,813	2.5%	1.41	21.08	15.99	13.16	11.71	10.72	9.24	10.22
Total Fixed	15-25%	20.0%	\$ 19,762,842	20.8%	(2.71)	(1.40)	0.20	3.64	3.56	3.05	2.67	3.16
Risk Parity	0.0-3.5%	2.5%	\$ 2,187,717	2.3%	(3.89)	9.42						
Real Estate	7.5-17.5%	12.5%	\$ 11,220,909	11.8%	2.83	20.75	11.24	10.00	9.59	9.70	9.46	10.58
Real Assets	2.5-10.0%	7.5%	\$ 6,347,314	6.7%	0.39	18.37	8.58	5.13	4.52	5.57	3.72	3.44
Diversifying Strategies	2.5-10.0%	7.5%	\$ 3,527,482	3.7%	1.28	6.72	0.08	(1.47)	(4.74)	(1.97)	(0.28)	1.65
Cash w/Overlay	0-3%	0%	\$ (24,681)	0.0%	(0.27)	(0.24)	0.40	1.32	1.63	1.55	1.36	1.19
TOTAL OPERF Regular Account		100.0%	\$ 95,157,003	100.0%	(0.81)	16.26	14.64	11.91	9.83	10.51	8.82	9.53
OPERF Policy Benchmark					(0.84)	11.61	14.30	12.61	10.07	10.89	9.32	10.13
Value Added					0.03	4.65	0.34	(0.70)	(0.24)	(0.38)	(0.50)	(0.59)
Target Date Funds			3,366,692									
TOTAL OPERF Variable Account			\$ 386,723		(7.47)	7.00	18.70	13.39	9.70	11.51	9.36	10.15
Asset Class Benchmarks:												
MSCI ACWI IMI NET					(7.36)	6.87	18.55	13.12	9.40	11.18	9.00	9.80
RUSSELL 3000+300 BPS QTR LAG					6.60	31.45	26.86	26.05	20.39	21.86	18.39	20.83
CPI + 5%					2.59	13.23	9.94	9.10	8.47	8.24	7.87	7.33
OREGON CUSTOM FI BENCHMARK					(3.25)	(2.39)	(0.29)	3.20	3.22	2.72	2.31	2.65
S&P Risk Parity - 12% Target Volatility					(1.11)	15.30	17.47	15.88	13.32	11.54	9.17	9.36
OREGON CUSTOM REAL ESTATE BENCHMARK					5.04	18.51	9.08	7.52	7.51	7.61	8.61	9.35
CPI +4%					2.42	12.16	8.90	8.07	7.44	7.21	6.85	6.31
HFRI FOF: CONSERVATIVE INDEX					(0.19)	4.49	7.18	5.79	4.64	4.45	3.44	3.82
91 DAY TREASURY BILL					0.01	0.04	0.22	0.87	1.16	1.13	0.87	0.63

Total OPERF NAV
(includes Variable Fund assets)
One year ending FEB-2022



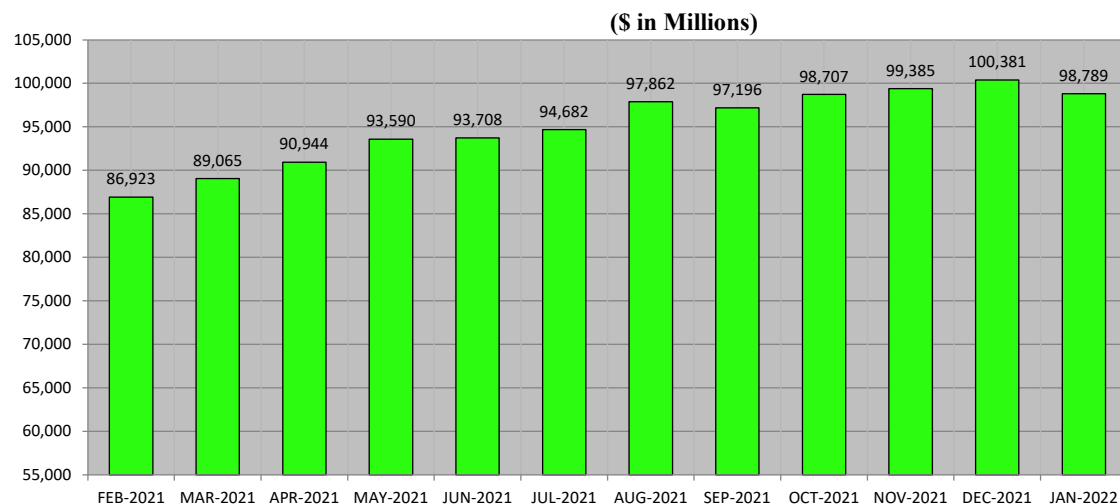
¹OIC Policy revised June 2021. Beginning October 1, 2021, the Alternatives Portfolio has been split up into two new portfolios: Real Assets and Diversifying Strategies.

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.

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	25.0-35.0%	30.0%	\$ 25,050,019	26.4%	(4.56)	13.95	14.58	14.29	8.32	11.89	10.20	10.89
Private Equity	15.0-27.5%	20.0%	\$ 24,963,748	26.3%	0.32	41.66	26.38	21.36	20.37	19.85	15.94	15.80
Total Equity	45.0-55.0%	50.0%	\$ 50,013,766	52.6%								
Opportunity Portfolio	0-5%	0%	\$ 2,378,481	2.5%	0.89	22.73	16.26	13.63	11.70	10.73	9.26	10.41
Total Fixed	15-25%	20.0%	\$ 19,810,844	20.8%	(1.63)	(1.89)	1.47	4.09	3.65	3.41	2.86	3.38
Risk Parity	0.0-3.5%	2.5%	\$ 2,225,836	2.3%	(2.22)	9.82						
Real Estate	7.5-17.5%	12.5%	\$ 11,010,472	11.6%	0.84	19.86	11.08	9.55	9.36	9.43	9.10	10.41
Real Assets	2.5-10.0%	7.5%	\$ 6,205,867	6.5%	0.33	19.26	8.55	4.73	4.91	5.54	3.88	3.43
Diversifying Strategies	2.5-10.0%	7.5%	\$ 3,392,649	3.6%	0.98	7.74	(1.08)	(1.47)	(4.31)	(1.88)	(0.48)	1.62
Cash w/Overlay	0-3%	0%	\$ (7,638)	0.0%	(0.15)	(0.12)	0.60	1.44	1.68	1.60	1.38	1.22
TOTAL OPERF Regular Account		100.0%	\$ 95,030,277	100.0%	(1.31)	18.11	13.05	12.02	9.36	10.67	9.10	9.72
OPERF Policy Benchmark					(0.98)	13.40	13.05	12.67	9.68	11.14	9.65	10.39
Value Added					(0.33)	4.71	(0.01)	(0.64)	(0.32)	(0.47)	(0.55)	(0.66)
Target Date Funds			3,355,176									
TOTAL OPERF Variable Account			\$ 403,126		(5.15)	12.66	15.26	15.39	9.23	12.68	10.59	10.97
Asset Class Benchmarks:												
MSCI ACWI IMI NET					(5.19)	12.29	14.91	15.04	8.87	12.31	10.22	10.59
RUSSELL 3000+300 BPS QTR LAG					3.25	33.58	26.82	22.70	20.12	21.09	17.85	20.44
CPI + 5%					1.25	12.82	9.60	8.93	8.35	8.11	7.80	7.28
OREGON CUSTOM FI BENCHMARK					(2.15)	(2.52)	1.05	3.64	3.32	3.08	2.46	2.85
S&P Risk Parity - 12% Target Volatility					(1.53)	16.00	14.99	16.32	12.41	12.28	9.49	9.65
OREGON CUSTOM REAL ESTATE BENCHMARK					2.49	16.05	7.97	6.82	7.02	7.08	8.23	9.08
CPI +4%					1.17	11.75	8.56	7.89	7.32	7.08	6.77	6.26
HFRI FOF: CONSERVATIVE INDEX					(0.03)	7.09	6.74	6.11	4.47	4.55	3.64	3.93
91 DAY TREASURY BILL					(0.00)	0.04	0.29	0.93	1.18	1.13	0.87	0.63

Total OPERF NAV
(includes Variable Fund assets)
One year ending JAN-2022



¹OIC Policy revised June 2021. Beginning October 1, 2021, the Alternatives Portfolio has been split up into two new portfolios: Real Assets and Diversifying Strategies.

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 NAV. 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
888-320-7377
TTY (503) 603-7766
www.oregon.gov/pers

March 28, 2022

TO: Members of the PERS Board
FROM: Gregory R. Gabriel, Budget Officer
SUBJECT: March 2022 Budget Report

2021-23 OPERATING BUDGET

Operating expenditures for January, February, and preliminary expenditures for March are \$4,330,405, \$5,678,414 and \$4,488,033 respectively. Final expenditures for March will close in the Statewide Financial Management System on April 15 and will be included in the May 2022 report to the board.

- Through March 6, 2022, the agency has expended a total of \$39,390,678 or 31.9% of PERS' legislatively approved operations budget of \$123,378,866.
- At this time, the agency's projected variance is \$2,184,337.
- Core Retirement Systems Applications (CRSA) expenditures for January, February, and preliminary expenditures for March are \$943,632, \$1,064,459 and \$678,403 respectively. As of March 6, the agency has expended \$7,173,453 of the legislatively approved budget of \$23,614,797.
- At this time the CRSA projected variance is \$6,602,076.

2021-23 NON-LIMITED BUDGET

The adopted budget includes \$12,886,613,593 in total estimated non-limited expenditures. Non-limited expenditures include benefit payments, health insurance premiums, and third-party administration payments for both the PERS Health Insurance Program (PHIP) and the Individual Account Program (IAP).

- Non-Limited expenditures through March 6, 2022, are \$3,741,723,576.

A.2.c. Attachment – 2021-23, CRSA, Agency-wide Budget Execution Summary Analysis

PERS Monthly Budget Report

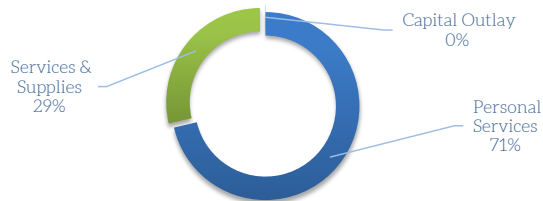
2021-23 Agency-Wide Budget Execution
Preliminary Summary for the Month of March 2022

Limited - Operating Budget

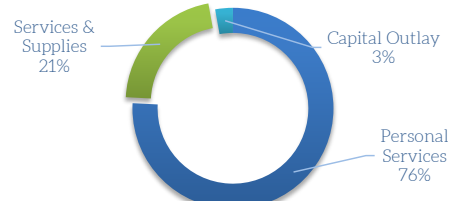
2021-23 Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expenditures	2021-23 LAB	Variance
Personal Services	28,094,848	62,016,051	90,110,899	87,815,865	(2,295,034)
Services & Supplies	11,274,385	17,464,944	28,739,329	34,094,093	5,354,764
Capital Outlay	21,445	2,322,856	2,344,301	1,468,908	(875,393)
Unscheduled				0	0
Total	39,390,678	81,803,851	121,194,529	123,378,866	2,184,337

Actual Expenditures



Projected Expenditures



Monthly Summary

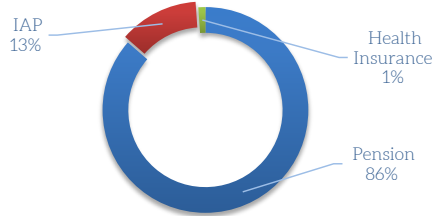
Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Monthly Projected Exp.
Personal Services	3,654,910	3,787,471	132,561	3,436,491	3,839,667
Services & Supplies	822,508	852,340	29,831	1,316,408	1,199,975
Capital Outlay	10,615	11,000	385	7,148	103,103
Total	4,488,033	4,650,811	162,778	4,760,047	5,142,746

Non-Limited Budget

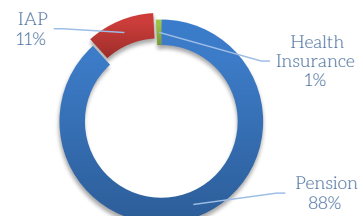
2021-23 Biennial Summary

Programs	Actual Exp To Date	Projected Expenditures	Total Est. Expenditures	Non-Limited LAB	Variance
Pension	3,233,085,414	7,947,203,892	11,180,289,306	11,215,517,678	35,228,372
IAP	467,079,481	907,270,530	1,374,350,012	1,298,603,848	(75,746,164)
Health Insurance	41,558,681	65,806,367	107,365,048	372,492,067	265,127,019
Total	3,741,723,576	8,920,280,790	12,662,004,366	12,886,613,593	224,609,227

Actual Expenditures



Projected Expenditures



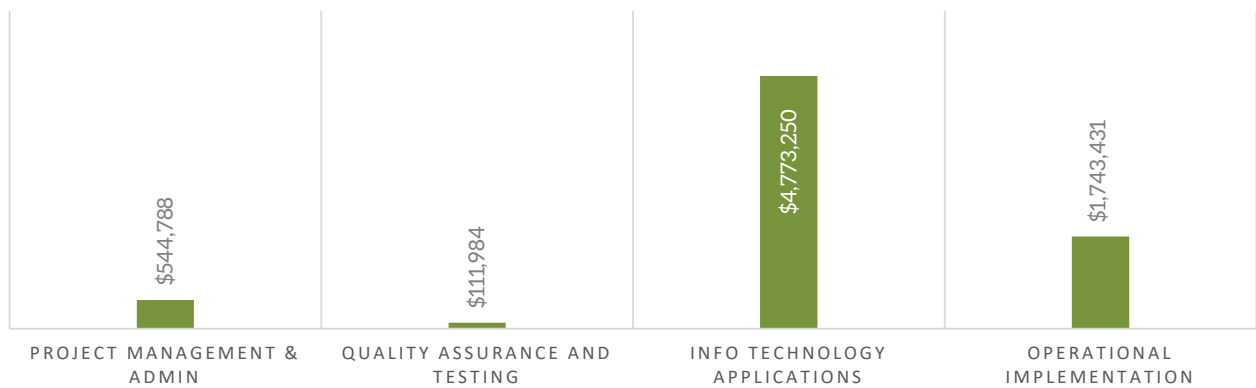
Core Retirement Systems Application

Summary Budget Analysis Preliminary for the Month of March 2022

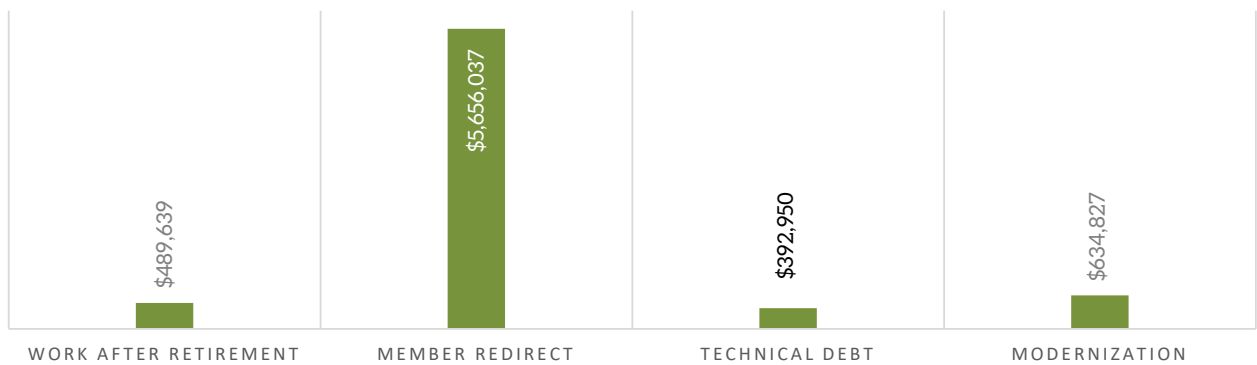
Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2021-23 LAB	Variance
Personal Services	1,750,947	5,044,554	6,795,501	6,003,697	(791,804)
Services & Supplies	5,422,507	4,794,714	10,217,221	17,556,100	7,338,879
Capital Outlay				55,000	55,000
Total	7,173,453	9,839,268	17,012,721	23,614,797	6,602,076

EXPENDITURES BY PACKAGE



EXPENDITURES BY PROJECT



Administration

1. January 31, 2022 Board Meeting Minutes
2. Director's Report
 - a. Forward-Looking Calendar
 - b. OPERF Investment Report
 - c. Budget Execution Report
3. Oregon Investment Council Performance Review
4. Oregon Savings Growth Plan Report Out

March 28, 2022

PERS Board Presentation

Rex T. Kim, Chief Investment Officer
Oregon State Treasury



OREGON
STATE
TREASURY

Agenda

- 2021 Performance
 - Asset Allocation
 - Implementation
- Looking Forward

Asset Allocation: Historical Perspective

	2008	2014	2021
Public Equity	46.0%	37.5%	30.0%
Private Equity	16.0%	20.0%	20.0%
Total Equity	62.0%	57.5%	50.0%
Opportunity Portfolio	0.0%	0.0%	0.0%
Fixed Income	27.0%	20.0%	20.0%
Risk Parity	0.0%	0.0%	2.5%
Real Estate	11.0%	12.5%	12.5%
Alternative Investments	0.0%	10.0%	15.0%
Cash	0.0%	0.0%	0.0%



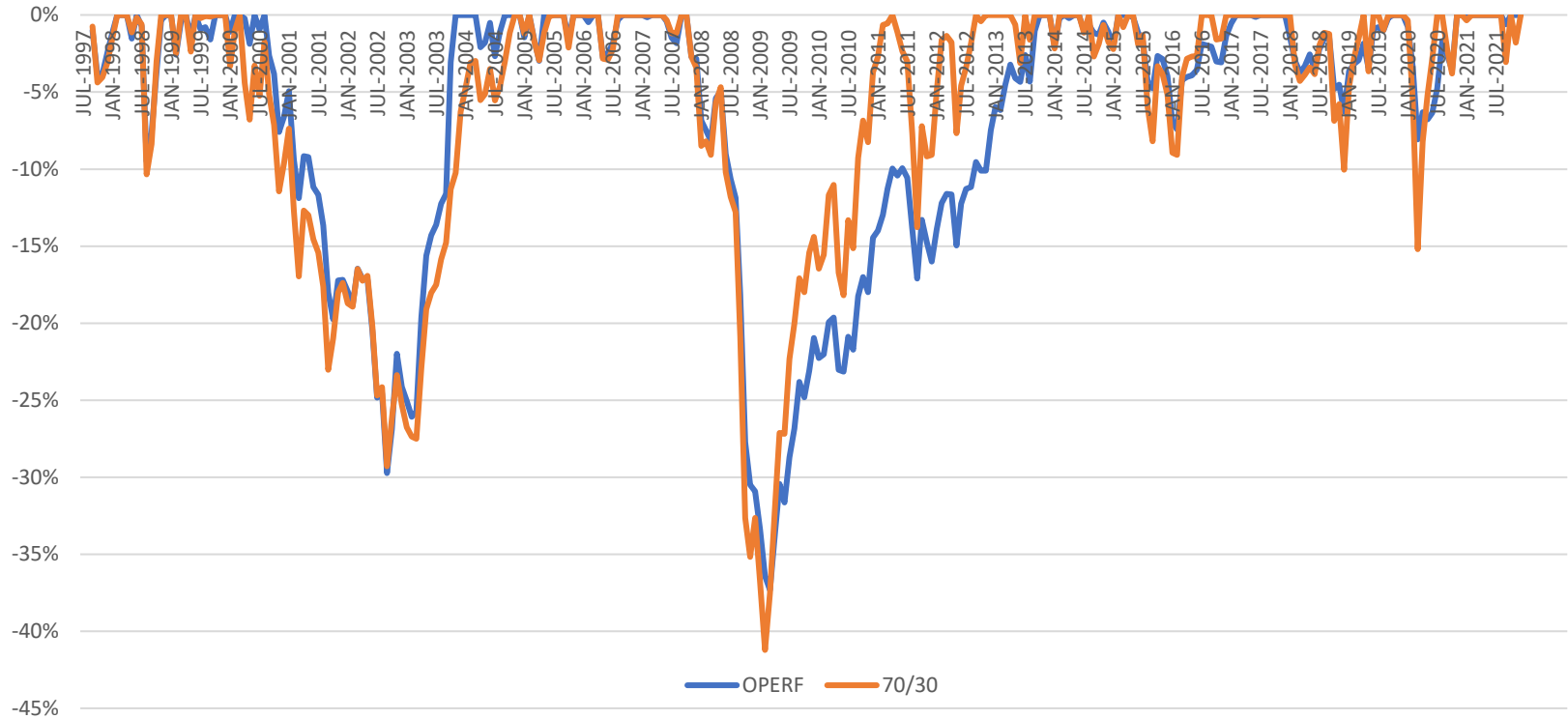
Asset Allocation: Historical Perspective

Changes since 2008:

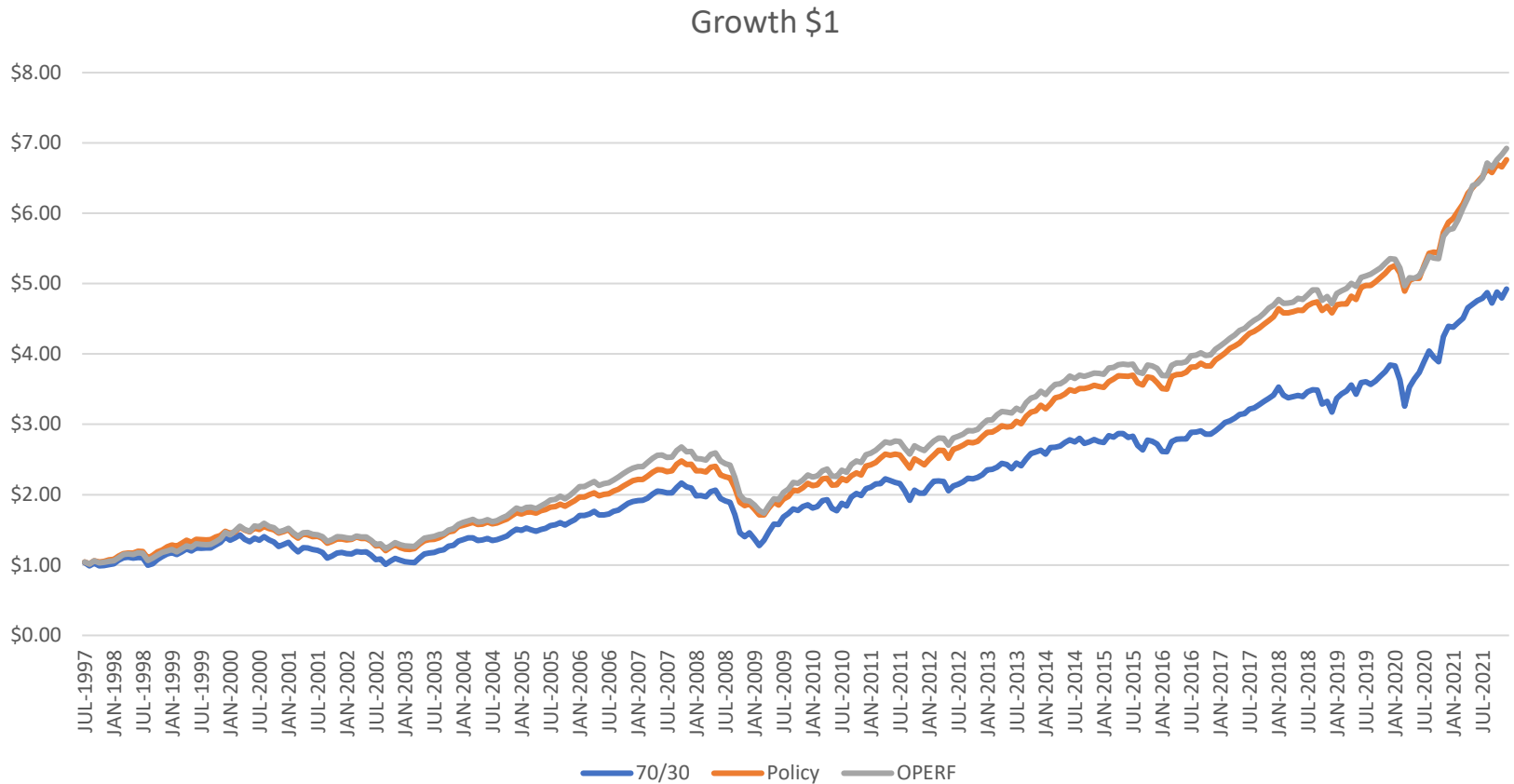
- **Public Equity:** reduced strategic allocation, added low-volatility strategies
- **Fixed Income:** added a U.S. Treasury sleeve
- **Real Estate:** increased allocation to Core
- **Alternatives (Real Assets):** added asset class
- **Alternatives (Diversifying Strategies):** added asset class
- **Risk Parity:** added asset class

Risk: Historical Drawdown

Drawdowns

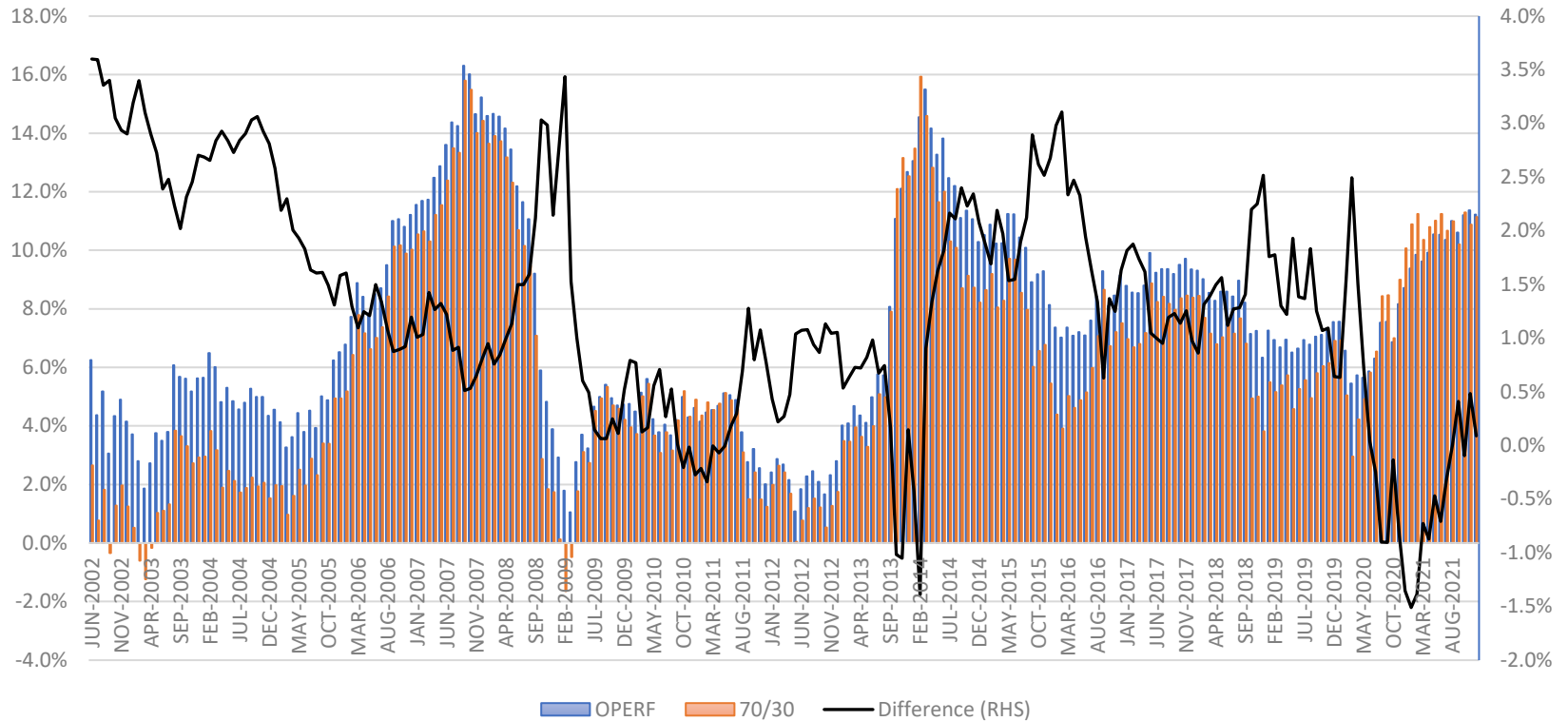


Asset Allocation: Market Portfolio



Asset Allocation: Market Portfolio

5 Year Annualized Returns



OPERF Investment Performance

(as of December 31, 2021)

Annualized Return	1-Year	3-Year	5-Year	7-Year	10-Year	20-Year
Russell 3000	25.66%	25.79%	17.97%	14.55%	16.30%	9.72%
S&P 500	28.71%	26.07%	18.47%	14.93%	16.55%	9.52%
Russell 2000	14.82%	20.02%	12.02%	10.76%	13.23%	9.36%
MSCI ACWI ex-US IMI	8.53%	13.62%	9.83%	6.87%	7.57%	7.26%
MSCI Emerging Markets	-2.54%	10.94%	9.88%	6.11%	5.49%	9.70%
Bloomberg Barclays U.S. Aggregate	-1.54%	4.79%	3.57%	3.00%	2.90%	4.33%
Fund Performance (Net of Fees)	1-Year	3-Year	5-Year	7-Year	10-Year	20-Year
OPERF (Ranking¹)	20.05% (11)	13.65% (72)	11.22% (45)	9.27% (29)	10.17% (17)	8.33% (5)
Domestic Equity	27.22%	23.07%	15.63%	13.00%	15.07%	9.22%
International Equity	12.68%	16.17%	11.71%	8.52%	9.28%	8.35%
Fixed Income	-0.92%	5.10%	3.84%	3.25%	3.74%	5.29%
Private Equity	41.78%	21.10%	19.74%	15.88%	15.77%	13.87%
Real Estate	19.07%	9.45%	9.28%	9.17%	10.46%	10.02%

¹ Relative to Wilshire Trust Universe Comparison Service (TUUS) Public Funds > \$10 Billion peer group. Percentile rankings based on estimated gross returns for Fund and peer group.

Implementation: 2021

<u>Asset Class</u>	<u>Avg 1 Yr Portfolio %</u>	<u>Interim Target %</u>	<u>1/1/2021 - 12/31/2021 - Attribution (geometric BHB)</u>		
			<u>Asset Allocation</u>	<u>Manager Selection</u>	<u>Interaction</u>
Total Public Equities w/Currency Overlay	29.37%	32.63%	-0.03%	0.75%	-0.04%
Fixed Income	20.51%	20.00%	-0.07%	-0.01%	0.00%
Risk Parity	2.39%	2.50%	-0.01%	-0.10%	0.01%
Cash w/Overlay	0.05%	0.00%	-0.01%	0.00%	0.00%
Private Equity	25.12%	19.25%	1.39%	-0.39%	-0.30%
Real Estate	10.58%	12.50%	0.06%	1.03%	-0.12%
Real Assets	5.89%	6.56%	0.01%	0.17%	-0.03%
Diversifying Strategies	3.91%	6.56%	0.18%	0.09%	-0.03%
Opportunity Portfolio	2.20%	0.00%	-0.03%	0.00%	0.17%
OPERF - Total Plan	100.00%	100.00%	1.49%	1.54%	-0.35%
		Reported Return	Total		2.68%

Implementation: 2017-2021

<u>Asset Class</u>	<u>Avg 5 Yr Portfolio %</u>	<u>Avg 5 Yr Target %</u>
Total Public Equities w/Currency Overlay	34.36%	36.98%
Fixed Income	21.10%	21.23%
Risk Parity *	0.69%	0.75%
Cash w/Overlay	0.05%	0.00%
Private Equity	22.05%	19.30%
Real Estate	10.89%	12.50%
Real Assets	5.09%	4.63%
Diversifying Strategies	3.60%	4.63%
Opportunity Portfolio	2.18%	0.00%
OPERF - Total Plan	100.00%	100.00%

Reported Return

<u>1/1/2017 - 12/31/2021 - Attribution (geometric BHB)</u>		
<u>Asset Allocation</u>	<u>Manager Selection</u>	<u>Interaction</u>
-0.16%	-0.21%	0.04%
0.00%	0.05%	0.00%
0.01%	-0.05%	0.00%
-0.01%	0.00%	0.00%
0.27%	-0.04%	-0.08%
0.05%	0.41%	-0.05%
0.00%	0.01%	-0.01%
0.07%	-0.30%	0.04%
-0.06%	0.00%	0.05%
0.17%	-0.14%	-0.03%
Total		0.01%

Looking Forward: Inflation Up Strongly



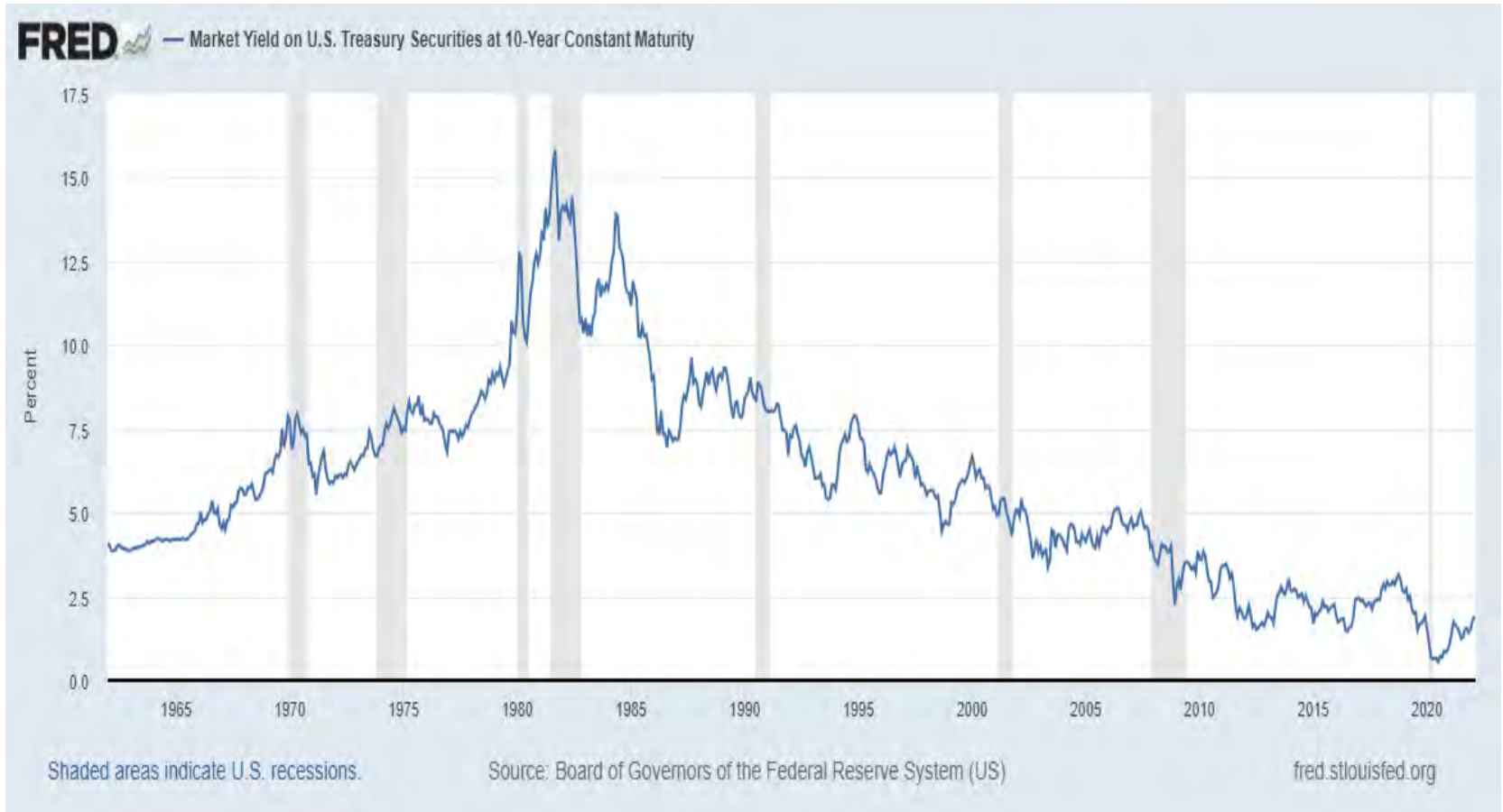
Looking Forward: Next 5 Years...



Looking Forward: Subsequent 5 Years...

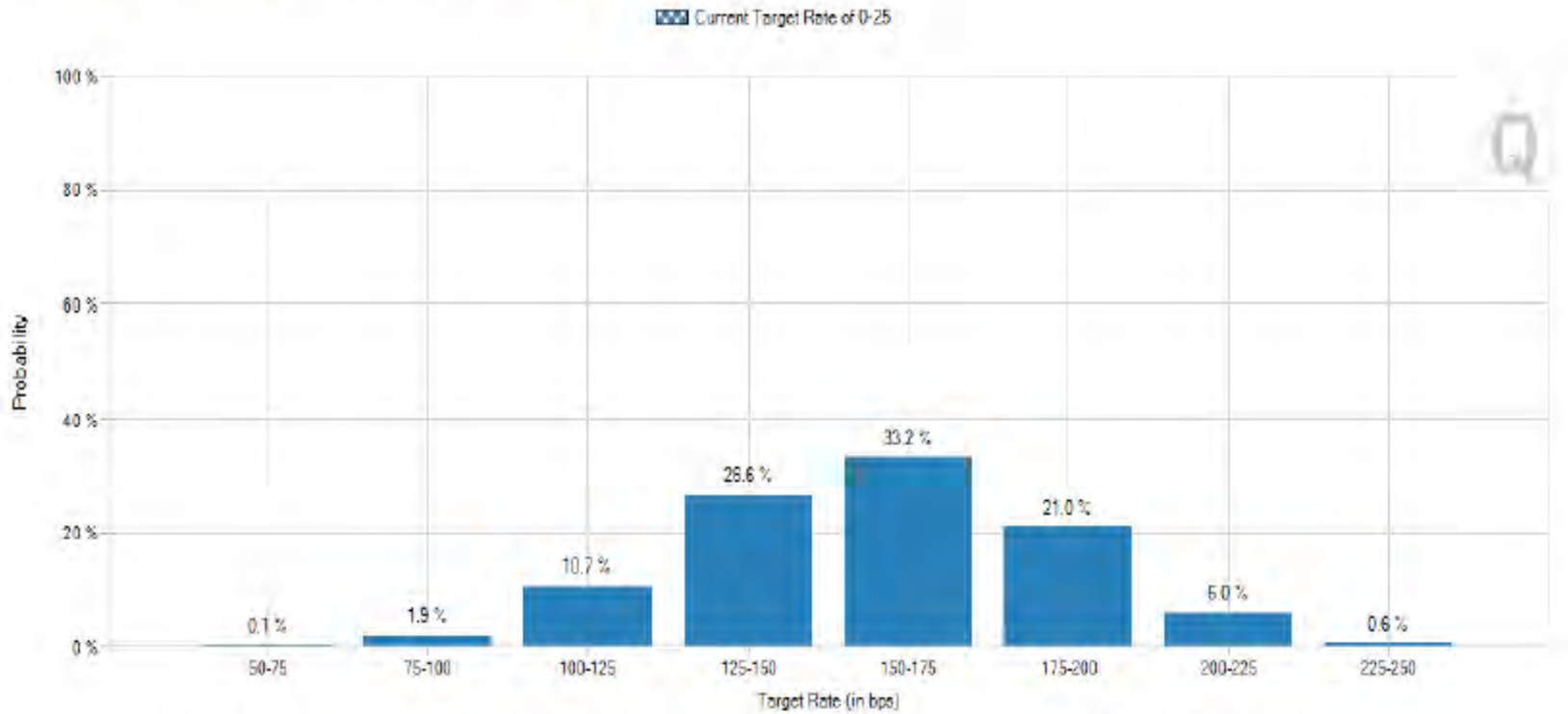


Looking Forward: Interest Rates Remain Low



Looking Forward: Path for Rates

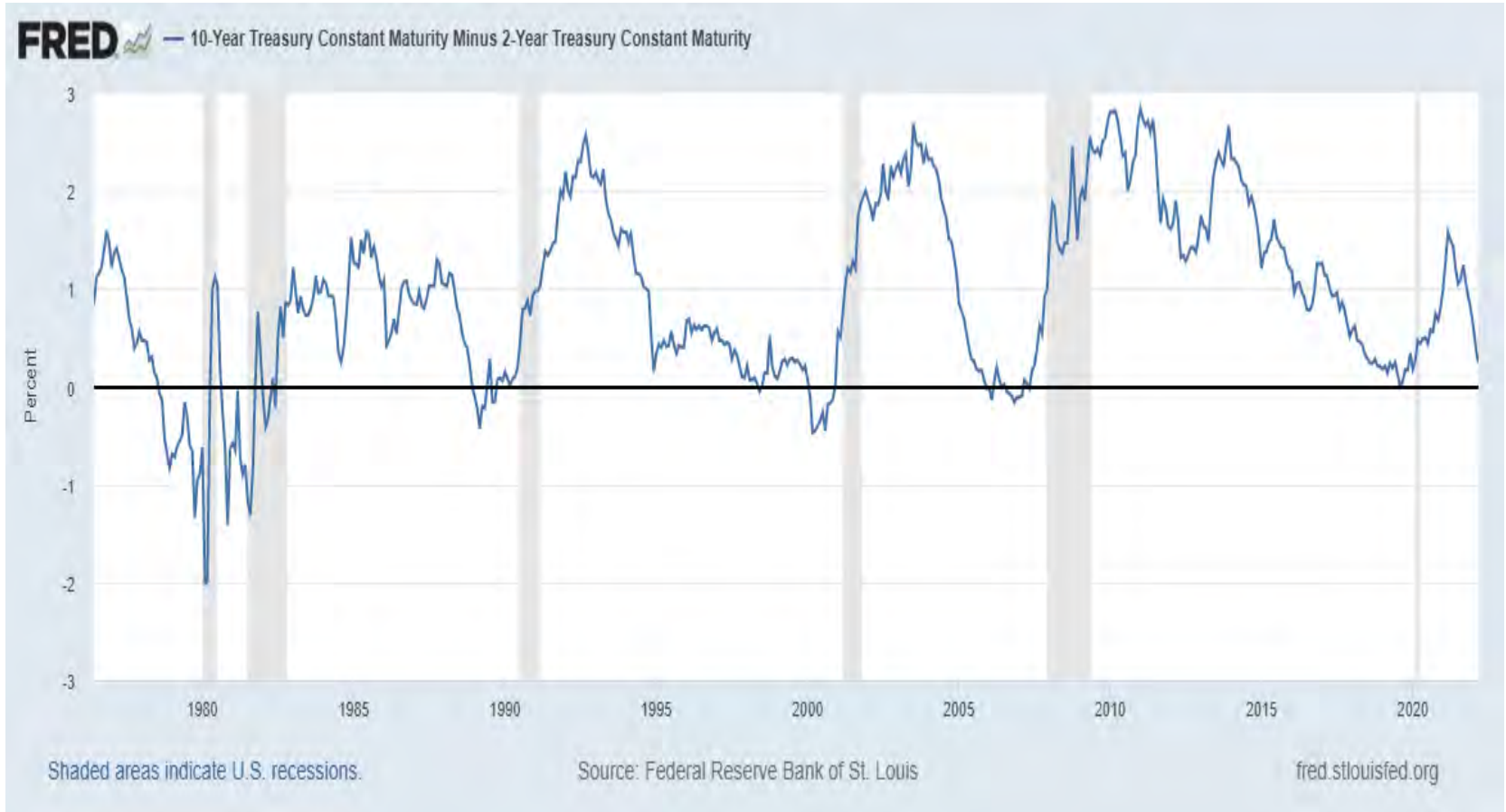
TARGET RATE PROBABILITIES FOR 14 DEC 2022 FED MEETING



Source: CME Fedwatch



Looking Forward: Path for Rates





OREGON STATE TREASURY

Tobias Read
Oregon State Treasurer

350 Winter St NE, Suite 100
Salem, OR 97301-3896

oregon.gov/treasury

Administration

1. January 31, 2022 Board Meeting Minutes
2. Director's Report
 - a. Forward-Looking Calendar
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Oregon

Kate Brown, Governor

Public Employees Retirement System

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www.oregon.gov/pers

March 28, 2022

TO: Members of the PERS Board
FROM: Debby Larsen, Deferred Compensation Program Manager
SUBJECT: Oregon Savings Growth Plan (OSGP) Annual Report

OVERVIEW

Oregon Administrative Rule 459-050-00330(15) directs that the OSGP Program Manager shall prepare an annual report to the PERS Board.

The attached presentation reflects information for the 2021 calendar year and includes information regarding governance, administrative support, and plan and participant demographics. The report summarizes assets, cash flow, and investment composition, as well as investment performance, options, and fees.

Attachment 1 - *OSGP Board Report Presentation for Calendar Year 2021*

OREGON PERS

PUBLIC EMPLOYEES RETIREMENT SYSTEM



Oregon Savings Growth Plan Annual Report

Calendar year 2021

March 28, 2022



Governance

Advisory Committee

Mary Jo Evers – Local Government

Jeff Gibbs – Local Government

Colin Benson – State of Oregon

Kyle Niemeyer – State of Oregon

Zachariah Heck – State of Oregon

Christine Valentine – State of Oregon

Gene Bentley – Retired

Treasury

Wil Hiles – Public Equity Investment Officer

Claire Illo – Public Equity Investment Officer

Callan Investment Consultant

Anne Heaphy – Senior Vice President

Uvan Tseng – Senior Vice President

Department of Justice

Steven Marlowe – Assistant Attorney General

Administrative Support

OSGP Staff

Debby Larsen – Program Manager

Dee Monday – Operations Coordinator

Jack Schafroth – Outreach Coordinator

Vacant – Administrative Assistant

Dean Marshall – Retirement Counselor

Tamie Brahin – Retirement Counselor

Helen Wilson – Retirement Counselor

Recordkeeper: Voya Financial

Brian Merrick – Relationship Manager

Deirdre Jones – Relationship Manager

Carol Cann – Operations Manager

Jennifer Moran – Communication
Consultant

Gladys Salguero – Education Team
Manager

Plan Summary

Assets and Cash Flow (for year ending December 31, 2021)

- Total plan assets \$3.4 billion
- Net cash flow \$43 million
- Pre-tax contributions \$117 million+
- Rollover-in contributions \$76 million+
- Roth contributions \$18 million+
- Participants with Roth elections 6,478

Investment Composition

1. LifePath Options 31% of plan assets
2. Large Company Growth Stock Option 15% of plan assets
3. Stock Index Option 13% of plan assets
4. Schwab Brokerage account 473 participants with an average balance of \$117,722

Investment Options and Performance

Investment options	Ending balance as of 12/31/21	Annual performance	Contribution by fund option
Large Company Growth Stock Option	\$500,645,238	27.47%	\$23,659,992
Stock Index Option	\$428,014,656	25.54%	\$18,810,659
Socially Responsible Investment Option	\$47,420,662	26.32%	\$4,787,494
Small Company Stock Option	\$308,872,427	27.44%	\$10,978,994
International Stock Option	\$176,289,959	8.75%	\$10,764,789
Active Fixed Income Option	\$212,541,011	-1.00%	\$13,830,447
Real Return Option	\$14,0014,198	20.87%	\$928,052
Large Company Value Stock Option	\$255,010,790	25.02%	\$12,047,577
Stable Value Option	\$331,620,675	1.53%	\$15,518,497

Investment Options and Performance

Investment options	Ending balance as of 12/31/21	Annual performance	Contribution by fund option
LifePath® Retirement	\$375,615,271	6.76%	\$18,620,271
LifePath® 2025	\$183,693,534	8.79%	\$19,608,531
LifePath® 2030	\$148,308,229	11.30%	\$16,428,175
LifePath® 2035	\$115,985,991	13.60%	\$12,810,199
LifePath® 2040	\$90,465,099	15.76%	\$11,280,199
LifePath® 2045	\$62,156,265	17.51%	\$8,776,462
LifePath® 2050	\$46,803,493	18.47%	\$6,665,473
LifePath® 2055	\$21,065,356	18.63%	\$3,721,365
LifePath® 2060	\$13,804,448	18.61%	\$2,831,629
LifePath® 2065	\$2,027,656	18.65%	\$565,509

OSGP Fees

Administrative fees	Percentage of assets
State of Oregon Administrative Fee	0.07%
Recordkeeping/Custody/Trust/Communications	0.05%
Total Administrative Fees	0.12%

By investment option	Weighted average (%)
LifePath® Portfolios	0.07%
Stable Value	0.33%
Active Fixed Income Option	0.16%
Real Return Fund	0.22%
Large Company Value Stock	0.02%
Stock Index	0.02%
Socially Responsible Investment Option	0.17%
Large Company Growth Stock	0.02%
International Stock	0.52%
Small Company Stock	0.37%

Rollovers

OSGP Rollovers Out for Calendar Year 2021

Institution	# of Rollovers	% of Total	\$ Rolled
OREGON PERS	269	18%	\$2,674,436
EDWARD JONES	123	8%	\$16,131,883
FIDELITY	57	4%	\$8,418,779
VANGUARD	53	3%	\$7,084,889
CHARLES SCHWAB	45	3%	\$9,477,841
All Others	486	32%	\$59,805,294

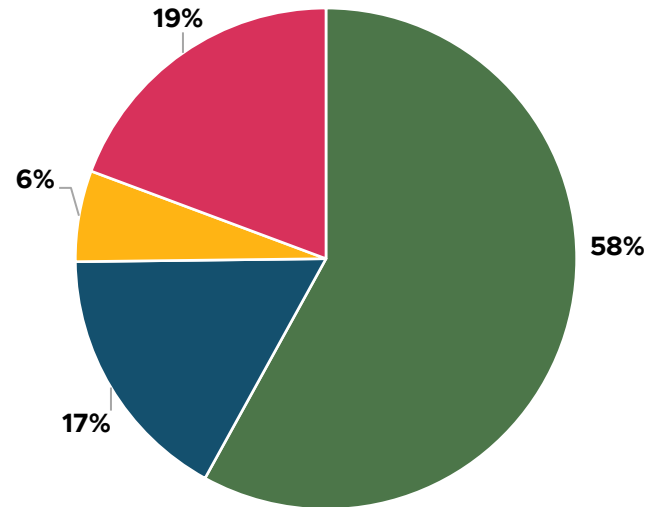
OSGP Rollovers In for Calendar Year 2021

Institution	# of Rollovers	% of Total	\$ Rolled
IAP	562	61%	\$64,068,469
All Others	360	39%	\$28,506,103

Participant Status Summary

Calendar Year 2021

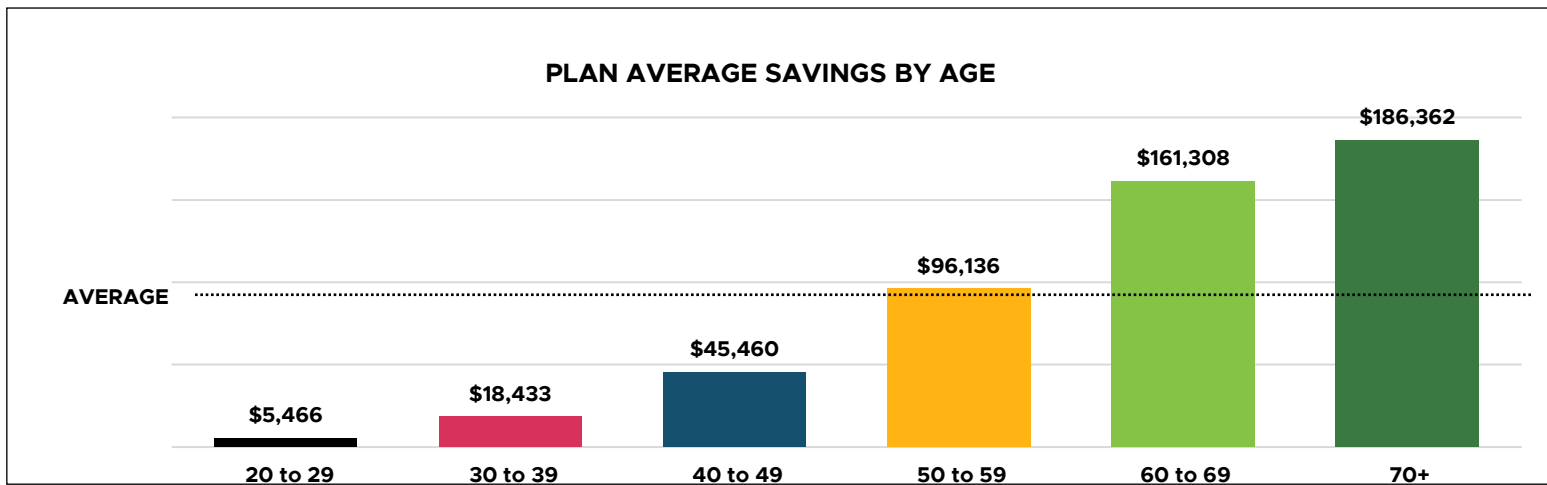
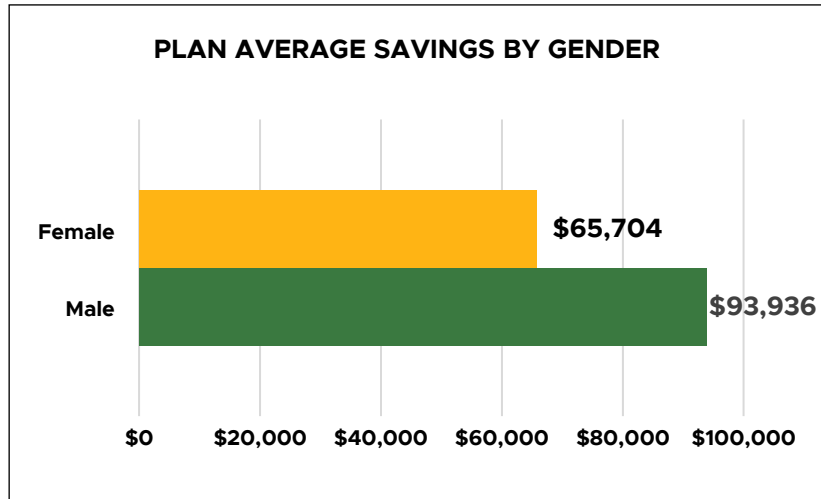
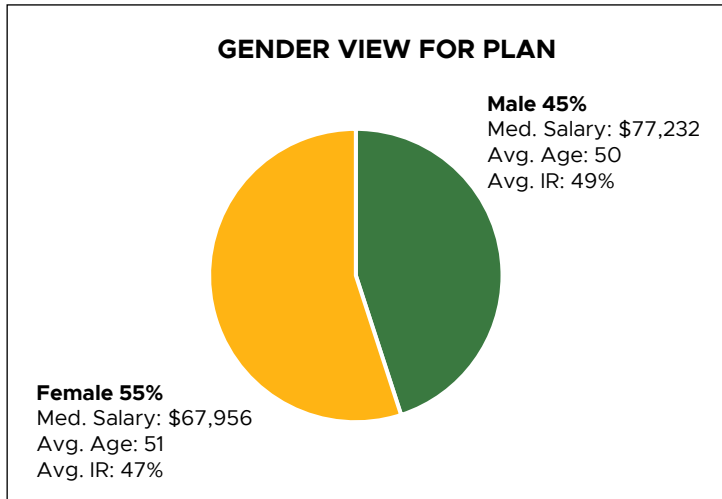
Participant Status	Number of Participants
Active, Contributing	21,773
Active Not Contributing	6,302
Terminated Receiving Installments	2,203
Terminated with a Balance	7,249
Total	37,525*



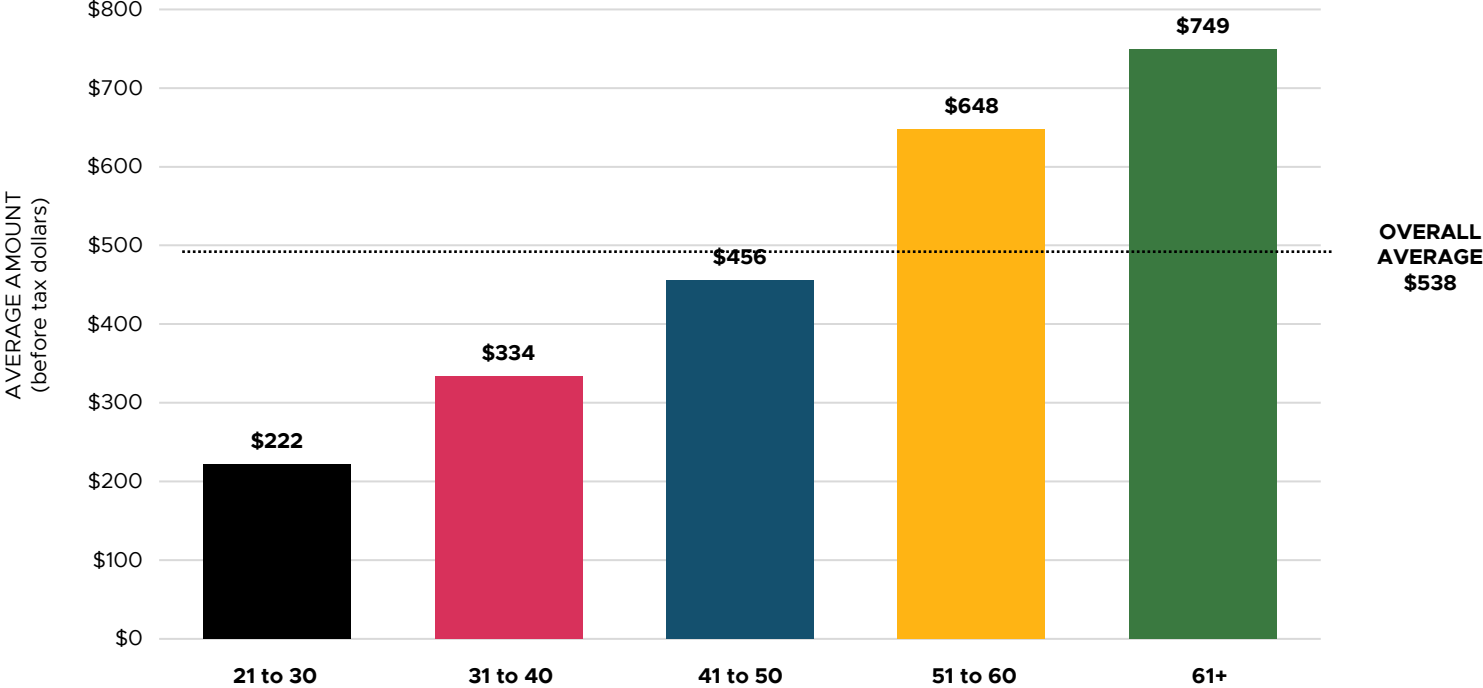
*Total includes 29 suspended accounts not included in chart.

Participant Status Summary

Calendar Year 2021

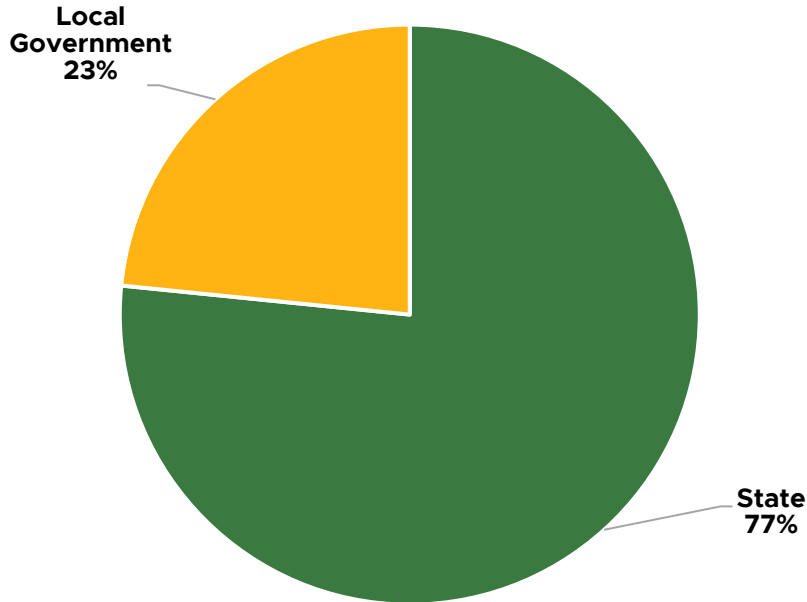


Average Monthly Contributions

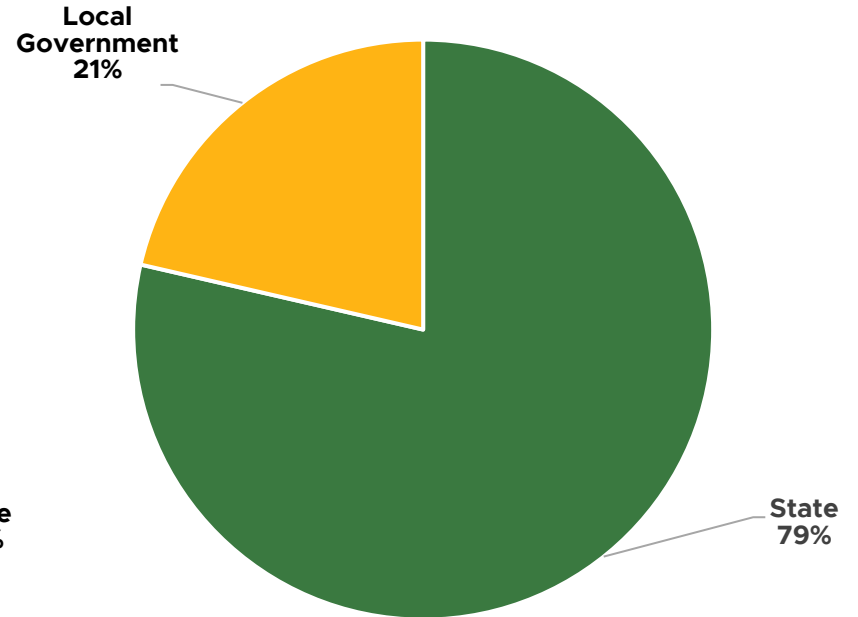


State and Local Government Breakdown

Participants



Assets

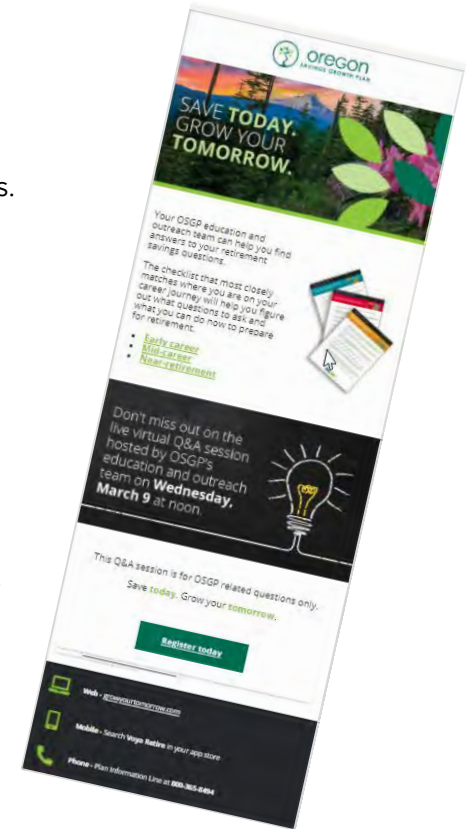


Communications

Communications assists with overall OSGP goals through a variety of campaigns while providing a cohesive, professional, and friendly overall look and feel to all OSGP materials.

2021 Accomplishments:

- Created five educational videos (used at the PERS Expo).
 - Roth vs. Pre-tax, Diversification, Plan Fees, Time Value of Money, Advisory Services.
- Developed new Advisory Services workshop presentation.
- Conducted annual Advisory Services email campaign.
- Sent quarterly newsletter email campaigns, updated newsletter format.
- Established brand guidelines.
- Deployed Stay in the Plan and new-hire campaigns.
- Awarded second place for financial wellness by Plan Sponsor Council of America (PSCA).
- Updated and redesigned flyers, marketing pieces, and forms.



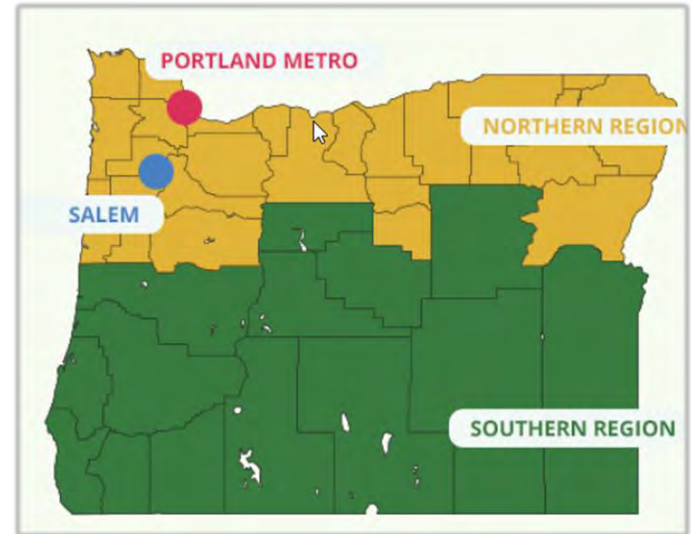
Workday Data Feed and Efforts

PERS, OSGP, Voya, and DAS worked together to develop a weekly Workday-based demographic data feed for all state employees.

- In October 2020, data was used to segment audience by years of service for PERS Expo emails.
- 23,419 letters were mailed to state employees not currently enrolled in the plan.
- Average of 142 new-hire letters go out each month.
- Data will be used in future marketing campaigns to promote enrollment, increase current deferrals, and further educate employees on the importance of saving more for retirement.
- PERS' Outcome-Based Management System (POBMS) and key performance measure (KPM) goal: to increase state employee participation from current 41% to over 50% within the next year.

Education and Outreach (E&O)

- E&O team includes manager and four local reps.
- Four different workshops offered all year.
- In 2021, new workshop created called Advisory Services.
- All workshops recorded and available on OSGP website.
- Workshops offered in-person (when allowed), virtual, and recorded.
- Marketing materials encourage participants to engage with reps and register for workshops and individual meetings.
- In 2021, 99% satisfaction rate for workshop content.
- In 2021, 66% of attendees took action after attending a workshop.



Employer Outreach

Employer category	Number
Total employers who have adopted OSGP	339
Total employers who are new in 2021	9
Total local-government employers who stopped using OSGP in 2021	0



Looking Ahead

- Continue to remove barriers to enrolling in OSGP.
- Educate participants, as well as public employees who are not yet participants.
- Leverage demographic data to customize education and marketing.
- Reach new employees who haven't taken any action.
- Continue and expand existing automated campaigns.
- Create new campaigns that encourage enrollment, deferral increases, rollovers, and financial wellness.
- Incorporate recognition of various diversity celebrations.
- Continuously improve and update website to make it informative, easy to navigate, and a true resource for participants and employers.

OREGON PERS

PUBLIC EMPLOYEES RETIREMENT SYSTEM



THANK YOU



Administrative Rulemaking

1. Notice of Death and Survivor Benefits Rule
2. Notice of Employer Incentive Fund Program Rule
3. Second Reading of Rules to Implement SB 112
4. Adoption of Oregon Savings Growth Plan Rules
5. Adoption of Salary and Contribution Limits Rules
6. Adoption of Document Submission Requirements Rules



Oregon

Kate Brown, Governor

Public Employees Retirement System

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www.oregon.gov/pers

March 28, 2022

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Notice of Rulemaking for Death and Survivor Benefits Rule:
OAR 459-014-0050, *Designation of Beneficiary at Retirement and Survivor Benefits*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Clarify how outstanding invoices are handled with respect to death benefits.
- Policy Issue: None identified.

BACKGROUND

Staff is recommending amendments to OAR 459-014-0050, the rule pertaining to the designation of beneficiaries at retirement, to provide additional transparency and clarification to members, alternate payees, and their beneficiaries. This rule and these edits affect only Tier One and Tier Two members.

When a Tier One/Tier Two member applies for retirement, the application requires they designate a beneficiary. That beneficiary designation is effective as of the member's effective retirement date and revokes all prior beneficiary designations. However, if the member dies between submitting their application for retirement and their effective retirement date, the new beneficiary designation has not taken effect and is invalid. The death benefit provided is a pre-retirement death benefit, paid to the beneficiary on file prior to receipt of the retirement application, which may be different than the beneficiary the member designated on their retirement application. Some beneficiaries have been unclear on this point, so staff have amended the rule to provide clarity.

When a retiree's benefit is adjusted and amounts that should have been paid or invoiced to the member are due after the member's death, they are paid out or invoiced to the member's beneficiary or estate. The rule has been amended to provide clarity as to what happens when a member has an outstanding invoice at the time of their death. The change in section (4) explains that any unpaid benefits accrued by the member before death will be offset by any outstanding invoice amount(s) before being paid out to a designated beneficiary or the member's estate.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held remotely on April 26, 2022, at 2:00 p.m. The public comment period ends May 2, 2022, 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, the PERS Board need not adopt the rule modifications.

Benefit: The rule modifications add further transparency and clarification regarding how outstanding invoices are handled with respect to death benefits.

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

RULEMAKING TIMELINE

March 28, 2022	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
March 28, 2022	PERS Board notified that staff began the rulemaking process.
April 1, 2022	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
April 26, 2022	Rulemaking hearing to be held remotely at 2:00 p.m.
May 2, 2022	Public comment period ends at 5:00 p.m.
May 27, 2022	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 remotely on April 26, 2022. The rule is scheduled to be brought before the PERS Board for adoption at the May 27, 2022 board meeting.

B.1. Attachment 1 - 459-014-0050, *Designation of Beneficiary at Retirement and Survivor Benefits*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 014 – DEATH AND SURVIVOR BENEFITS**

1 **459-014-0050**

2 **Designation of Beneficiary at Retirement and Survivor Benefits**

3 (1) For the purposes of this rule, “first payment is due” means the first of the calendar
4 month after the effective retirement date.

5 (2) The beneficiary designated on an application for service retirement becomes
6 effective on the effective retirement date. If the service retirement application is rejected by
7 PERS, *[or]* cancelled by the member, or if the member dies prior to the effective
8 retirement date, the beneficiary designation on the retirement application is null and
9 void and does not revoke previous pre-retirement beneficiary designations on file.

10 (3) PERS must receive a copy of the death certificate of the member or alternate
11 payee.

12 (4) When a retired Tier One or Tier Two member or alternate payee dies:

13 (a) Before the first payment is due, the benefit option selected pursuant to ORS
14 238.300 or 238.305 determines how benefits are paid to the designated beneficiary.

15 (b) After the first payment is due, unpaid benefits accrued by the member or alternate
16 payee before their death, less any outstanding invoice amounts, will be paid to
17 the designated beneficiary pursuant to ORS 238.390(4) or, in the event there is no
18 designated beneficiary at the time of member or alternate payee’s death, as provided in
19 ORS 238.390(2).

20 (5) A monthly benefit payable to a beneficiary is effective the first of the month after
21 the last month payable to the member or alternate payee.

1 (6) If a retired member receiving unit payments under ORS 238.440 dies before the
2 last payment has been made, the designated beneficiary will receive a lump sum payment
3 of the remaining unit account balance. There is no benefit due from employer
4 contributions.

5 (7) If adjustments are made to the retirement allowance or benefit of a deceased
6 retiree:

7 (a) A member's estate will be *[paid any underpayment or invoiced for any*
8 *overpayment of benefits paid to the member.] invoiced for any overpayment of benefits*
9 *paid to the member. Any underpayment of benefits to the member will be paid as*
10 *accrued benefits in accordance with subsection (4)(b) of this rule.*

11 (b) An alternate payee's estate will be *[paid any underpayment or invoiced for any*
12 *overpayment of benefits paid to the alternate payee.] invoiced for any overpayment of*
13 *benefits paid to the alternate payee. Any underpayment of benefits to the alternate*
14 *payee will be paid as accrued benefits in accordance with subsection (4)(b) of this*
15 *rule.*

16 (c) A beneficiary or a beneficiary's estate will be paid any underpayment or invoiced
17 for any overpayment of benefits paid to a beneficiary.

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

19 Stats. Implemented: ORS 238.300, 238.305, 238.390, 238.715, 238A.190 & 238A.400

Administrative Rulemaking

1. Notice of Death and Survivor Benefits Rule
2. Notice of Employer Incentive Fund Program Rule
3. Second Reading of Rules to Implement SB 112
4. Adoption of Oregon Savings Growth Plan Rules
5. Adoption of Salary and Contribution Limits Rules
6. Adoption of Document Submission Requirements Rules



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March 28, 2022

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Notice of Rulemaking for Employer Incentive Fund Program Rule:
OAR 459-009-0092, *Employer Incentive Fund Program*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Extend the Employer Incentive Fund (EIF) employer lump-sum payment deadline for employers on waitlist.
- Policy Issue: None identified.

BACKGROUND

The Oregon Legislature established the Employer Incentive Fund (EIF) in 2018. The purpose of the fund is to provide matching funds to employers who make lump sum deposits into employer side accounts under ORS 238.229. OAR 459-009-0092 sets the match percentage at 25 percent of the amount deposited by the employer. The EIF is held outside the PERS trust and receives funds from various sources, including general fund dollars and sports betting revenues. With an appropriation of \$100 million from the legislature in 2019, the first application cycle for matching contributions was opened on September 3, 2019 and was originally set to close on August 31, 2020. Under OAR 459-009-0092, an application cycle will close the earlier of: a) 12 months after the cycle is opened, or b) when all the funds have been paid out.

In May 2020 the PERS Board, by temporary rule, extended the EIF employer lump-sum payment deadline from August 31, 2020 to December 1, 2020, for the application cycle established on September 3, 2019. In September 2020 the Oregon Legislature disappropriated \$35 million of the original \$100 million to the EIF. At the December 1, 2020 payment deadline, there were approximately 44 employers on the waitlist. The waitlisted employers had committed a total of \$148,108,750 in lump-sum payments on their EIF applications; 12 of these employers have in fact already made their lump-sum payments without an EIF match.

In the 2022 legislative session, an additional amount of \$17,250,000 from the general fund and \$2,669,467 from sports betting revenues has been appropriated to the EIF. When considering other expected revenues from sports betting, the EIF will have approximately \$36,600,000 available as matching funds between April 2022 and March 2023.

In consultation with the Oregon Legislative Fiscal Office and in consideration of the fact that the 2020 Oregon Legislature disappropriated \$35 million of the original \$100 million that was previously appropriated to EIF and allocated to employers, PERS staff is recommending that the board once again extend the payment deadline for the first EIF application cycle from December

1, 2020 to March 31, 2023. This will allow waitlisted employers, particularly those who were allocated and expecting funds, to make their lump-sum contributions and receive matching funds.

If all the employers on the waitlist make their lump-sum payment commitments, PERS expects the \$36,600,000 amount will be sufficient to match lump-sum contributions for all the employers on the waitlist from the first EIF application cycle.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held remotely on April 26, 2022, at 2:00 p.m. The public comment period ends May 2, 2022, 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, the Board need not adopt the rule modifications.

Benefit: These rule modifications will allow waitlisted employers to make lump-sum contributions and receive matching funds that would be available from the EIF.

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

RULEMAKING TIMELINE

March 28, 2022	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
March 28, 2022	PERS Board notified that staff began the rulemaking process.
April 1, 2022	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
April 26, 2022	Rulemaking hearing to be held remotely at 2:00 p.m.
May 2, 2022	Public comment period ends at 5:00 p.m.
May 27, 2022	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 remotely on April 26, 2022. The rule is scheduled to be brought before the PERS Board for adoption at the May 27, 2022 board meeting.

B.2. Attachment 1 - 459-009-0092, *Employer Incentive Fund Program*

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

1 **459-009-0092**

2 **Employer Incentive Fund Program**

3 The words and phrases used in this rule have the same meaning given them in OAR
4 459-009-0086.

5 (1) When the PERS Board determines that a sufficient amount of money has been
6 allocated to the Employer Incentive Fund, it shall open an application period by declaring:

7 (a) The date upon which the application period shall open; and

8 (b) The total amount of funds available for matching employer UAL lump-sum
9 payments during the application period.

10 (2) The application period shall end at the earlier of:

11 (a) 12 months after the application period start date; or

12 (b) Once all funds available for matching employer UAL lump-sum payments
13 declared in subsection (1)(b) of this rule have been paid out.

14 (3) Unless otherwise specified in this rule, all the requirements and timelines
15 established in OAR 459-009-0084, 459-009-0085, and 459-009-0086 apply to UAL lump-
16 sum payments made in association with the Employer Incentive Fund Program.

17 (4) During the first 90 days of an application period, applications for the Employer
18 Incentive Fund Program will only be open to employers with an unfunded actuarial
19 liability greater than 200 percent of the employer's PERS payroll. After the first 90 days
20 have expired, applications will be open to all PERS participating employers.

21 (5) A PERS employer seeking participation in the Employer Incentive Fund Program
22 must submit an application to PERS and provide:

1 (a) The amount of the UAL lump-sum payment. The amount eligible for matching
2 funds excludes:

3 (A) Side account deposits of less than \$25,000; and

4 (B) Any amount that will be applied to any outstanding transition liability;

5 (b) The date the employer made, or intends to make, the UAL lump-sum payment.

6 Such date must be:

7 (A) No earlier than June 2, 2018; and

8 (B) No later than 12 months after the date the application period opens;

9 (c) A statement that the UAL lump-sum payment is not sourced from any type of
10 borrowed funds;

11 (d) The information required under OAR 459-009-0084(2)(c), if the employer is
12 making a UAL lump-sum payment under OAR 459-009-0084(2); and

13 (e) Proof of participation in the Unfunded Actuarial Liability Resolution Program as
14 provided under OAR 459-009-0091.

15 (6) PERS shall allocate a match amount equal to 25 percent of the eligible employer
16 UAL lump-sum payment amount indicated in subsection (5)(a) of this rule upon approval
17 of the employer’s application; however, such allocated match amount may not exceed the
18 greater of:

19 (a) Five percent of the unfunded liability attributable to the employer applying to
20 participate in the Employer Incentive Fund Program; or

21 (b) \$300,000.

22 (7) For the purposes of sections (4) and (6) of this rule, the unfunded actuarial liability
23 calculated by the PERS consulting actuary for the most recent actuarial report prepared
24 under ORS 238.605 as of the application period start date will be used.

1 (8) Notwithstanding section (6) of this rule, in the event that moneys in the Employer
2 Incentive Fund are not sufficient to match the entire 25% of an employer’s UAL lump-sum
3 payment commitment, only available moneys will be used in the match.

4 (9) PERS shall process the applications and allocate matching funds based upon the
5 order in which the applications are received.

6 (10) Except as otherwise provided in this rule, an employer will fail to qualify to
7 participate in the Employer Incentive Fund Program, thereby forfeiting any allocated
8 matching funds, if PERS does not receive the UAL lump-sum payment the employer has
9 committed under subsection (5)(a) of this rule on the due date specified in the application.

10 An employer may change, subject to PERS’ discretion and approval:

11 (a) The amount of the UAL lump-sum payment indicated in its application.

12 (A) If the UAL lump-sum payment amount is increased, only the original amount will
13 be eligible for matching funds; and

14 (B) If the UAL lump-sum payment amount is decreased:

15 (i) The new amount must be at least \$25,000; and

16 (ii) Any allocated matching funds will be decreased proportionately.

17 (b) The date of the UAL lump-sum payment indicated in its application.

18 (A) The employer must notify PERS at least five business days before the date the
19 employer indicated it would make the payment; and

20 (B) The new payment date must be within 12 months after the date the application
21 period opened.

22 (c) The rate offset date or UAL lump-sum payment amount for employers making
23 UAL lump-sum payments under OAR 459-009-0084.

24 (A) The employer will need to request and pay for a new actuarial calculation; and

1 (B) The UAL lump-sum payment must be made within 12 months after the date the
2 application period opens to remain eligible to receive matching funds.

3 (11) An employer must notify PERS and receive approval from PERS if it intends to
4 make the UAL lump-sum payment prior to the payment due date under subsection (5)(b)
5 or (10)(b) of this rule.

6 (12) Once all the funds identified in subsection (1)(b) of this rule have been allocated,
7 employers applying for matching funds will be placed on a waiting list.

8 (a) If moneys become available again during the same application period, the
9 employers on the waiting list will receive matching allocations based upon the order in
10 which their applications were received.

11 (b) If additional moneys become available on the last day of the application period,
12 employers on the waiting list that are notified they will receive a matching allocation will
13 have an additional five days to submit their UAL lump-sum payment.

14 (13) Notwithstanding section (2) of this rule, [T]the Board is extending the EIF
15 employer lump-sum payment deadline from *[August 31, 2020 to]* December 1, 2020 to
16 March 31, 2023, only for the waitlisted employers from the application cycle established
17 on September 3, 2019. Notwithstanding paragraph (10)(b)(B) of this rule, waitlisted
18 [E]employers that wish to extend their payment deadline under this section of the rule
19 must notify PERS of the new payment date at least five business days before the date the
20 employer indicated it would make the payment, and the new payment date must be no later
21 than *[December 1, 2020]* March 31, 2023. An employer must notify PERS and receive
22 approval from PERS if it intends to make the lump-sum payment prior to the new
23 payment date noticed under this section of the rule.

1 (14) OAR 459-009-0084(8), 459-009-0085(4) and (5), and 459-009-0086(7) do not
2 apply to UAL lump-sum payments receiving matching funds under this rule.

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

4 Stats. Implemented: ORS 238.225 - 238.229

Administrative Rulemaking

1. Notice of Death and Survivor Benefits Rule
2. Notice of Employer Incentive Fund Program Rule
3. Second Reading of Rules to Implement SB 112
4. Adoption of Oregon Savings Growth Plan Rules
5. Adoption of Salary and Contribution Limits Rules
6. Adoption of Document Submission Requirements Rules



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March 28, 2022

TO: Members of the PERS Board

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

SUBJECT: Second Reading of Rules to Implement SB 112 (2021):
OAR 459-005-0020, *Determination of Employee or Non-Employee Status*
OAR 459-010-0030, *Determination of Employee Status (repeal)*
OAR 459-010-0032, *Determination of Independent Contractor Status (repeal)*

OVERVIEW

- Action: None. This is second reading of the SB 112 rules.
- Reason: Implement 2021 legislation impacting PERS.
- Policy Issue: None identified.

BACKGROUND

Senate Bill (SB) 112 became effective on June 1, 2021. It is a PERS-sponsored bill to establish that common-law employees are included within the definition of “employee” under ORS 238.005(8) and “eligible employee” under ORS 238A.005(4). As promised during legislative committee hearings, PERS convened a work group of interested employee and employer stakeholders to address the agency’s implementation of SB 112 and associated rulemaking.

The proposed rule seeks to accomplish three things. First, PERS currently has two administrative rules regarding determination of employee or independent contractor status. The existing rules, OAR 459-010-0030 and 459-010-0032, are part of Division 10, which is generally applicable to the Chapter 238 Programs, and therefore does not explicitly apply to Oregon Public Service Retirement Plan (OPSRP) members. The proposed rulemaking repeals these existing rules and combines them into one new rule in Division 5 (Administration), which covers all programs. The combining of the rules is appropriate because a single legal standard applies to determining whether a person is an employee or independent contractor.

Second, in determining whether an individual is an employee for PERS purposes, PERS uses the current IRS standard for analyzing employment status under common law, but the current rules contain an outdated description of the IRS standard used. The proposed rule updates the categories and factors to be considered in this analysis to align with current IRS standards.

Third, the proposed rule establishes standards for presuming employment status based on employer tax reporting and also establishes a framework for how PERS will review claims of employment misclassification.

The proposed rule, OAR 459-005-0020, incorporates stakeholder feedback received through the work group. PERS has subsequently received public comments expressing concern with the work group process and noting that the proposed rule does not necessarily reflect a consensus of

the work group. Based on these comments, staff have reconvened the work group for further review, feedback, and refinement of the proposed rule before seeking adoption by the PERS Board.

PUBLIC COMMENT AND HEARING TESTIMONY

No rulemaking hearing was held because the PERS building is closed to the public. The first public comment period ended on December 23, 2021, at 5:00 p.m. In an email dated December 23, 2021, PERS received public comments on behalf of the PERS Coalition. The comments expressed concern about the workgroup process and noted that the proposed rule did not reflect a consensus of the workgroup. As a result, staff have reconvened the workgroup to continue development of these rules before adoption by the board. Due to additional rule modifications, the public comment period was extended until March 7, 2022, 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: Yes, changes are necessary to bring the rules in line with changes or additions to statute made by the 2021 legislature.

Benefit: Updates the rules to reflect recent legislative changes and provides clarification on the agency's administration of the plan.

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

RULEMAKING TIMELINE

December 1, 2021	Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State.
December 1, 2021	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice was sent to employers, legislators, and interested parties. Public comment period began.
December 3, 2021	PERS Board notified that staff began the rulemaking process.
December 23, 2021	First public comment period ended at 5:00 p.m.
January 28, 2022	Staff extended the public comment period by filing a second Notice of Rulemaking with the Secretary of State.
January 31, 2022	First reading of the rules.
March 7, 2022	Second public comment period ended at 5:00 p.m.

Second Reading – Rules to Implement SB 112 (2021)

03/28/2022

Page 3 of 3

March 28, 2022

Second reading of the rules.

May 27, 2022

Board may adopt the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

The rules are scheduled to be brought before the PERS Board for adoption at the May 27, 2022 board meeting.

B.3. Attachment 1 - 459-005-0020, *Determination of Employee or Non-Employee Status*

B.3. Attachment 2 - 459-010-0030, *Determination of Employee Status* (repeal)

B.3. Attachment 3 - 459-010-0032, *Determination of Independent Contractor Status* (repeal)

B.3. Attachment 4 - Public Comment Email from PERS Coalition

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

1 459-005-0020

2 Determination of Employee or Non-Employee Status

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

4 (a) “Employee” means:

5 (A) For a Tier One or Tier Two member, an individual who meets the definition
6 of “employee” provided in ORS 238.005 and OAR 459-005-0001(14), and includes
7 an individual who has the status of a common-law employee of a public employer,
8 under the usual common law rules applicable in determining the employer-
9 employee relationship.

10 (B) For an OPSRP member, an individual who meets the definition of “eligible
11 employee” provided in ORS 238A.005 and OAR 459-005-0001(14), and includes an
12 individual who has the status of a common-law employee of a public employer,
13 under the usual common law rules applicable in determining the employer-
14 employee relationship.

15 (b) “Independent contractor” means an individual or business entity providing
16 services to a public employer where the public employer has the right to control or
17 direct only the result of the labor or service, and not the means and manner of
18 providing the labor or service.

19 (c) “Non-employee” means an individual who does not meet the “employee”
20 definition provided in this rule, even though they may provide services to a public
21 employer, because they are not subject to the public employer’s control as to the
22 means and manner of providing the labor or service. “Non-employee” includes an

1 “independent contractor,” or an individual who is an employee of a third-party firm
2 or service provider.

3 (d) “Third-party firm or service provider” means a business that provides
4 individuals to a public employer who provide services to the public employer as part
5 of a service contract.

6 (2) Reporting Requirement. Public employers shall report all employees to
7 PERS as required under OAR 459-070-0100.

8 (3) Determination of whether an individual is an employee eligible for PERS
9 benefits, or a non-employee not eligible for PERS benefits, is made under common-
10 law rules.

11 (a) An individual is presumed to be an employee of a public employer if the
12 public employer reports the individual’s wage and tax information to the Internal
13 Revenue Service via Form W-2.

14 (b) An individual is presumed to be a non-employee if the public employer does
15 not report the individual’s wage and tax information to the Internal Revenue
16 Service via Form W-2.

17 (A) A non-employee is presumed to be an independent contractor of a public
18 employer if the public employer reports payments for the individual or business
19 entity’s services to the Internal Revenue Service via Form 1099.

20 (B) A non-employee is presumed to be an employee of a third-party firm or
21 service provider if a third-party firm or service provider reports the individual’s
22 wage and tax information to the Internal Revenue Service via Form W-2.

1 (4) PERS will rely on a public employer’s worker classification of an individual
2 based upon sections (2) and (3) of this rule. However, if a claim of worker
3 misclassification is raised in a dispute under ORS 238.285, a dispute under ORS
4 238.450, an appeal by an individual under OAR 459-001-0030, or an appeal by an
5 employer under OAR 459-001-0032, a public employer, or the individual who
6 provided services to a public employer, may rebut the presumption of employee or
7 non-employee status in section (3) of this rule by providing to PERS the following
8 documentary evidence:

9 (a) A judgment, court order, Internal Revenue Service Form SS-8
10 determination, or other Internal Revenue Service ruling that concludes that the
11 appropriate classification for the individual who provided services to a public
12 employer differs from the presumptions in section (3) of this rule;

13 (b) Other records satisfactory to PERS that establish that the appropriate
14 classification for the individual who provided services to a public employer differs
15 from the presumptions in section (3) of this rule.

16 (5) If a public employer, or the individual who provided services to a public
17 employer, submits documentary evidence to rebut the presumption of employee or
18 independent contractor status as required under section (4) of this rule, PERS shall
19 evaluate such evidence to determine whether an individual is an employee or non-
20 employee of the public employer under common-law rules.

21 (6) To determine an individual’s worker classification, PERS shall follow the
22 three-category common-law analysis, in accordance with standards established by

1 the Internal Revenue Service. The three categories of evidence of control or
2 independence are:

3 (a) Behavioral control. This category examines facts that show whether a public
4 employer has a right to direct and control the work performed by the individual,
5 even if that right is not exercised. Facts to be considered in evaluating behavioral
6 control include, but are not limited to:

7 (A) Instructions. This includes the type, degree, and frequency of instructions
8 given to the individual concerning when, where, and how the work is performed.

9 Relevant factors may include, but are not limited to:

10 (i) Setting hours of work;

11 (ii) Requiring full-time work;

12 (iii) Setting the order or sequence of work;

13 (iv) Requiring that the work be performed on the public employer’s premises;

14 and

15 (v) Requiring the services to be rendered personally by the individual, and
16 restricting the individual’s ability to hire, supervise, or pay assistants to complete
17 the work.

18 (B) Evaluation systems. This includes the type, degree, and frequency of
19 evaluations. Relevant factors may include, but are not limited to:

20 (i) Requiring the individual to submit regular oral or written reports to the
21 public employer;

22 (ii) Whether evaluation systems are used to measure how the work is done, or
23 only the final work product (without regard to how the work is done); and

1 (iii) Whether the public employer or a third-party is performing the evaluation.

2 (C) Training. This includes the type, degree, and frequency of training an
3 individual receives from the public employer. Relevant factors may include, but are
4 not limited to:

5 (i) Providing training on how to do the job, or other training opportunities;

6 (ii) Frequency of training opportunities;

7 (iii) Whether the public employer or a third-party is providing the training; and

8 (iv) The source of funding for the training.

9 (b) Financial control. This category examines facts that show whether a public
10 employer has the right to control the economic aspects of the individual's labor or
11 services. Facts to be considered in evaluating financial control include, but are not
12 limited to:

13 (A) Whether the public employer furnishes the tools and equipment used to
14 perform the work;

15 (B) Whether the public employer is responsible for obtaining all assumed
16 business registrations, professional occupation licenses, or certificates required by
17 state or local government ordinances for the individual to conduct business;

18 (C) Whether the individual is reimbursed for business and/or travel expenses;

19 (D) The extent to which the individual can realize a personal profit or loss;

20 (E) Whether the individual's services are available to the public;

21 (F) Whether the individual may provide labor or services to more than one
22 employer at a time; and

1 (G) Whether the public employer pays the individual wages on a regular
2 schedule, upon completion of a job, on a lump-sum or straight commission basis, or
3 on an annual or periodic retainer basis.

4 (c) Relationship of the parties. This category examines facts that show how the
5 individual and public employer perceive their relationship to each other. Facts to be
6 considered in evaluating the relationship of the parties include, but are not limited
7 to:

8 (A) The terms of any written contracts that describe whether the employer has
9 the legal right to control both the method and the result of the labor or service.
10 Other important factors include who can modify the contracts, and how
11 modifications are made to such contracts;

12 (B) Whether the public employer provides employee benefits to the individual;

13 (C) Whether the individual provides services on an ongoing basis, or whether
14 the relationship ends once the labor or services are completed;

15 (D) The extent to which the individual is integrated into the public employer's
16 business activities;

17 (E) Whether the individual's services are a key activity of the public employer's
18 business; and

19 (F) Whether the public employer or the individual have the right to discipline,
20 discharge, or terminate the relationship before services are completed, and the
21 consequences of discipline, discharge, or termination.

22 (7) Other important considerations.

1 (a) Standard of review. The employee or non-employee determination will be
2 based upon the totality of the circumstances. The degree and importance of each
3 factor will vary depending on the labor or services to be performed, and the context
4 in which the labor or services are performed.

5 (b) If, under the common-law rules, PERS determines that there is an
6 employee/employer relationship, it is immaterial how the relationship is described
7 by the parties. The substance of the relationship, not the label, governs the
8 individual’s status for PERS purposes. PERS will disregard any contractual
9 designation of the individual as an “independent contractor” or “non-employee” if
10 the facts demonstrate an employee/employer relationship.

11 (c) A non-employee who provides services to a public employer shall be
12 reported to PERS as a common-law employee of the public employer if an analysis
13 under this rule results in the finding of an employee/employer relationship between
14 the individual and the public employer.

15 (A) If an employee of a third-party firm or service provider is determined to be
16 a common-law employee of a public employer, the third-party firm or service
17 provider shall disclose all information regarding an employee’s wages that is
18 reasonably necessary to enable a public employer to make PERS contributions.

19 (B) If a public employer is not able to obtain information regarding the
20 employee’s wages from the third-party firm or service provider, the employee shall
21 submit to the board any payroll and tax records relating to the services provided to
22 the public employer and the board shall fix a wage which shall be the basis for
23 computing the amounts of the contributions. If the employee provided services to

1 multiple employers, adjustments will be made to reflect the actual hours of service
2 provided to the public employer responsible for the PERS contributions.

3 (d) For purposes of determining whether an individual provides services as an
4 independent contractor, the creation or use of a business entity, such as a
5 corporation or limited liability company, by an individual for the purpose of
6 providing services does not, by itself, establish that the individual provides services
7 as an independent contractor. When the individual provides services through a
8 business entity, such as a corporation or a limited liability company, services as an
9 independent contractor may be satisfied by the individual or the business entity.

10 Stat. Auth.: ORS 238.650

11 Stats. Implemented: ORS 238.005

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

1 **[459-010-0030]**

2 **[Determination of Employee Status]**

3 *[(1) The term "employee" shall have the same meaning as provided in ORS 238.005 and*
4 *OAR 459-005-0001(14).]*

5 *[(2) Determination of whether an individual is an employee is made under common-law*
6 *rules. Under common-law rules, every individual who performs labor or services subject to the*
7 *direction and control of an employer, both as to what must be done and how it must be done, is*
8 *an employee. It does not matter that the employer allows the employee discretion and freedom of*
9 *action, so long as the employer has the legal right to control both the method and the result of*
10 *the labor or services, resulting in an employee/employer relationship.]*

11 *[(3) If, under the common-law rules, there is an employee/employer relationship, it makes*
12 *no difference how it is described. It is not controlling whether the employee is called an*
13 *employee. It is not controlling how the payments are measured, how they are made, or what they*
14 *are called. It is not controlling whether the individual is employed full time or part time. There is*
15 *no distinction made between classes of employees. Superintendents, executives, managers,*
16 *supervisors, and other supervisory personnel are all employees.]*

17 *[(4) In applying the common-law rules, the 20-factor test as described in Internal Revenue*
18 *Service Ruling 87-41 shall be used in determining whether or not an individual is an employee.*
19 *The degree of importance of each factor varies depending on the labor or services to be*
20 *performed and the context in which the labor or services are performed. The 20 factors are:]*

21 *[(a) Instructions;]*

22 *[(b) Training;]*

- 1 *[(c) Integration;]*
- 2 *[(d) Services Rendered Personally;]*
- 3 *[(e) Hiring, Supervising, and Paying Assistants;]*
- 4 *[(f) Continuing Relationship;]*
- 5 *[(g) Set Hours of Work;]*
- 6 *[(h) Full Time Required;]*
- 7 *[(i) Doing Work on Employer's Premises;]*
- 8 *[(j) Order of Sequence Set;]*
- 9 *[(k) Oral or Written Reports;]*
- 10 *[(l) Payment by Hour, Week, Month;]*
- 11 *[(m) Payment of Business and/or Traveling Expenses;]*
- 12 *[(n) Furnishing of Tools and Materials;]*
- 13 *[(o) Significant Investment;]*
- 14 *[(p) Realization of Profit or Loss;]*
- 15 *[(q) Working for More than One Employer at a Time;]*
- 16 *[(r) Making Service Available to General Public;]*
- 17 *[(s) Right to Discharge; and]*
- 18 *[(t) Right to Terminate.]*
- 19 *[Stat. Auth.: ORS 238.650]*
- 20 *[Stats. Implemented: ORS 238.005(7)]*

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

1 ***[459-010-0032***

2 ***Determination of Independent Contractor Status]***

3 *[(1) An individual who qualifies as an employee under OAR 459-010-0030 is not an*
4 *independent contractor. Unless it is clearly established under this rule that a person is an*
5 *independent contractor, that person shall be deemed to be an employee.]*

6 *[(2) An individual or business entity is an independent contractor if the employing entity has*
7 *the right to control or direct only the result of the labor or service and not the means and*
8 *methods accomplishing the labor or services. The terms of the contract and the actual*
9 *arrangement under which labor or services are performed will determine whether an individual*
10 *or a business entity is subject to direction and control. When the elements of direction and*
11 *control are present in determining the means and methods of performing labor or service as*
12 *provided in OAR 459-010-0030, any disclaimers to the contrary are not binding for the purpose*
13 *of determining an employee/employer relationship by the system.]*

14 *[(3) In determining whether or not an individual is an independent contractor, the following*
15 *factors shall be considered. The degree of importance of each factor varies depending on the*
16 *labor or service to be performed and the context in which the labor or service are performed:]*

17 *[(a) Labor or service are performed only pursuant to written contracts;]*

18 *[(b) The individual or business entity assumes financial responsibility for defective*
19 *workmanship or for service not provided as evidenced by the ownership of performance bonds,*
20 *warranties, errors and omission insurance, or liability insurance relating to the labor or services*
21 *to be provided;]*

1 *[(c) The individual or business entity providing labor or service furnishes the tools,*
2 *equipment, and supplies necessary for performance of the contracted labor or services; or has a*
3 *significant investment in the facilities used in performing the labor or services;]*

4 *[(d) Payment for labor or service is made upon completion of the performance of specific*
5 *portions of the project or is made on the basis of an annual or periodic retainer. Normal*
6 *expenses incurred as part of providing labor or service are included in the stipulated payment*
7 *and are not reimbursed by the employing entity as a routine cost of doing business;]*

8 *[(e) The individual or business entity providing labor or services has the authority to hire*
9 *and fire employees to perform the labor or services. The individual or business entity is not*
10 *required to perform the labor or services personally; but may subcontract part or all of the labor*
11 *or service to be performed to another party;]*

12 *[(f) Labor or services are performed for two or more different persons and/or business*
13 *entities concurrently within a period of one year;]*

14 *[(g) The individual or business entity providing labor or services is responsible for*
15 *obtaining all assumed business registrations, professional occupation licenses, or certificates*
16 *required by state or local government ordinances for the individual or business entity to conduct*
17 *business;]*

18 *[(h) The individual or business entity actively advertises the availability of the labor or*
19 *services and represents to the public that the labor and services are to be provided by an*
20 *independently established business. The following are evidence of “actively advertising”:]*

21 *[(A) Commercial advertising or business cards as is customary in operating similar*
22 *businesses are purchased for the business, or the individual or business entity has a trade*
23 *association membership;]*

1 *[(B) Telephone listing and service are used for the business that is separate from the*
2 *personal residence listing and service used by an individual who performs the labor or services.]*

3 *[(i) Federal and state income tax returns in the name of the business or a business Schedule*
4 *C or farm Schedule F as part of the person income tax return were filed for the previous year if*
5 *the individual or business entity performed labor or services as an independent contractor in the*
6 *previous years.]*

7 *[(4) An individual represented as a Professional Corporation or a sole proprietorship shall*
8 *qualify as an independent contractor providing the criteria of this rule are met and the element*
9 *of direction and control in OAR 459-010-0030 are not present.]*

10 *[Stat. Auth.: ORS 238.650]*

11 *[Stats. Implemented: ORS 238.005]*

RIVAS Daniel * PERS

From: Aruna Masih <aruna@bennetthartman.com>
Sent: Thursday, December 23, 2021 10:34 AM
To: Chris Geier
Subject: Comments re. OARs Implementing SB 112
Attachments: SB 112 - Legislative History Materials.pdf

Dear Chris,

I write on behalf of the PERS Coalition to provide some comments regarding OAR 459-005-0020 intended to implement SB 112 (2021). The Coalition's concerns relate both to the process followed by PERS to arrive at the version of the OAR included in the notice of rulemaking and to the substance of the rule.

Process Concerns:

While the PERS Coalition appreciates PERS creating a workgroup to discuss how best to implement SB 112, it is concerning that the draft of the rule shared with the workgroup is significantly different from the version included in the public notice. I see that PERS maintains in the notice that it amended the draft in response to "feedback received through the work group," but PERS failed to share with the workgroup the feedback it received and if/how it intended to incorporate that feedback into the version of the OAR noticed for public comment. A more meaningful and effective workgroup process would have been to bring any feedback received outside the workgroup setting and any intended changes based on that feedback back to the workgroup for additional discussion and input. The agency failed to do that, and therefore, it is important that the PERS Board recognize that the amended version of the rule does not represent the consensus of the workgroup.

Substantive Concerns:

The rule as amended by PERS without workgroup consensus is problematic in several ways. First, it introduces new terms such as "non-employee" and "third-party firm or service provider" into the OAR that appear nowhere in the statute nor prior agency practice. More importantly, the way the terms are used do not appear to comport with the intent the agency expressed before the legislature which was to bring the agency back to the common law status quo which existed prior to the 2019 EWEB case. *See Attached Materials.* Second, the agency has created a rebuttable presumption based solely on whether the employee receives a W-2 or 1099 which is contrary to the legislative intent that the determination be made based on common law factors. Third, the rule uses vague terminology such as "other records satisfactory to PERS" which provide little guidance to employees or agency personnel involved in any proceeding to rebut the presumption. It is important that PERS rules not be subject to arbitrary administration by the agency.

In short, the PERS Coalition would request that the Board refer the rule back to the Workgroup for additional discussion and revision.

Sincerely,

Aruna Masih



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Administrative Rulemaking

1. Notice of Death and Survivor Benefits Rule
2. Notice of Employer Incentive Fund Program Rule
3. Second Reading of Rules to Implement SB 112
4. Adoption of Oregon Savings Growth Plan Rules
5. Adoption of Salary and Contribution Limits Rules
6. Adoption of Document Submission Requirements Rules



Oregon

John A. Kitzhaber, M.D., Governor

Public Employees Retirement System

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March 28, 2022

TO: Members of the PERS Board

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

SUBJECT: Adoption of Oregon Savings Growth Plan (OSGP) Rules:
 OAR 459-050-0001, *Definitions*
 OAR 459-050-0025, *Deferred Compensation Advisory Committee*
 OAR 459-050-0030, *Deferred Compensation Administrator*
 OAR 459-050-0037, *Trading Restrictions*
 OAR 459-050-0050, *Eligibility and Enrollment*
 OAR 459-050-0060, *OSGP Designation of Beneficiary*
 OAR 459-050-0070, *Catch-Up Programs*
 OAR 459-050-0072, *Military Leave Catch-up*
 OAR 459-050-0075, *Distributions During Employment*
 OAR 459-050-0077, *Loan Program*
 OAR 459-050-0080, *Distribution of Funds After a Severance of Employment*
 OAR 459-050-0150, *Unforeseeable Emergency Withdrawal*
 OAR 459-050-0240, *Deferred Compensation Program Notifications*

OVERVIEW

- Action: Adopt Oregon Savings Growth Plan (OSGP) rules.
- Reason: Revision to rules within the Oregon Savings Growth Plan (OSGP) to provide clarity and better reflect the current administration of the program.
- Policy Issue: None identified.

BACKGROUND

It has been several years since staff performed a comprehensive review of the OSGP administrative rules. Modifications to the administrative rules are being proposed to better reflect existing administrative practices.

Most of the modifications are housekeeping, such as deleting defined terms that are not used in the administrative rules, removing processes that no longer exist, removing a reference to an investment option that no longer exists, updating form submission processes to reflect electronic form and submission options, reflecting that lump sum distributions may be made by direct deposit, and updating requirements for participation in catch up programs.

Other modifications are small alterations to administrative practices, such as increasing the loan fee from \$50 to \$75, removing the prohibition on participation for six months after receipt of an allowable distribution while employed with a participating employer, and increasing the distribution increments from \$5 to \$200.

SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

No modifications were made to the rules since notice.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely on February 22, 2022, at 2:00 p.m. No members of the public attended. The public comment period ended March 7, 2022, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Impact: Edits to clarify the administration of the OSGP for members and staff.

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

RULEMAKING TIMELINE

January 28, 2022	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
January 31, 2022	PERS Board notified that staff began the rulemaking process.
February 1, 2022	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice sent to employers, legislators, and interested parties. Public comment period began.
February 22, 2022	Rulemaking hearing held remotely at 2:00 p.m.
March 7, 2022	Public comment period ended at 5:00 p.m.
March 28, 2022	Board may adopt the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

BOARD OPTIONS

The PERS Board may:

1. Pass a motion to “adopt the Oregon Savings Growth Plan (OSGP) rules, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

- B.4. Attachment 1 - 459-050-0001, *Definitions*
- B.4. Attachment 2 - 459-050-0025, *Deferred Compensation Advisory Committee*
- B.4. Attachment 3 - 459-050-0030, *Deferred Compensation Administrator*
- B.4. Attachment 4 - 459-050-0037, *Trading Restrictions*
- B.4. Attachment 5 - 459-050-0050, *Eligibility and Enrollment*
- B.4. Attachment 6 - 459-050-0060, *Designation of Beneficiary*
- B.4. Attachment 7 - 459-050-0070, *Catch-Up Programs*
- B.4. Attachment 8 - 459-050-0072, *Military Leave Catch-up*
- B.4. Attachment 9 - 459-050-0075, *Distributions During Employment*
- B.4. Attachment 10 - 459-050-0077, *Loan Program*
- B.4. Attachment 11 - 459-050-0080, *Distribution of Funds After a Severance of Employment*
- B.4. Attachment 12 - 459-050-0150, *Unforeseeable Emergency Withdrawal*
- B.4. Attachment 13 - 459-050-0240, *Deferred Compensation Program Notifications*

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

1 **459-050-0001**

2 **Definitions**

3 The words and phrases used in this Division have the same meaning given them in
4 ORS 243.401 — 243.507 and ORS 293.701 — 293.820. Specific and additional terms are
5 defined as follows unless the context requires otherwise.

6 (1) “Advisory Committee” means the committee established pursuant to ORS
7 243.505 and appointed by the Board.

8 (2) “Alternate Payee” shall have the same meaning as provided in ORS
9 243.507(9)(a).

10 (3) “Alternate Payee Account” means a separate account created under ORS 243.507
11 in the name of an alternate payee pursuant to a court order.

12 (4) “Alternate Payee’s Award” is the portion of a participant’s Deferred
13 Compensation Account, Designated Roth Account, or a combination of both, awarded to
14 an alternate payee by a court order, and includes the creation of separate account(s) in the
15 fund in the name of the alternate payee.

16 (5) “Alternate Payee Release” means a written statement signed by the alternate
17 payee and received by the Deferred Compensation Program. An alternate payee release
18 may pertain to any of the matters set forth in subsections (5)(a) through (5)(c) of this rule,
19 may authorize the release of information, and direct the Deferred Compensation Program
20 to send information to a named person at a specified address.

21 (a) Pertaining to the alternate payee’s interest in the participant’s Deferred
22 Compensation Account and the Designated Roth Account;

1 (b) Pertaining to the alternate payee’s account(s) and distribution(s) if separate
2 account(s) have been created in the name of the alternate payee; or

3 (c) Pertaining to award information contained in any draft or final court order in
4 regard to the alternate payee on record with the Deferred Compensation Program.

5 (6) “Board” shall have the same meaning as provided in ORS 243.401(1).

6 (7) “Committee” shall have the same meaning as provided in section (1) of this rule.

7 (8) “Court Order” means a court decree or judgment of dissolution of marriage,
8 separation, or annulment, or the terms of any court order or court approved marital
9 property settlement agreement, incident to any court decree or judgment of dissolution of
10 marriage, separation, or annulment.

11 (9) “Deferred Compensation Account” means the participant’s individual account in
12 the Deferred Compensation Plan as defined in ORS 243.401(5) that is made up of pre-tax
13 employee contributions and earnings.

14 (10) “Deferred Compensation Advisory Committee” shall have the same meaning as
15 provided in section (1) of this rule.

16 (11) “Deferred Compensation Contract” shall have the same meaning as provided in
17 ORS 243.401(3).

18 (12) “Deferred Compensation Investment Program” shall have the same meaning as
19 provided in ORS 243.401(4).

20 (13) “Deferred Compensation Manager” means the person appointed by the Director
21 to serve as the Manager of the Deferred Compensation Program of the Public Employees
22 Retirement System.

1 (14) “Deferred Compensation Plan” shall have the same meaning as provided in
2 ORS 243.401(5).

3 (15) “Deferred Compensation Program” means a program established by the State of
4 Oregon and administered under policies established by the Public Employees Retirement
5 Board that has as its purposes the deferral of compensation to eligible employees.

6 (16) “Designated Roth Account” means a participant’s individual account in the
7 Deferred Compensation Program that is made up of Designated Roth Contributions,
8 eligible rollovers and earnings.

9 (17) “Designated Roth Contribution” means any elective deferral which would
10 otherwise be excludable from gross income of an employee under section 457(b) of the
11 Internal Revenue Code and the employee designates as not being so excludable under
12 section 402A of the Internal Revenue Code.

13 (18) “Disclosure Statement” means the statement, required by ORS 243.450, that
14 describes the probable income and probable safety of money deferred.

15 (19) “Domestic Relations Order” means a judgment, decree or court order made
16 pursuant to a state’s domestic relations law that creates or recognizes the existence of an
17 alternate payee’s right, or assigns to an alternate payee the right, to receive all or a
18 portion of a participant’s Deferred Compensation Account, Designated Roth Account, or
19 a combination of both, or benefit payments.

20 (20) “Draft Court Order” means an Order as described in section (8) of this rule
21 which contains proposed language for the division of a Deferred Compensation Account,
22 Designated Roth Account, or a combination of both, and has been prepared but not
23 approved or signed by the court or has not been filed with the court clerk.

1 (21) “Eligible Employee” shall have the same meaning as ORS 243.401(6) for an
2 employee of the state, or as provided in the plan description of a local government
3 deferred compensation plan, and shall exclude persons who are adults in custody of any
4 prison or detention facility operated by the state or local government, and persons who
5 are employed by contract with a private sector business.

6 (22) “Enrollment Form” means a contract between the eligible employee and the
7 plan sponsor which defines the circumstance, responsibilities and liabilities of both
8 parties relating to the participation of the employee in the Deferred Compensation
9 Program.

10 *[(23) “Estimate” means a projection of distributions prepared by staff. An estimate*
11 *is not a guarantee or promise of actual distributions that eventually may become due and*
12 *payable.]*

13 *[(24)](23)* “Final Court Order” means a court order or judgment that has been signed
14 by a judge and shows the stamp of the court clerk or trial court administrator, indicating
15 the order is a certified copy of the original record on file with the court.

16 *[(25)](24)* “Fund” shall have the same meaning as provided in ORS 243.401(7).

17 *[(26)](25)* “Local Government” shall have the same meaning as provided in ORS
18 243.401(8).

19 *[(27) “Local Government Deferred Compensation Contract” means a written*
20 *contract between a local government and an eligible employee of that local government*
21 *that provides for deferral of income for service currently rendered, as defined in the*
22 *established policy of the local government.]*

1 ~~[(28)](26)~~ “Local Government Deferred Compensation Plan” shall have the same
2 meaning as provided in ORS 243.401(9).

3 ~~[(29)](27)~~ “Manager” shall have the same meaning as provided in section (13) of
4 this rule.

5 ~~[(30)](28)~~ “OIC” means the Oregon Investment Council created by ORS 293.706.

6 ~~[(31)](29)~~ “Participant” means a person defined in either ORS 243.401(10) or
7 243.401(13) participating in one or more deferred compensation plans under ORS
8 243.401 to 243.507, either through current or past deferrals or compensation.

9 ~~[(32)](30)~~ “Participant’s Release” means a written statement signed by a deferred
10 compensation plan participant and received by the Deferred Compensation Program. A
11 participant’s release may pertain to any of the matters set forth in subsections (a) through
12 (c) of this section, may authorize the release of information, and direct the Deferred
13 Compensation Program to send information to a named person at a specified address.

14 (a) Pertaining to the participant’s Deferred Compensation Account and Designated
15 Roth Account;

16 (b) Pertaining to the participant’s distribution(s); or

17 (c) Pertaining to award information contained in any draft or final court order in
18 regard to the participant on record with the Deferred Compensation Program.

19 ~~[(33)](31)~~ “Participating Local Government” shall have the same meaning as
20 provided in ORS 243.401(11).

21 ~~[(34)](32)~~ “Payroll Disbursing Officer” means:

22 (a) The person authorized by the state to disburse moneys in payment of salaries and
23 wages of employees of a state agency; or

1 (b) The person authorized by a local government to disburse money in payment of
2 salaries and wages of employees of that local government.

3 ~~[(35)]~~(33) “PERS” shall have the same meaning as provided in ORS 243.401(14).

4 ~~[(36)]~~(34) “Plan Sponsor” means a public employer that establishes an eligible
5 deferred compensation plan as defined in Section 457 of the Internal Revenue Code and
6 which enters into an agreement with PERS to participate in the Deferred Compensation
7 Program.

8 ~~[(37)]~~(35) “Program” shall have the same meaning as provided in section (15) of
9 this rule.

10 ~~[(38)]~~(36) “Public Employees Retirement Board” shall have the same meaning as
11 provided in ORS 243.401(1).

12 ~~[(39)]~~(37) “Public Employer” means the state or a local government as defined in
13 ORS 243.401(8).

14 ~~[(40)]~~(38) “Qualified Domestic Relations Order” or “QDRO” means a domestic
15 relations order that has been reviewed and determined to be qualified by the Deferred
16 Compensation Program Manager.

17 ~~[(41)]~~(39) “Solicitation of Offers from Vendors” means a notice to potential vendors
18 of investment services prepared by the OIC informing the potential vendor of the needs
19 of the Deferred Compensation Investment Program and notice that the OIC will accept
20 offers from qualified vendors to sign a contract with the State of Oregon providing for the
21 vendors’ acceptance of deposits under the terms and conditions of the contract.

22 ~~[(42)]~~(40) “Staff” means any employee of the Public Employees Retirement System,
23 who has been appointed in accordance with ORS 238.645.

1 ~~[(43)]~~(41) “State Agency” means every state officer, board, commission, department
2 or other activity of state government.

3 ~~[(44)]~~(42) “State Deferred Compensation Plan” shall have the same meaning as
4 provided in ORS 243.401(12).

5 ~~[(45)]~~(43) “Vendor” means an entity offering investment or other service related to
6 investment of deferred compensation pursuant to a contract with the State of Oregon.

7 [Publications: Publications referenced are available from the agency.]

8 Stat. Auth.: ORS 243.470

9 Stats. Implemented: ORS 243.401 - ORS 243.507

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

1 **459-050-0025**

2 **Deferred Compensation Advisory Committee**

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

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

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

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

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

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

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

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

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

20 (a) The Program fee structure and procedures;

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

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

3 *[(d)](c)* Ways and means to inform and educate eligible employees about the
 4 Program;

5 *[(e)](d)* The expressed desires of eligible employees as to the Program; and

6 *[(f)](e)* The actuarial characteristics of eligible employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (e) In the event of a vacancy for an unexpired term, the Manager may select
18 applications from the most recent list of interested persons established under subsection
19 (c) of this section and the applications of other persons as deemed appropriate for
20 consideration. A committee consisting of the Manager and two members of PERS
21 executive or managerial staff designated by the PERS Executive Director shall review the
22 selected applications and recommend to the Board candidates for appointment to the
23 Advisory Committee. The appointment shall be immediately effective for the remainder

1 of the unexpired term. If no candidate is recommended or appointed, the vacancy must be
2 filled under the provisions of subsections (a) through (d) of this section.

3 Stat. Auth.: ORS 243.470

4 Stats. Implemented: ORS 243.505

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

1 **459-050-0030**

2 **Deferred Compensation** *[Administrator]* Manager

3 (1) The Deferred Compensation Manager (Manager) shall administer the Deferred
4 Compensation Program (Program) established pursuant to ORS 243.401 to 243.507
5 consistent with the laws and administrative rules applicable thereto and on the best
6 possible basis with relation to both the welfare of eligible employees and the State of
7 Oregon. To this end, the Manager may contract for services necessary to the
8 administration of the Program, either independently or in a joint agreement with the OIC
9 or the Oregon State Treasurer.

10 (2) The Manager shall prepare and maintain standard forms necessary to the
11 administration of the Program.

12 (3) The Manager shall provide forms and procedures for promptly communicating
13 participating employee requests for deferral of compensation to the appropriate public
14 officers.

15 (4) The Manager shall provide forms and procedures for promptly communicating
16 employees' requests for types of investment or deposit of funds to the investments record
17 keeper for each investment option selected.

18 (5) The Manager shall provide for settlement agreement with employees
19 participating in the deferred compensation program that provides for distributions to
20 those employees or their designated beneficiaries, upon conditions which are consistent
21 with maintaining the tax exempt status of the Program.

22 (6) The Manager shall approve or deny all applications for a financial hardship
23 distribution as provided in OAR 459-050-0150.

1 (7) The Manager shall select members of the Financial Hardship Committee
2 established under OAR 459-050-0040.

3 (8) The Manager shall obtain disclosure statements concerning the probable safety
4 and probable return of investment of deferred compensation funds for distribution to
5 participants. These disclosure statements shall be given to all employees expressing
6 interest in participating in the deferred compensation program or in changing investments
7 under the Program and shall include, at a minimum:

8 (a) The probable income and probable safety of the monies deferred, based upon the
9 historical performance of the investment option; and

10 (b) The fees and costs associated with each investment option or plan, including
11 related administrative costs, insofar as the information is known.

12 (9) The Manager shall provide with the disclosure statements a general comparison
13 of investments under the Program, using standard units of comparison, and the following
14 disclaimer:

15 “Statements about the relative risk and returns of investment options do not represent
16 predictions of how the investments will perform in the future, but rather provide only a
17 general description of the current investment and how it has performed in the past. The
18 disclosure statement and other information provided by the state is not intended to
19 provide individualized investment counseling, but only general information. Employees
20 who participate in the Deferred Compensation Program will be entitled only to the funds
21 that are lawfully credited to their Deferred Compensation and Designated Roth Accounts
22 when those funds are distributed. Participants assume the risk that, at time of such
23 distribution, the deferred compensation investments related to their Deferred

1 Compensation and Designated Roth Accounts may have decreased in value or become
2 valueless.”

3 (10) The Manager shall undertake a continuing agenda of educating participants
4 regarding the goals and objectives of the Program. As part of this education, the Manager
5 shall prepare and distribute to eligible employees a written general description of
6 available investment options, including their expected relative risks and returns. This
7 document shall also include a general description of disclosure statements and their
8 purpose in assisting employees in evaluating deferred compensation investments.

9 (11) The Manager shall assure that there are regular audits of the Program, consistent
10 with generally accepted accounting principles.

11 (12) The Manager shall monitor the performance of all deferred compensation
12 investment options offered to eligible employees under the Program.

13 (13) The Manager shall obtain information concerning pending legislation and such
14 advice as appears necessary to comply with state and federal laws, and administrative
15 rules or regulations applicable to the administration of the Program.

16 (14) Unless excused by the Director of the Public Employees Retirement System, the
17 Manager shall attend all meetings of the Board and of the Advisory Committee. The
18 Manager shall supply the Board and the Advisory Committee with such information and
19 assistance as they may request.

20 (15) The Manager shall prepare an annual report to the Board and the Advisory
21 Committee concerning:

22 (a) The effectiveness of and any substantial problems with the administration of the
23 Program, including but not limited to the method of accepting deposits from the payroll

1 disbursing officer, preparing disclosure forms, making investments and deposits of funds
2 as consistent with the request of participants as possible, maintaining accounts and
3 records of deposits and the costs and fees associated with the administration of individual
4 plans, communications with and education of participants, participant elections of
5 investment options and changes in their elections, participants' elections of payment
6 method upon withdrawal from service or retirement, and problems with participants'
7 creditors;

8 (b) The status of state and federal legislation and laws that may affect the program or
9 require action by the Board;

10 (c) The performance of all deferred compensation investment options; and

11 (d) The results of the latest reported audit(s) of the deferred compensation plan(s),
12 and the Deferred Compensation Program.

13 Stat. Auth.: ORS 243.470

14 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0037**

2 **Trading Restrictions**

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

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

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

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

16 (2) Restrictions.

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

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

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

21 (C) No trade may move monies directly from the Stable Value Option to *[the Short-*
22 *Term Fixed Income Option or]* the Self-Directed Brokerage Option.

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

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

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

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

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

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

18 Stat. Auth.: ORS 243.470

19 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0050**

2 **Eligibility and Enrollment**

3 The purpose of this rule is to establish eligibility criteria and the process for an
4 eligible employee to enroll in the Deferred Compensation Plan established in accordance
5 with section 457 of the Internal Revenue Code and ORS Chapter 243.

6 (1) Eligible employee. Eligible employee shall have the same meaning as in OAR
7 459-050-0001, and as defined by section 457 of the Internal Revenue Code.

8 (2) Application for enrollment. Subject to the requirements of subsections (a)
9 through (c) of this section, an eligible employee may enroll to participate in the Deferred
10 Compensation Program by entering into a written agreement as specified herein with the
11 plan sponsor. The written agreement must specify that a portion of the eligible
12 employee's future compensation will be reduced each month, the amount of the
13 reduction, and that the amount of the reduction will be contributed to account(s)
14 established for the employee in the Deferred Compensation Plan.

15 (a) An eligible employee may enter into an agreement to participate in the plan on or
16 before the first day of employment or anytime while employed; provided, however, that
17 the requirements of subsection (b) of this section must be satisfied.

18 (b) In order for an eligible employee to be enrolled, *[the following forms]* an
19 enrollment form, as defined in OAR 459-050-0001 and provided by the Deferred
20 Compensation Program, must be properly completed and filed with the Deferred
21 Compensation Program.

22 *[(A) An enrollment form, as defined in OAR 459-050-0001, and which is also an*
23 *eligible employee's written acknowledgement that the employee understands the terms of*

1 *the enrollment form and is an eligible employee’s election of investment option*
2 *preferences; and]*

3 *[(B) A Designation of Beneficiary form, as provided in OAR 459-050-0060.]*

4 (c) If the form[s are] is incomplete, does not comply with plan provisions in any
5 manner whatsoever, or the Plan is unable to process the application, then staff will notify
6 the eligible employee within 30 calendar days from the date the enrollment form[s are] is
7 received with the reasons the Deferred Compensation Program cannot accept the
8 enrollment as submitted.

9 (3) Deferral effective date. The Deferred Compensation Program must receive an
10 application for enrollment and be able to determine that the application is complete and
11 may be processed no later than the 25th day of any calendar month for salary reduction of
12 future earnings to begin from compensation paid for services performed during the
13 calendar month following receipt of enrollment.

14 *[(4) Investment option preference(s). All or any portion of a participant’s account*
15 *may be, but is not be required to be, invested by the plan sponsor in the investment*
16 *options designated by the participant. The plan sponsor shall have absolute and*
17 *uncontrolled discretion with respect to the option or options in which the account shall*
18 *be invested.]*

19 **(4) Investment option preference(s): Except for account balances invested in the**
20 **Self-Directed Brokerage Option as provided under OAR 459-050-0120, Plan**
21 **participants may only invest their account balances by choosing from investment**
22 **options provided by the plan sponsor.**

1 (5) Disclosure statement. Before the deferral of any part of an eligible employee’s
2 salary, the employee shall be provided information about the investment options
3 including, but not limited to, the probable income and safety of the moneys deferred.
4 Statements about the relative risk and returns of investment options do not represent
5 predictions of how the investments will perform in the future, but rather provide only a
6 general description of the current investment and how it has performed in the past. The
7 Deferred Compensation Program does not provide investment advice, fund analysis or
8 research. Investment options are not guaranteed nor FDIC insured.

9 (6) Deferral amount. A participant’s salary shall be reduced each pay period in an
10 amount or percentage specified by the participant for the purpose of contribution to the
11 participant’s account(s) in the Deferred Compensation Program. The amount of the salary
12 reduction may not be less than the minimum per month established by the plan sponsor
13 and may not exceed the maximum applicable allowable contribution to a Deferred
14 Compensation Plan as defined in section 457(b)(2) of the Internal Revenue Code.

15 (a) A new participant who enrolls after the first pay period in a calendar year may
16 elect to defer the maximum allowable contribution for the year from future compensation
17 for the remainder of the year.

18 (b) The participant’s maximum deferral limit is determined without regard to
19 amounts rolled over from an eligible retirement plan to the participant’s Deferred
20 Compensation account.

21 Stat. Auth.: ORS 243.470

22 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0060**

2 **OSGP Designation of Beneficiary**

3 The purpose of this rule is to establish the criteria and process that must be used to
4 designate a beneficiary. The provisions in this rule apply to participants, a participant's
5 surviving beneficiaries, alternate payees and an alternate payee's surviving beneficiaries.

6 (1) Definitions. The following definitions apply for the purpose of this rule:

7 (a) "Administrator" means the person appointed by a probate court to handle the
8 distribution of property of someone who has died without a will, or with a will that fails
9 to name someone to carry out this task.

10 (b) "Conservator" means the person who has been appointed by a court to manage
11 the property and financial affairs of an incapacitated person.

12 (c) "Executor" means the person named in a will to handle the property of someone
13 who has died. The executor must collect and manage the property, pay debts and taxes,
14 and distribute the remaining assets as specified in the will. In addition, the executor
15 handles any probate court. Executors are also called personal representatives.

16 (d) "Personal Representative" means the person named in a will to handle the
17 property of someone who has died. Personal representatives are also called executors.

18 (2) Designation of Beneficiary. When a participant in the Deferred Compensation
19 Program dies, the benefit of the participant's account shall be paid to the beneficiaries
20 designated by the participant. For purposes of this rule, a participant may designate any
21 of the following as a primary or contingent beneficiary:

22 (a) Any natural person(s);

23 (b) The personal representative or executor of the estate of the participant;

1 (c) A charity or other non-profit organization; or

2 (d) A trust that is valid under Oregon state law.

3 (A) If a living trust is designated, the trust must be legally in existence before the
4 participant makes the designation.

5 (B) If a designated trust fails to satisfy the requirements in OAR 459-050-
6 0300(1)(c)(B), payment to the trust shall be made as provided in OAR 459-050-0300(11).

7 (3) Surviving beneficiary or alternate payee. Any surviving beneficiary designated
8 under section (2) of this rule or an alternate payee may designate a beneficiary in the
9 same manner as a participant.

10 (4) Power of attorney. The agent shall submit a copy of the Power of Attorney
11 document with the filing of the designation of beneficiary form. The Deferred
12 Compensation Program may, but is not required to, accept a beneficiary designation
13 made by an agent or attorney-in-fact appointed under a Power of Attorney document. If
14 the Deferred Compensation Program is satisfied that a Power of Attorney document is
15 valid, has not been revoked, and empowers the agent or attorney-in-fact to designate a
16 beneficiary, the program shall accept a beneficiary designation made by the agent or
17 attorney-in-fact appointed under the Power of Attorney document.

18 (5) Conservator. The Deferred Compensation Program shall accept a beneficiary
19 designation made by a conservator for the participant provided that the conservator
20 submit a certified copy of the letters of conservatorship or other court order appointing a
21 conservator with the designation of beneficiary form.

22 (6) Effective date of designation of beneficiary. A designation of beneficiary is not
23 effective until a properly completed designation on a form supplied by the Deferred

1 Compensation Program is filed with the Deferred Compensation Program. In the event a
2 designation of beneficiary is incomplete staff will provide notification within 30 days
3 explaining why the form is incomplete.

4 (7) Revocation of designation of beneficiary. A participant, alternate payee or
5 surviving beneficiary may revoke any and all previous beneficiary designations by filing
6 a new designation on a properly completed form supplied by the Deferred Compensation
7 Program. This designation must be in accordance with section (2) of this rule.

8 (8) Dissolution of marriage. A participant’s designation of beneficiary may be
9 revoked or nullified by a decree of divorce, decree of annulment, or other similar
10 circumstance effective upon the entry of a judgment that revokes the designation of the
11 beneficiary.

12 (9) No Designated Beneficiary. If the designated primary and contingent
13 beneficiaries on file with the Deferred Compensation Program have predeceased the
14 deceased participant, surviving beneficiary, or alternate payee who made the designation,
15 or if the program has no record of a designation or is otherwise unable to administer the
16 designation, the Deferred Compensation Program shall distribute the benefit of the
17 deceased’s account to the executor, personal representative, or administrator of the
18 deceased’s estate.

19 (a) If the program is unable to locate the designated beneficiaries or the executor,
20 personal representative, or administrator of the estate by December 31 of the calendar
21 year following the participant’s death, the amount in the deceased’s account on that date
22 shall be credited to the Deferred Compensation Fund. The amount credited may be used
23 for the payment of administrative expenses of the Deferred Compensation Program.

1 (b) If the designated beneficiaries or the executor, personal representative, or
2 administrator of the estate is later located or other future successful claim is filed,
3 payment will be made in an amount not to exceed the balance in the deceased's account
4 credited to the Deferred Compensation Fund in subsection (a) of this section.

5 Stat. Auth.: ORS 243.470

6 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0070**

2 **Catch-Up Programs**

3 The purpose of this rule is to establish the criteria and process to allow an eligible
4 employee to contribute additional amounts, in excess of the regular applicable maximum
5 allowable contributions, to the eligible employee’s account.

6 (1) *[Except as provided in subsections (a) and (b) of this section, for]* **For** purposes
7 of this rule, “normal retirement age” shall be:

8 **(a) For employers that do not sponsor another deferred compensation plan**
9 **under IRC 457(b), the earlier of:**

10 **(A) Age 65; or**

11 **(B) [t]The normal retirement age for non-police and fire employees established in**
12 **the [plan sponsor’s retirement plan] employer’s defined benefit pension plan or**
13 **money purchase pension plan.**

14 **(b) For employers additionally sponsoring another deferred compensation plan**
15 **under IRC 457(b) with a 3-Year Catch-Up Program, for purposes of this rule,**
16 **“normal retirement age” shall have the same meaning as defined in the plan**
17 **provisions of the other deferred compensation plan. If the other plan does not define**
18 **normal retirement age, normal retirement age shall be determined as outlined in**
19 **subsection (1)(a) of this rule.**

20 *[(a) “Normal retirement age” for members of the Public Employees Retirement*
21 *System shall be as provided in ORS 238.005, 238.280(3), 238A.160, or 238.535.]*

1 *[(b) If an eligible employee continues to work beyond normal retirement age,*
2 *“normal retirement age” shall be that date or age designated by the eligible employee*
3 *but may not be later than 70-1/2 years of age.]*

4 (2) 50-Plus Catch-Up Program. Pursuant to the conditions of this rule, eligible
5 employees who are 50 years of age and older may elect to contribute an additional
6 amount under section 414(v) of the Internal Revenue Code in excess of the maximum
7 regular contribution allowed.

8 (a) Conditions for *[enrollment]* participation: An eligible employee must be 50
9 years of age or older on December 31 of the calendar year in which the eligible employee
10 begins to participate in the 50-Plus Catch-Up Program.

11 (A) An eligible employee may participate in the 50-Plus Catch-Up Program during
12 years either before or after participation in the 3-Year Catch-Up Program, but may not
13 participate in both programs during the same calendar year.

14 (B) An eligible employee may participate in the 50-Plus Catch-Up Program during
15 the calendar year containing the employee's retirement date.

16 *[(b) Application for enrollment. An eligible employee choosing to participate must*
17 *enroll by entering into a written agreement with the plan sponsor. The written agreement*
18 *must specify the amount of the additional annual deferral, including whether any portion*
19 *of the additional deferral should be a Designated Roth Contribution, and that the*
20 *additional deferral will be divided equally by the available months for the calendar year,*
21 *and that the amount is in addition to the eligible employee's regular maximum deferral.]*

1 *[(A) An eligible employee may enter into a written agreement to participate in the*
 2 *50-Plus Catch-Up Program on or before the first day of employment or anytime while*
 3 *employed.]*

4 *[(B) A properly completed 50-Plus Catch-Up Program enrollment form provided by*
 5 *the Deferred Compensation Program must be filed with and approved by the Deferred*
 6 *Compensation Program.]*

7 *[(C) If the form is incomplete or does not comply with 50-Plus Catch-Up Program*
 8 *conditions of enrollment, then the Deferred Compensation Program will notify the*
 9 *eligible employee within 30 calendar days from the date the enrollment form is received*
 10 *of the reasons the enrollment cannot be accepted.]*

11 *[(c) 50-Plus Catch-Up Program deferral effective date. 50-Plus Catch-Up Program*
 12 *contributions may be deferred for any calendar month by salary reduction only if an*
 13 *agreement providing for the deferral has been entered into before the first day of the*
 14 *month in which the compensation is paid or made available.]*

15 *[(d)]* **(b)** Additional deferral amounts. The additional deferral may be an amount
 16 elected by an eligible employee, but may not exceed the maximum additional deferral
 17 amount allowed under section 414(v) of the Internal Revenue Code, 26 USC 414(v). An
 18 eligible employee may change the amount of additional contributions deferred within the
 19 maximum additional deferral amount allowed. Changes may be made at any time *[on*
 20 *forms or]* by **using online account access or** other *[approved]* methods *[prescribed]*
 21 **approved** by the Deferred Compensation Program. *[Additional contributions may be*
 22 *deferred for any calendar month by salary reduction only if an agreement providing for*

1 *the deferral has been entered into before the first day of the month in which the*
 2 *compensation is paid or made available.]*

3 *[(e) Cancellation of Participation in the 50-Plus Catch-Up Program. An eligible*
 4 *employee may cancel participation in the 50-Plus Catch-Up Program at any time on*
 5 *forms or by other approved methods prescribed by the Deferred Compensation Program.*
 6 *The cancellation will be effective for any calendar month only if an agreement providing*
 7 *for the cancellation has been entered into before the first day of the month in which the*
 8 *compensation is paid or made available. An eligible employee who has cancelled*
 9 *participation may later re-apply to begin participation in the 50-Plus Catch-Up*
 10 *Program.]*

11 (3) 3-Year Catch-Up Program. An eligible employee may elect to contribute an
 12 additional amount under section 457 of the Internal Revenue Code, in excess of the
 13 maximum regular contribution allowed, for one or more of the three consecutive calendar
 14 years of employment before attaining normal retirement age, if in previous years the
 15 eligible employee did not contribute the maximum regular contribution amount.

16 (a) Conditions for *[enrollment]* participation. The earliest date to begin
 17 participation in the 3-Year Catch-Up Program is in the three calendar years immediately
 18 preceding the year in which an eligible employee reaches normal retirement age.

19 (A) Contributions over the maximum allowable regular contribution limit are
 20 permitted only to the extent of the unused portions of the maximum allowable regular
 21 contribution for previous calendar years during which the eligible employee contributed
 22 less than the maximum allowable regular contribution or did not make contributions to
 23 the Deferred Compensation Program.

1 (B) Calendar years during which contributions were made under the 50-Plus Catch-
2 Up Program may not be included in the calculation to determine the maximum allowable
3 contribution under the 3-Year Catch-Up Program.

4 (C) An eligible employee may not participate in the 3-Year Catch-Up Program and
5 the 50-Plus Catch-Up Program during the same calendar year.

6 (D) An eligible employee must designate a proposed retirement date upon
7 application. The designated proposed retirement date shall be used for the purpose of
8 determining the catch-up period only. The catch-up period so determined may not include
9 the year of the designated proposed retirement date. An eligible employee who retires
10 during the catch-up period may contribute the maximum allowable amount for the year of
11 the employee's retirement.

12 (E) Pursuant to section 457(b) of the Internal Revenue Code, an eligible employee
13 who is 70½ years of age or older may not participate in the 3-Year Catch-Up Program.

14 (F) An eligible employee may participate only once in the 3-Year Catch-Up
15 Program, regardless of whether participation in the 3-Year Catch-Up Program is for less
16 than three calendar years or whether the eligible employee participates in an eligible plan
17 after retirement.

18 (b) Application for enrollment. An eligible employee may participate in the 3-Year
19 Catch-Up Program by entering into a written agreement with the plan sponsor. The
20 written agreement must specify the eligible employee's designated proposed retirement
21 date, the month in which to begin the 3-Year Catch-Up Program contributions and the
22 number of years the eligible employee plans to participate in the 3-Year Catch-Up
23 Program.

1 (A) An eligible employee may enter into a written agreement to participate in the 3-
2 Year Catch-Up Program at any time while employed.

3 (B) A properly completed 3-Year Catch-Up Program enrollment form provided by
4 the Deferred Compensation Program must be filed with and approved by the Deferred
5 Compensation Program. Wage or salary information must be submitted for previous
6 calendar years during which an eligible employee either did not participate in the
7 Deferred Compensation Program or did not contribute the maximum regular contribution
8 amount. An eligible employee *[must]* may be requested to submit:

9 (i) Legible copies of W-2 Wage and Tax Statement forms for each relevant calendar
10 or tax year; or

11 (ii) Legible copies of final pay stubs showing gross and taxable salary for each
12 relevant calendar year.

13 (C) If the application for enrollment is incomplete, if wage or salary information is
14 incomplete or illegible, or if the application does not comply with the 3-Year Catch-Up
15 Program conditions of enrollment, then the Deferred Compensation Program will notify
16 the eligible employee within 30 calendar days from the date the enrollment documents
17 are received of the reasons the Deferred Compensation Program cannot accept the
18 enrollment.

19 (c) 3-Year Catch-Up Program deferral effective date. 3-Year Catch-Up Program
20 contributions may be deferred for any calendar month by salary reduction only if an
21 agreement providing for the deferral has been entered into before the first day of the
22 month in which the compensation is paid or made available.

1 (d) Additional Deferral Amount. After receipt of a properly completed 3-Year
2 Catch-Up Program enrollment form and required wage or salary information, the
3 Deferred Compensation Program will notify the eligible employee of the maximum
4 amount of additional contributions that may be deferred.

5 (A) The amount of the 3-Year Catch-Up Program salary reduction may not be less
6 than the minimum additional contribution amount established by the plan sponsor and
7 may not exceed the maximum allowable contribution under section 457(b)(3) of the
8 Internal Revenue Code.

9 (B) An eligible employee may change the amount of additional contributions
10 deferred within the minimum and maximum additional deferral amounts allowed.
11 Changes may be made at any time *[on forms or]* by using online account access or other
12 *[approved]* methods *[prescribed]* approved by the Deferred Compensation Program and
13 will be effective for any calendar month only if an agreement providing for the deferral
14 has been entered into before the first day of the month in which the compensation is paid
15 or made available.

16 (e) Cancellation of Participation in the 3-Year Catch-Up Program. An eligible
17 employee may cancel participation in the 3-Year Catch-Up Program at any time *[on*
18 *forms or]* by using online account access or other *[approved]* methods *[prescribed]*
19 approved by the Deferred Compensation Program. The cancellation will be effective for
20 any calendar month only if an agreement providing for the cancellation has been entered
21 into before the first day of the month in which the compensation is paid or made
22 available. An election to cancel participation is irrevocable.

23 [Publications: Publications referenced are available from the agency.]

1 Stat. Auth.: ORS 243.470

2 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0072**

2 **Military Leave Catch-up**

3 The purpose of this rule is to establish the criteria and procedures to comply with the
4 Uniformed Services Employment and Reemployment Rights Act (USERRA) as codified
5 in 38 USC 4301-433, and with 23 USC 414(u) and 457 for an eligible employee who has
6 been absent from employment because of military service and who has elected to catch
7 up contributions to the Deferred Compensation Program that would have been permitted
8 had the eligible employee remained in employment with the participating employer
9 during the qualifying period of military service.

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

11 (a) “Military service” means the performance of duty on a voluntary or involuntary
12 basis in a uniformed service under competent authority and includes:

13 (A) Active duty;

14 (B) Active duty for training;

15 (C) Initial active duty for training;

16 (D) Inactive duty training;

17 (E) Full-time National Guard duty;

18 (F) A period for which an individual is absent from a position of employment for the
19 purpose of an examination to determine the fitness of the person to perform any of the
20 above types of duty; or

21 (G) A period for which an individual is absent from employment for the purpose of
22 performing funeral honors duty as authorized by 10 USC 12503 or 32 USC 115.

1 (b) “Uniformed services,” means the Army, Navy, Air force, Marine Corps, Coast
2 Guard, Army National Guard, the Air National Guard, Commissioned corps of the Public
3 Health Service, and any other category of persons designated by the President in time of
4 war or national emergency.

5 (2) Eligibility for enrollment: An eligible employee shall be entitled to make
6 Military Catch-Up contributions if:

7 (a) The eligible employee leaves employment to perform military service and returns
8 to employment with the same participating employer after other than dishonorable
9 discharge from the uniformed services and within the time limits specified in USERRA.

10 (b) The eligible employee’s cumulative length of absence from employment with the
11 participating employer for military service does not exceed the limits set forth in
12 USERRA.

13 (c) The eligible employee meets all other eligibility requirements under USERRA.

14 (d) Submits a timely and complete application.

15 (3) Application for enrollment: An eligible employee who meets the eligibility
16 criteria for enrollment may apply to catch-up deferred compensation contributions that
17 would have been permitted had the eligible employee remained in employment with the
18 participating employer during the period of military service as provided by USERRA.

19 (a) Upon reemployment following qualifying military service, an eligible employee
20 may enter into a written agreement to participate in the Military Leave Catch-Up
21 Program to defer an amount annually in addition to the eligible employee’s maximum
22 deferral amount.

1 (b) In order for an eligible employee to be enrolled, a properly completed Military
2 Leave Catch-Up Contributions enrollment form provided by the Deferred Compensation
3 Program must be filed with and accepted by the Deferred Compensation Program.

4 (c) If the application for enrollment is incomplete, if documentation is missing or
5 information is not legible, or if the application does not comply with the Military Leave
6 Catch-Up Program eligibility for enrollment in section 2 above, then staff will notify the
7 eligible employee within 30 calendar days from the date the enrollment documents are
8 received with the reasons the Deferred Compensation Plan cannot accept the enrollment.

9 (d) After receipt of the properly completed enrollment form and required
10 information, Deferred Compensation Program staff will notify an eligible employee of
11 the amount of maximum additional contributions that may be deferred.

12 (4) Military Leave Catch-Up Contributions. The additional military leave catch-up
13 contributions shall not exceed the 26 USC 457 maximum annual allowable contributions
14 that would have been permitted had the eligible employee remained in employment with
15 the participating employer during the period of military service. The military leave catch-
16 up contributions are in addition to the maximum allowable contribution limit.

17 (a) The maximum allowable military leave catch-up contribution for any calendar
18 year during military service is available only to the extent of unused portions of the
19 maximum allowable contribution for the calendar years during which the eligible
20 employee contributed less than the maximum amount allowable.

21 (b) Salary for military leave catch-up purposes shall be based on the compensation
22 the eligible employee would have received had the eligible employee remained actively
23 employed during the period of military service, including any increases that would have

1 been awarded the eligible employee based on longevity of employment or seniority of
2 position.

3 (c) Military Leave Catch-Up Contributions are to be made through payroll
4 deductions.

5 (d) Eligible employees may change the amount of additional contributions deferred
6 not to exceed the maximum amounts allowable.

7 (e) Eligible employees may cancel Military Leave Catch-Up Contributions at any
8 time.

9 (f) Military Leave Catch-up Contributions may be made for a period that begins on
10 the date of reemployment and whose length is the lesser of:

11 (A) Three times the period of qualified military service; or

12 (B) Five years.

13 (5) IRC [*code*] limitations. Eligibility for and limitations to the maximum amount of
14 Military Leave Catch-Up contributions shall be made in accordance with the
15 requirements under USERRA, 38 USC 4301–4333 and 26 USC 414(u)(2) and 457.

16 [Publications: Publications referenced are available from the agency.]

17 Stat. Auth.: ORS 243.470

18 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0075**

2 **Distributions During Employment**

3 The purpose of this rule is to describe the types of distributions available to a
4 participant who has not had a severance of employment. Distributions made while a
5 participant is still employed are in-service distributions.

6 (1) De minimis distribution. A de minimis distribution is an in-service distribution of
7 the entire balance of a small account before the date a participant has a severance of
8 employment. A de minimis distribution may be made if all of the following conditions
9 are satisfied:

10 (a) No prior de minimis distribution was made to the participant;

11 (b) The total balance of the participant's account(s) within the Deferred
12 Compensation Program do(es) not exceed the limitations in the Internal Revenue Code
13 Section (IRC) 457(e)(9)(A), which is \$5,000;

14 (c) Participant has not made any contributions to the Deferred Compensation
15 Program in the two-year period before the date of distribution; and

16 (d) Participant has *[submitted an application]* **applied** for a de minimis distribution
17 *[on forms provided by,]* **by using online account access** or other methods approved by
18 the Deferred Compensation Program. No distribution will be paid unless a complete
19 application is filed with, and approved by, the Deferred Compensation Program.

20 (2) Unforeseeable emergency withdrawal. An unforeseeable emergency withdrawal
21 is an in-service distribution made to a participant due to an unforeseeable emergency.
22 This withdrawal may be made before the date a participant has a severance of
23 employment and as defined in OAR 459-050-0150. A participant must apply for an

1 unforeseeable emergency withdrawal by using *[forms provided by,]* online account
2 access or other methods approved by *[,]* the Deferred Compensation Program as provided
3 for in OAR 459-050-0150*[(4)]*.

4 (3) Military distribution. A participant is treated as having been severed from
5 employment during any period the participant is performing service in the uniformed
6 services while on active duty for a period of more than 30 days for the purposes of the
7 limitation on in-service distributions. For purposes of this rule, “uniformed services” has
8 the same meaning as given in OAR 459-050-0072. This section applies to distributions
9 made on or after January 1, 2009.

10 (4) Trustee-to-Trustee Transfers. A Trustee-to-Trustee Transfer for the purpose of
11 purchasing permissive service credit as described in Code Section 415(n) or a Trustee-to-
12 Trustee Transfer that meets the requirements of 26 CFR 1.457.10(b)(4) may be made
13 while a participant is still employed.

14 (5) Funds available for in-service distribution. Funds contributed to the Deferred
15 Compensation Program, and earnings on those contributions may be distributed in a de
16 minimis distribution or unforeseeable emergency withdrawal. Any funds directly
17 transferred or rolled over to the Deferred Compensation Program from any plan other
18 than an IRC 457 deferred compensation plan may not be distributed for a de minimis
19 distribution or an unforeseeable emergency withdrawal.

20 *[(6) Prohibitions on elective deferrals after an in-service distribution. A participant*
21 *who receives a de minimis distribution, an unforeseeable emergency withdrawal, or a*
22 *military distribution may not make elective deferrals and employee contributions to the*

1 *Deferred Compensation Program for a period of six consecutive months from the date of*
2 *distribution.]*

3 ~~[(7)]~~(6) Notwithstanding any other sections of this rule, a participant who self-
4 certifies through a process provided by the Deferred Compensation Program as a
5 “qualified individual” as that term is defined in the Coronavirus Aid, Relief, and
6 Economic Security Act of 2020, may take an in-service distribution of no more than
7 \$100,000 during calendar year 2020.

8 (a) A qualified individual means an individual:

9 (A) Who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019
10 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;

11 (B) Whose spouse or dependent (as defined in section 152 of the Internal Revenue
12 Code of 1986) is diagnosed with such virus or disease by such a test; or

13 (C) Who experiences adverse financial consequences as a result of being
14 quarantined, being furloughed or laid off or having work hours reduced due to such virus
15 or disease, being unable to work due to lack of child care due to such virus or disease,
16 closing or reducing hours of a business owned or operated by the individual due to such
17 virus or disease, or other factors as determined by the Secretary of the Treasury (or the
18 Secretary’s delegate).

19 (b) A distribution taken under this section, or any portion thereof, may be
20 redeposited by the plan participant back into the participant’s Deferred Compensation
21 Account within three years beginning on the day after the date of the withdrawal.

22 Stat. Auth.: ORS 243.470

23 Stats. Implemented: ORS 243.401 - 243.507 & Pub. L. No. 116-136

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

1 **459-050-0077**

2 **Loan Program**

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

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

6 (b) “Deferred Compensation Account” means the account described in OAR 459-
7 050-0001, but does not include any amount in the Self-Directed Brokerage Option.

8 (c) “Designated Roth Account” means the account described in OAR 459-050-0001,
9 but does not include any amount in the Self-Directed Brokerage Option.

10 (d) “Loan balance” means the outstanding principal and accrued interest due on the
11 loan.

12 (e) “Participant Loan” means a loan that affects the Deferred Compensation
13 Account, Designated Roth Account, or a combination of both, of a participant.

14 (f) “Promissory note” means the agreement of loan terms between the Program and a
15 participant.

16 (g) “Third Party Administrator (TPA)” means the entity providing record keeping
17 and administrative services to the Program.

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

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

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

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

5 (4) Loan Types:

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

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

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

19 (6) Loan Fees: A loan fee of [~~\$50.00~~] \$75.00 shall be assessed when the loan is
20 approved. The fee shall be deducted from a participant's deferred compensation account
21 on a pro-rata basis from existing investments.

22 (7) Loan Limitations:

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

1 (A) \$50,000; or

2 (B) One-half of the combined value of the participant’s Deferred Compensation

3 Account and the Designated Roth Account on the date the loan is made.

4 (b) The minimum loan amount is \$1,000.

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

6 (d) A participant who has received a loan may not apply for another loan until 12

7 months from the date the previous loan was paid in full.

8 (8) Source of Loan: The loan amount will be deducted from a participant’s Deferred

9 Compensation Account, Designated Roth Account, or a combination of both.

10 (a) Loan amounts will be deducted first from the Deferred Compensation Account.

11 (b) Loan amounts will be deducted pro-rata from existing investments in a

12 participant’s account(s).

13 (c) A participant may not transfer a loan to or from another retirement or deferred

14 compensation plan.

15 (9) Repayment Terms: The loan amount will be amortized over the repayment period

16 of the loan with interest compounded daily to calculate a level payment for the duration

17 of the loan.

18 (a) Loan payments must be made by payroll deduction. To receive a loan from the

19 Program a participant must enter into a payroll deduction agreement. For the purposes of

20 this rule, a promissory note or other document that includes the payroll deduction amount

21 and is signed by a participant as a requirement to obtain a loan may be a payroll

22 deduction agreement. Except as provided in this rule, a participant may not submit a loan

23 payment directly to the Program or the Third Party Administrator.

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

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

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

10 (e) Loan payments will be allocated in a participant’s account(s) in the same manner
11 as the participant’s current contribution allocation. If, for any reason, the allocation is not
12 known, the payment will be allocated to the Stable Value Option.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (11) Tax Reporting.

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

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

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

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

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

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

4 (12) Default.

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

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

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

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

16 (13) Notwithstanding any other sections of this rule, a participant who self-certifies
17 through a process provided by the Deferred Compensation Program as a “qualified
18 individual” as that term is defined in the Coronavirus Aid, Relief, and Economic Security
19 Act of 2020, will have any repayment due date between March 27 and December 31,
20 2020 delayed for one year.

21 (a) A qualified individual means an individual:

22 (A) Who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019
23 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;

1 (B) Whose spouse or dependent (as defined in section 152 of the Internal Revenue
2 Code of 1986) is diagnosed with such virus or disease by such a test; or

3 (C) Who experiences adverse financial consequences as a result of being
4 quarantined, being furloughed or laid off or having work hours reduced due to such virus
5 or disease, being unable to work due to lack of child care due to such virus or disease,
6 closing or reducing hours of a business owned or operated by the individual due to such
7 virus or disease, or other factors as determined by the Secretary of the Treasury (or the
8 Secretary’s delegate).

9 (b) Interest will continue to accrue on the outstanding balance of the loan during the
10 period of repayment delay.

11 Stat. Auth.: ORS 243.470

12 Stats. Implemented: ORS 243.401 – 243.507 & Pub. L. No. 116-136

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

1 **459-050-0080**

2 **Distribution of Funds After a Severance of Employment**

3 The purpose of this rule is to establish the criteria and process for obtaining a
4 distribution of deferred compensation funds after a participant’s severance of
5 employment as defined herein. Distribution under the Deferred Compensation Program
6 shall be made in accordance with any minimum distribution or other limitations required
7 by Internal Revenue Code (IRC) section 401(a)(9), 26 U.S.C. 401(a)(9) and related
8 regulations.

9 (1) Definitions. The following definitions apply for the purpose of this rule:

10 (a) “Commencement date” means the month and year that a participant will begin
11 receiving a distribution(s) from the Deferred Compensation Program, whether by
12 operation of the participant’s election or under the terms of the plan. The commencement
13 date is not the date that the necessary funds are liquidated for distribution.

14 (b) “Date of distribution” means the date funds are distributed to the participant,
15 alternate payee, beneficiary, or other recipient in accordance with the plan, regardless of
16 the mechanism by which those funds are distributed.

17 (c) “Intention to return to work” means a written or oral, formal or informal
18 agreement has been made with the plan sponsor to return to work on a full time, part time
19 or temporary basis at the time the severance is effective. If a participant returns to work
20 with the plan sponsor within 30 calendar days of severance, then a rebuttable
21 presumption exists that the participant intended to return to work as of the date of
22 severance.

1 (d) “Liquidation date” means the date the Deferred Compensation Program
2 designates for liquidation of funds. Generally, the liquidation date will not be earlier than
3 the 25th day of the calendar month preceding the commencement date. The Deferred
4 Compensation Program may determine the liquidation date based on normal business
5 practices. The Deferred Compensation Program is not liable to a participant for failure to
6 liquidate an investment on a specified date.

7 (e) “Liquidation of funds” means the conversion of the necessary funds from the
8 investments in the Deferred Compensation Program into cash for payment under a
9 specified manner of distribution.

10 (f) “Manner of distribution” means the manner elected by the participant, alternate
11 payee, or beneficiary in accordance with the terms of the plan, in which a distribution is
12 to be paid out of the Deferred Compensation Program.

13 (g) “Required beginning date” means April 1 of the calendar year following the later
14 of:

15 (A) The calendar year in which the participant reaches 70-1/2 years of age if the
16 participant was born before July 1, 1949, or age 72 if the participant was born after June
17 30, 1949; or

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

19 (h) “Severance of Employment” means a participant has ceased rendering services as
20 an employee or an independent contractor of a plan sponsor for a minimum of 30
21 consecutive days, including services as a temporary employee, and has no intention to
22 return to work for the plan sponsor.

1 (2) Manner of distribution. Subject to the provisions of sections (3) through (5) set
2 out below, a participant, surviving beneficiary, or alternate payee may elect a manner of
3 distribution, designate one or more beneficiaries, and change beneficiaries at any time.
4 The total amount distributed may not exceed the total account value. The following
5 manners of distribution are available:

6 (a) Total distribution of the account value in a lump sum [*A lump-sum distribution*
7 *is not eligible for direct deposit*];

8 (b) Single distribution of a portion of the account value in a lump sum. [*This form of*
9 *lump-sum distribution is not eligible for direct deposit.*] Funds not distributed shall
10 continue to receive earnings or losses based on the performance of investment option(s)
11 in which funds are held;

12 (c) Systematic withdrawal distribution for a specific number of years, which may be
13 paid annually, semiannually, quarterly or monthly. Any funds remaining after each
14 periodic payment shall continue to receive earnings or losses based on the performance of
15 investment option(s) in which the funds are held. The remaining number of periodic
16 distributions may not change. However, the amount of distributions shall be adjusted
17 depending on the earnings or losses experienced;

18 (d) Periodic specified dollar amount distribution. This distribution may be paid
19 annually, semiannually, quarterly or monthly, and may be paid in specific dollar amounts
20 in [~~\$5~~] \$200 increments. Any funds remaining after each periodic payment shall continue
21 to receive earnings or losses based on the performance of investment option(s) in which
22 the funds are held. The amount of each periodic distribution will remain the same

1 throughout the withdrawal period. However, the withdrawal period may vary depending
2 on the earnings or losses experienced;

3 (e) Required minimum distribution, which will provide an annual distribution of the
4 minimum amount required in IRC section 401(a)(9), 26 U.S.C. 401(a)(9). This manner of
5 distribution is available only to those who defer distribution to age 70-1/2 [years of age]
6 if the participant was born before July 1, 1949, or age 72 if the participant was born after
7 June 30, 1949 (no later than April of the year following the year reaching 70-1/2 years of
8 age or 72 years of age) or a participant who continues to work and severs employment
9 after 70-1/2 years of age if the participant was born before July 1, 1949, or age 72 if the
10 participant was born after June 30, 1949. Funds not distributed shall continue to receive
11 earnings or losses based on the performance of investment option(s) in which funds are
12 held; or

13 (f) Mandatory single lump-sum distribution of an account balance of less than
14 \$1,000. This distribution shall be made to any participant or alternate payee with an
15 account balance of less than \$1,000 within one year of the participant's severance of
16 employment.

17 (3) Application Requirements. Application shall be made on forms provided by, or
18 other methods approved by, the Deferred Compensation Program. No distribution may be
19 paid unless a timely and complete application is filed with the Deferred Compensation
20 Program as follows:

21 (a) An application for distribution or to change the manner of distribution will be
22 considered filed in a timely manner if it is received in writing or other method approved
23 by the Deferred Compensation Program at least 30 days before the requested

1 commencement date. The commencement date may be no earlier than the second
2 calendar month following the month of severance of employment.

3 (b) An application for distribution or to change the manner of distribution may be
4 made by a participant, surviving beneficiary, or alternate payee or the authorized
5 representative of a participant, surviving beneficiary or alternate payee. A valid document
6 appointing an authorized representative such as a power of attorney, guardianship or
7 conservatorship appointment, must be submitted to the Deferred Compensation Program.
8 The Deferred Compensation Program retains the discretion to determine whether the
9 document is valid for purposes of this rule.

10 (c) Except in the case of a qualified distribution as defined in section 402A(d)(2) of
11 the Internal Revenue Code, the participant, surviving beneficiary, or alternate payee must
12 file a tax-withholding certificate with the Deferred Compensation Program at least 30
13 days before the requested commencement date. If the certificate is not filed, the Deferred
14 Compensation Program shall withhold state income taxes based on a marital status of
15 single and no dependents and federal income taxes based on a marital status of married
16 and 3 dependents, or other federally mandated tax withholding requirements. A new
17 certificate may be filed at any time, and will be applied to distributions paid on and after
18 the first calendar month following the date received or as soon as reasonably possible.

19 (d) When direct deposit is permitted under the Deferred Compensation Program, a
20 request for periodic distributions to be transmitted to a financial institution for direct
21 deposit must be made using a Deferred Compensation Program Automatic Deposit
22 Agreement.

1 (e) Distribution of deferred compensation funds will occur no later than five days
2 following the date funds necessary for a specified payment were liquidated. Liquidation
3 of funds will be done on a pro-rata basis determined by the investment allocation of an
4 account at the time the funds are liquidated or from the Stable Value account, at the
5 participant's election. The election must be filed before the participant begins receiving
6 distributions. If the participant elects distribution from the Stable Value account and there
7 are insufficient funds in that account on the date of each distribution (whether monthly,
8 quarterly, semi-annually, or annually), the distribution will be done on the pro-rata basis
9 described above regardless of the participant's election.

10 (4) Denial of distribution election. The Deferred Compensation Program may deny
11 any distribution election if that denial is required to maintain the status of the Deferred
12 Compensation Program under the Internal Revenue Code and regulations adopted
13 pursuant to the Internal Revenue Code and ORS Chapter 243.

14 (5) Changing the manner of distribution. A participant, surviving beneficiary or
15 alternate payee may change or discontinue the manner of distribution only as follows and
16 subject to the requirements of section (3) above:

17 (a) Manners of distribution under sections (2)(c), (2)(d) and (2)(e) of this rule may
18 be changed at any time upon application as required under section (3) of this rule.

19 (b) Distributions under sections (2)(c) and (2)(d) of this rule may be discontinued
20 upon written notification or by other methods approved by the Deferred Compensation
21 Program. The participant, surviving beneficiary, or alternate payee must submit an
22 application, as required in section (3) of this rule, to restart distributions and elect a
23 manner of distribution for the remaining account.

1 (c) Subject to the requirements of this rule, a participant, surviving beneficiary or
2 alternate payee who has commenced receiving a required minimum distribution may
3 apply under the requirements of section (3) of this rule:

4 (A) For one or more additional distributions in a lump sum not to exceed the total
5 value of the account; and

6 (B) To change the manner of distribution so long as future distributions will be
7 continuous and equal to or greater than the minimum distribution required.

8 Stat. Auth.: ORS 243.470

9 Stats. Implemented: ORS 243.401 - 243.507, OL 2007 Ch. 54 & Pub. L. No. 116-

10 136

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

1 **459-050-0150**

2 **Unforeseeable Emergency Withdrawal**

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

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

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

9 (b) “Designated Roth Account” means the account described in OAR 459-050-0001,
10 but does not include any amount in the Self-Directed Brokerage Option.

11 (c) “Emergency withdrawal” means a payment to the participant from the
12 participant’s Deferred Compensation Account, Designated Roth Account, or a
13 combination of both, in an amount directly related to and reasonably necessary to satisfy
14 a financial obligation attributable to an unforeseeable emergency.

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

20 (2) Eligibility for emergency withdrawals. Only a participant who established a
21 deferred compensation account as an eligible employee and has not terminated from
22 employment with their plan sponsor may apply to receive an unforeseeable emergency

1 withdrawal. An alternate payee of a participant may not be eligible to receive an
2 emergency withdrawal.

3 (3) A participant must, if eligible, apply for a loan under the provisions of OAR 459-
4 050-0077 before application for an unforeseen emergency withdrawal unless, as
5 determined by the Deferred Compensation Manager, the participant would suffer
6 additional financial hardship by complying with the loan application requirement.

7 (4) Source of emergency withdrawals. The amount of an emergency withdrawal will
8 be deducted first from the participant’s Deferred Compensation Account unless otherwise
9 indicated by the participant on the emergency withdrawal application.

10 (5) Circumstances that do not constitute an unforeseeable emergency. An emergency
11 withdrawal may not be approved for any reason other than an unforeseeable emergency.
12 Circumstances that do not constitute an unforeseeable emergency include, but are not
13 limited to:

14 (a) Participant or dependent school expenses;

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

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

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

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

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

23 (g) Recreational expenses;

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

2 (i) Usual and customary tax obligations.

3 (6) Limitations on amount of emergency withdrawal. The amount of an emergency
4 withdrawal may not exceed the combined balance of the participant’s Deferred
5 Compensation Account and Designated Roth Account. The maximum amount that may
6 be approved as an emergency withdrawal shall be limited to what is reasonably needed to
7 satisfy the immediate financial obligation related to the unforeseeable emergency,
8 including taxes anticipated on the distribution. The amount of the emergency withdrawal
9 shall be limited to the extent that the financial obligation can or may be satisfied by:

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

11 (b) Liquidation of the participant’s assets, to the extent the liquidation of such assets
12 would not itself cause severe unforeseeable emergency; or

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

14 (7) Application for an emergency withdrawal. A participant must submit a
15 completed emergency withdrawal application and financial information and related
16 documentation sufficient to satisfy the provisions of this rule. The emergency withdrawal
17 application may be returned if incomplete or if insufficient financial information or
18 related documentation is submitted.

19 (a) The application *[form]* may be obtained from the Deferred Compensation
20 Program or the third party administrator (TPA) retained to administer a portion of the
21 Deferred Compensation Program.

22 (b) The completed application, financial information, and related documentation
23 shall be submitted by *[use of the United State Postal Service or by private express carrier]*

1 *as defined in ORS 293.660(2) for initial review]* using online account access or other
 2 methods approved by the Deferred Compensation Program.

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

6 *[(a) A participant who receives approval for an emergency withdrawal shall be*
 7 *prohibited from making elective deferrals and contributions to the Deferred*
 8 *Compensation Program for a period of six consecutive months from the date of*
 9 *distribution.]*

10 *[(b)]* A participant who receives a denial for an emergency withdrawal may enroll to
 11 make elective deferrals and contributions to the Deferred Compensation Program at any
 12 time.

13 (9) Approval or denial notification. The Deferred Compensation Manager or an
 14 authorized designee shall approve or deny a request for an emergency withdrawal within
 15 three working days after receipt of an accepted application. The participant will be
 16 notified by mail within 10 days after a decision is made.

17 (10) Release of payment upon approval of an emergency withdrawal. The Deferred
 18 Compensation Manager or an authorized designee shall determine the method of
 19 payment. The Deferred Compensation Program shall immediately notify the TPA to
 20 release the requested funds.

21 (11) A participant may appeal a denial of an emergency withdrawal to the
 22 Unforeseeable Emergency Withdrawal Appeals Committee as provided in OAR 459-050-
 23 0040. The appeal shall be in writing and must include:

1 (a) A request for review by the Unforeseeable Emergency Withdrawal Appeals
2 Committee;

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

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

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

9 Stat. Auth.: ORS 243.470

10 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0240**

2 **Deferred Compensation Program Notifications**

3 (1) Notification responsibility. The Deferred Compensation Program is a separate
4 entity from other public employer retirement plans and deferred compensation plans, and
5 notification to other plans does not constitute notice to the Deferred Compensation
6 Program. Similarly, the Deferred Compensation Program is not responsible for notifying
7 other plans of changes in participant or alternate payee information, such as changes in
8 address, the receipt of an application for distribution, or the death of a Deferred
9 Compensation Program participant or an alternate payee.

10 (2) Receipt of a final court order. Deferred Compensation Program shall send written
11 notification acknowledging receipt of a final court order to the submitting party and shall
12 send a copy of the acknowledgment to the other persons named in the court order if
13 mailing addresses are provided.

14 (3) Tax reporting. The Deferred Compensation Program shall issue the applicable
15 tax reporting forms directly to the recipient of any funds that are issued by the Deferred
16 Compensation Program pursuant to a final court order for domestic relations purposes,
17 and in a manner consistent with the Internal Revenue Code and Oregon law.

18 (4) ~~[Quarterly]~~ **Annual** statements. All alternate payees who are awarded a separate
19 account in the Deferred Compensation Program shall be sent ~~[a quarterly]~~ **an annual**
20 statement on their account. Such statement will be sent to their last known address.

21 Stat. Auth.: ORS 243.470

22 Stats. Implemented: ORS 243.401 - 243.507

Administrative Rulemaking

1. Notice of Death and Survivor Benefits Rule
2. Notice of Employer Incentive Fund Program Rule
3. Second Reading of Rules to Implement SB 112
4. Adoption of Oregon Savings Growth Plan Rules
5. Adoption of Salary and Contribution Limits Rules
6. Adoption of Document Submission Requirements Rules



Oregon

Kate Brown, Governor

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March 28, 2022

TO: Members of the PERS Board

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

SUBJECT: Adoption of Salary and Contribution Limits Rules:
 OAR 459-005-0525, *Ceiling on Compensation for Purposes of Contributions and Benefits*
 OAR 459-005-0545, *Annual Addition Limitation*
 OAR 459-017-0060, *Reemployment of Retired Members*
 OAR 459-080-0400, *Employee Pension Stability Account (EPSA)*
 OAR 459-080-0500, *Limitation on Contributions*

OVERVIEW

- Action: Adopt the Salary and Contribution Limits rules.
- Reason: Update rules to reflect the 2022 Internal Revenue Code (IRC), Social Security, salary limit, and monthly salary threshold for the Employee Pension Stability Account (EPSA).
- Policy Issue: None identified.

BACKGROUND

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

The proposed rule modifications to OAR 459-005-0545 and 459-080-0500 incorporate these federal adjustments for calendar year 2022 and are necessary to ensure compliance with the federal limits on the amount of contributions. In addition, the proposed modifications to OAR 459-017-0060 adopt the 2022 Social Security earnings limitations.

Also, under ORS 238.005, 238A.005 and 238A.330, as amended by SB 1049 (2019), on January 1 of each year, the PERS Board shall adjust the overall salary limit, and the salary threshold for Employee Pension Stability Account (EPSA) contributions to reflect cost of living increases from the previous year, based on the Consumer Price Index (CPI) for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. As of December 2021, this CPI was 6.4%. The amendments to OAR 459-005-0525 update the 2022 calendar year salary limit to \$210,582.

For the monthly threshold for contributions to the EPSA, HB 2906 (2021) provides that, if the monthly salary of an IAP member does not exceed \$3,333, the PERS Board shall credit all employee contributions made by the member to the employee account and credit no employee contributions made by the member to the EPSA. The amendments to OAR 459-080-0400 update

the monthly threshold for contributions to the EPSA to \$3,333 for calendar year 2022. This amount will be adjusted annually by the same CPI as the annual salary limit.

SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

No modifications were made to the rules.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely on February 22, 2022, at 2:00 p.m. No members of the public attended. The public comment period ended March 7, 2022, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

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

IMPACT

Mandatory: Yes, statute requires the PERS Board to update its rules to reflect revisions by the IRS and Social Security Administration and to update its rules to reflect cost of living increases from the previous year for salary limit and EPSA contributions salary threshold.

Benefit: Clarifies the limits for contributions and benefits under federal law for calendar year 2022 and clarifies salary limit and EPSA contributions salary threshold for calendar year 2022.

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

RULEMAKING TIMELINE

January 28, 2022	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
January 31, 2022	PERS Board notified that staff began the rulemaking process.
February 1, 2022	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice sent to employers, legislators, and interested parties. Public comment period began.
February 22, 2022	Rulemaking hearing held remotely at 2:00 p.m.
March 1, 2022	Public comment period ended at 5:00 p.m.
March 28, 2022	Board may adopt the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

BOARD OPTIONS

The PERS Board may:

1. Pass a motion to “adopt the Salary and Contribution Limits rules, as presented.”

2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

B.5. Attachment 1 - 459-005-0525, *Ceiling on Compensation for Purposes of Contributions and Benefits*

B.5. Attachment 2 - 459-005-0545, *Annual Addition Limitation*

B.5. Attachment 3 - 459-017-0060, *Reemployment of Retired Members*

B.5. Attachment 4 - 459-080-0400, *Employee Pension Stability Account (EPSA)*

B.5. Attachment 5 - 459-080-0500, *Limitation on Contributions*

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

1 **459-005-0525**

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

3 (1) This administrative rule shall be construed consistently with the requirements of
4 the Internal Revenue Code (IRC) Section 401(a)(17) relating to the limitation on annual
5 compensation allowable for determining contribution and benefits under ORS Chapters
6 238 and 238A.

7 (2) For purposes of this rule:

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

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

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

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

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

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

1 Chapters 238 and 238A. The limit on annual compensation for eligible participants shall
2 be no less than the amount which was allowed to be taken into account for purposes of
3 determining contributions or benefits under former ORS 237.001 to 237.315 as in effect
4 on July 1, 1993, for calendar years before 2020. Beginning in ~~[2021]~~ 2022, the limit on
5 annual compensation taken into account for purposes of determining contributions or
6 benefits under ORS Chapter 238 or 238A for eligible participants shall be measured on a
7 calendar year basis, and shall not exceed ~~[\$197,730]~~ \$210,582 per calendar year.

8 (4) For noneligible participants, the annual compensation taken into account for
9 purposes of determining contributions or benefits under ORS Chapters 238 and 238A
10 shall be measured on a calendar year basis, and shall not exceed ~~[\$197,730]~~ \$210,582 per
11 calendar year beginning in ~~[2021]~~ 2022.

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

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

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

22 (8) With respect to ORS Chapter 238, creditable service, as defined in 238.005, shall
23 be given for each month that an active member is paid salary or wages and allowable

1 contributions have been remitted to PERS, or would be remitted but for the annual
2 compensation limit in this rule. With respect to Chapter 238A, retirement credit as
3 determined in 238A.140, shall be given for each month that an active member is paid
4 salary or wages and allowable contributions have been remitted to PERS, or would be
5 remitted but for the annual compensation limit in this rule.

6 (9) Beginning in 2020, the limitation on annual compensation under sections (3) and
7 (4) of this rule will be indexed by cost-of-living adjustments in subsequent years as
8 provided in the Consumer Price Index for All Urban Consumers, West Region (All
9 Items), as published by the Bureau of Labor Statistics of the United States Department of
10 Labor.

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

12 Stats. Implemented: ORS 238.005 & 238A.005

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

1 **459-005-0545**

2 **Annual Addition Limitation**

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

6 (2) Except as otherwise provided in this rule, a member’s annual additions to PERS
7 for any calendar year after ~~2020~~ 2021 may not exceed ~~[\$58,000]~~ \$61,000 (as adjusted
8 under IRC Section 415(d)).

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

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

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

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

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

5 (a) The payment shall be allocated as an annual addition to the calendar year to
6 which it relates; and

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

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

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

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

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

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

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 017 – REEMPLOYED RETIRED MEMBERS**

1 **459-017-0060**

2 **Reemployment of Retired Members**

3 (1) For purposes of this rule:

4 (a) “Bona fide retirement” means that the retired member has been absent from
5 service with all participating employers and all employers in a controlled group with a
6 participating employer for at least six full calendar months between the effective date of
7 retirement and the date of hire.

8 (b) “Retired member” means a member of the PERS Chapter 238 Program who is
9 retired for service.

10 (2) A retired member may be employed under ORS 238.082 by a participating
11 employer without loss of retirement benefits provided:

12 (a) The period or periods of employment with one or more participating employers
13 total less than 1,040 hours in a calendar year; or

14 (b) If the retired member is receiving retirement, survivors, or disability benefits
15 under the federal Social Security Act, the period or periods of employment total less than
16 either 1,040 hours in a calendar year, or the total number of hours in a calendar year that,
17 at the retired member’s specified hourly rate of pay, would cause the annual
18 compensation of the retired member to exceed the following Social Security annual
19 compensation limits, whichever is greater.

20 (A) For retired members who have not reached full retirement age under the Social
21 Security Act, the annual compensation limit is ~~[\$18,960]~~ \$19,560; or

1 (B) For the calendar year in which the retired member reaches full retirement age
2 under the Social Security Act and only for compensation for the months before reaching
3 full retirement age, the annual compensation limit is ~~[\$50,520]~~ \$51,960.

4 (3) The limitations on employment in section (2) of this rule do not apply if the
5 retired member has reached full retirement age under the Social Security Act.

6 (4) The limitations on employment in section (2) of this rule do not apply if:

7 (a) The retired member meets the requirements of ORS 238.082(4), (5), (6), (7), or
8 (8), and did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or
9 (3);

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

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

16 (A) The retired member did not retire at a reduced benefit under the provisions of
17 ORS 238.280(1) or (3); or

18 (B) The retired member retired at a reduced benefit under the provisions of ORS
19 238.280(1) or (3), but is not employed by any participating employer until more than six
20 months after the member’s effective retirement date, and the member’s retirement
21 otherwise meets the standard of a bona fide retirement;

22 (d) The retired member meets the requirements of section 2, chapter 499, Oregon
23 Laws 2007, as amended by section 1, chapter 108, Oregon Laws 2015;

1 (e) The retired member meets the requirements of section 2, chapter 475, Oregon
2 Laws 2015;

3 (f) The retired member is employed for service during a legislative session under
4 ORS 238.092(2);

5 (g) The retired member meets the requirements of ORS 238.088(2), and did not
6 retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or (3); or

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

9 (i) The retired member is employed as a special campus security officer
10 commissioned by a public university and meets the requirements under section 5, chapter
11 152, Oregon Laws 2019.

12 (j) The retired member is employed as a security officer for a community college and
13 meets the requirements under section 5, chapter 152, Oregon Laws 2019.

14 (k) The retired member is employed by Harney County Health District as a person
15 licensed, registered or certified to provide health services and meets the requirements
16 under section 2, chapter 496, Oregon Laws 2019.

17 (5) For purposes of population determinations referenced by statutes listed in this
18 rule, the latest federal decennial census shall first be operative on the first day of the
19 second calendar year following the census year.

20 (6) For purposes of ORS 238.082(6), a retired member replaces an employee if the
21 retired member:

22 (a) Is assigned to the position of the employee; and

23 (b) Performs the duties of the employee or duties that might be assigned to an
24 employee in that position.

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

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

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

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

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

13 (iii) If the member received a single lump sum payment under ORS 238.305(4) or
14 238.315, the member is entitled to the payment provided the payment was dated on or
15 before the last day of the month in which the limitations were exceeded.

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

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

20 (C) The member’s account must be rebuilt in accordance with the provisions of
21 section (9) of this rule.

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

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

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

3 (C) The member will reestablish active membership effective the date the member
4 was reemployed.

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

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

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

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

15 (9) If a member has been retired for service for more than six calendar months and is
16 reemployed in a qualifying position by a participating employer under the provisions of
17 238.078(1):

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

20 (b) The member will reestablish active membership on the date the member is
21 reemployed.

22 (c) If the member elected a benefit payment option other than a lump sum option
23 under ORS 238.305(2) or (3), the last monthly service retirement allowance payment to
24 which the member is entitled is for the month before the calendar month in which the

1 member is reemployed. Upon subsequent retirement, the member may choose a different
2 benefit payment option.

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

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

9 (d) If the member elected a partial lump sum option under ORS 238.305(2), the last
10 monthly service retirement allowance payment to which the member is entitled is for the
11 month before the calendar month in which the member is reemployed. The last lump sum
12 or installment payment to which the member is entitled is the last payment due before the
13 date the member is reemployed. Upon subsequent retirement, the member may not
14 choose a different benefit payment option unless the member has repaid to PERS in a
15 single payment an amount equal to the lump sum and installment benefits received and
16 the earnings that would have accumulated on that amount.

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

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

23 (e) If the member elected the total lump sum option under ORS 238.305(3), the last
24 lump sum or installment payment to which the member is entitled is the last payment due

1 before the date the member is reemployed. Upon subsequent retirement, the member may
2 not choose a different benefit payment option unless the member has repaid to PERS in a
3 single payment an amount equal to the benefits received and the earnings that would have
4 accumulated on that amount.

5 (A) If the member repays PERS as described in this subsection the member's
6 account will be rebuilt as required by ORS 238.078 effective the date that PERS receives
7 the single payment.

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

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

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

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

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

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

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

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

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

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

3 (10) If a member has been retired for less than six calendar months and is
4 reemployed in a qualifying position by a participating employer under the provisions of
5 238.078(2):

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

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

10 (c) The member will reestablish active membership effective the date the member is
11 reemployed.

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

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

17 (11) Upon the subsequent retirement of any member who reestablished active
18 membership under ORS 238.078 and this rule, the retirement benefit of the member must
19 be calculated using the actuarial equivalency factors in effect on the effective date of the
20 subsequent retirement.

21 (12) The provisions of paragraphs (9)(c)(B), (9)(d)(B), and (9)(e)(B) of this rule are
22 applicable to retired members who reestablish active membership under ORS 238.078
23 and this rule and whose initial effective retirement date is on or after March 1, 2006.

1 (13) A participating employer that employs a retired member must notify PERS in a
2 format acceptable to PERS under which statute the retired member is employed.

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

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

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

11 (14) Accumulated unused sick leave reported by an employer to PERS upon a
12 member's retirement, as provided in ORS 238.350, may not be made available to a
13 retired member returning to employment under sections (2) or (9) of this rule.

14 (15) Subsections (4)(c) and (4)(d) of this rule are repealed effective January 2, 2026.

15 (16) Subsection (4)(e) of this rule is repealed effective June 30, 2023.

16 (17) A member who is retired for service maintains their status as a retired member
17 of the system, and does not accrue additional benefits during the period of employment.
18 A retired member may not participate in the pension program or the Individual Account
19 Program as an active member, except as provided by ORS 238.092(1) or 237.650.

20 (18) For calendar years 2020 through 2024, a public employer employing a retired
21 member shall apply the employer's *[net]* contribution rate for its covered payroll to the
22 wages paid to the retired member. The public employer shall make a payment to the
23 Public Employees Retirement Fund in that amount. This payment is in addition to the
24 employer's contribution required under ORS 238.225, and will be applied to the

1 employer’s liabilities, including pension benefit costs and retiree medical benefit costs. If
2 the employer is a member of a pool established under ORS 238.227, the additional
3 payment will be applied to the employer’s rate pool’s liabilities.

4 (19) For calendar years 2020 through 2024, the limitations on employment in section
5 (2) of this rule do not apply to a retired member unless the member retired under the
6 provisions of ORS 238.280(1), (2), or (3), and does not have a bona fide retirement.

7 (20) For calendar years 2020 through 2024, if the member retired under the
8 provisions of ORS 238.280(1), (2), or (3), and does not have a bona fide retirement, the
9 member is subject to the limitations on employment in section (2) of this rule.

10 (21) Sections (18), (19), and (20) of this rule are repealed effective January 2, 2025.

11 Stat. Auth.: ORS 238.650 & ORS 238.630

12 Stats. Implemented: ORS 238.078, ORS 238.082, ORS 238.088, ORS 238.092, ORS
13 399.075, 2007 OL Ch. 499 & 774, 2015 OL Ch. 108 & 475, 2018 OL Ch. 48 & 2019 OL
14 Ch. 355

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

1 **459-080-0400**

2 **Employee Pension Stability Account (EPSA)**

3 (1) The Employee Pension Stability Account (EPSA) is a member account under the
4 IAP as established in ORS 238A.353. A portion of the member contributions is credited
5 to the member’s EPSA when the member’s monthly salary exceeds the threshold amount
6 and the system funded status is below 90%.

7 (2) The monthly salary threshold amount:

8 (a) Is [*\$2,535 for calendar year 2021*] **\$3,333 for calendar year 2022;**

9 (b) Includes salary from all PERS covered employment during the calendar month;

10 and

11 (c) Is determined based on the date the salary is paid except for retroactive salary
12 payments, which are allocated to the period when the salary was earned or would have
13 been earned.

14 (3) Though part of the IAP, EPSA funds are not invested in target date funds. EPSA
15 funds are held in a separate member account that will be credited annually with earnings
16 or losses in accordance with OAR 459-007-0005. There is no guaranteed rate of return on
17 a member’s EPSA.

18 (4) Unless withdrawn prior to earliest retirement age, a member’s EPSA will be
19 applied to the cost of the member’s retirement or other pension benefit attributable to
20 service on and after July 1, 2020. The portion of the member’s benefit attributable to
21 service on and after July 1, 2020 will be determined by dividing the number of months of
22 service after July 1, 2020 by the total months of service.

1 (5) If the amount in the EPSA exceeds the cost of the pension or other retirement
2 benefits that are payable to the member or the member’s beneficiary determined
3 according to section (4) of this rule, the board shall pay the excess amounts in a lump
4 sum to the member or the member’s IAP beneficiary.

5 Stat. Auth.: ORS 238A.450

6 Stats. Implemented: ORS 238A.050, [238A.330, OL 2021, Ch. 298](#), OL 2019, Ch.
7 355, Sec. 2, & OL 2018, Ch. 118

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

1 **459-080-0500**

2 **Limitation on Contributions**

3 (1) For purposes of this rule, “annual addition” has the same meaning given the term
4 in 26 U.S.C. 415(c)(2).

5 (2) Except as otherwise provided in this rule, the annual addition to a member
6 account for any calendar year may not exceed [~~\$58,000~~] \$61,000 effective January 1,
7 ~~[2021]~~ 2022.

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

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

12 (b) For the purpose of determining the amount of the payment under this section, the
13 member’s compensation shall be determined under OAR 459-080-0100(3)(d).

14 Stat. Auth.: ORS 238A.450

15 Stats. Implemented: ORS 238A.370

Administrative Rulemaking

1. Notice of Death and Survivor Benefits Rule
2. Notice of Employer Incentive Fund Program Rule
3. Second Reading of Rules to Implement SB 112
4. Adoption of Oregon Savings Growth Plan Rules
5. Adoption of Salary and Contribution Limits Rules
6. Adoption of Document Submission Requirements Rules



Oregon

Kate Brown, Governor

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March 28, 2022

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Adoption of Document Submission Requirements Rules:
OAR 459-005-0210, *Transmittal of Reports and Documents*
OAR 459-001-0010, *Filing Papers* (repeal)

OVERVIEW

- Action: Adopt the Document Submission Requirements rules.
- Reason: Modify rule to incorporate additional methods for submission of appeals documents.
- Policy Issue: None identified.

BACKGROUND

OAR 459-001-0010 provides guidance on how filing papers such as petitions, written requests, or other documents related to the appeal of a staff or board action may be submitted to PERS. The rule has not been updated since 2000, and does not allow the submission of appeals documents by fax or email, even though PERS current practice does allow for such methods of transmittal. The proposed repeal of OAR 459-001-0010 and amendments to 459-005-0210 align the rules with PERS current practice.

OAR 459-005-0210 provides guidance on the acceptable methods of transmitting information, reports, and documents. The proposed rule amendments clarify that filing papers related to an appeal of a staff or board action under OAR 459-001-0030, 459-001-0032, or 459-001-0035 are included as “documents” covered under the rule. However, subpoenas, garnishments, summons, and other legal documents that require service on PERS continue to be excluded as “documents” under the rule. Service of such documents remains subject to applicable law.

The proposed amendments also address staff concerns related to the submission of unsolicited emails to PERS that could contain confidential information. PERS discourages email submissions that contain confidential information, and the rule provides information on protected disclosures and warns members of potential risks from email transmissions and inadvertent public record disclosures.

OAR 459-001-0010 is being repealed because it becomes redundant with the amendments to OAR 459-005-0210.

SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

No modifications were made to the rules.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely on February 22, 2022, at 2:00 p.m. No members of the public attended. The public comment period ended March 7, 2022, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

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

IMPACT

Mandatory: No, the board need not adopt the rule modifications.

Benefit: Members and staff will benefit from the updated submission requirements for filing documents.

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

RULEMAKING TIMELINE

January 28, 2022	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
January 31, 2022	PERS Board notified that staff began the rulemaking process.
February 1, 2022	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice sent to employers, legislators, and interested parties. Public comment period began.
February 22, 2022	Rulemaking hearing held remotely at 2:00 p.m.
March 7, 2022	Public comment period ended at 5:00 p.m.
March 28, 2022	Board may adopt the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

BOARD OPTIONS

The PERS Board may:

1. Pass a motion to “adopt the Document Submission Requirements rules, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

B.6. Attachment 1 - 459-005-0210, *Transmittal of Reports and Documents*

B.6. Attachment 2 - 459-001-0010, *Filing Papers* (repeal)

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

1 459-005-0210

2 *[Transmittal]* Transmission of Information, Reports, and Documents

3 (1) As used in this rule:

4 (a) “Deferred Compensation Program” means the Oregon Savings Growth Plan
5 (OSGP), the PERS Board as Trustee of the OSGP, the PERS Director as
6 Administrator of the OSGP, and any OSGP staff member.

7 (b) “Document” means any document that is not specifically excluded under
8 sections (3) and (8) of this rule, including, but not limited to, any petition, written
9 request, or other document related to the appeal of a staff or Board action under
10 OAR 459-001-0030, 459-001-0032, or 459-001-0035.

11 (c) “PERS” means the PERS Board, the PERS Director, the PERS Health
12 Insurance Program which is administered by PERS under ORS Chapter 238, and
13 any PERS staff member.

14 *[Except for the transmission of a remittance, a payment, a remittance advice or a*
15 *payment advice as provided in OAR 459-005-0215, reports and documents sent to PERS*
16 *shall be transmitted as follows:]*

17 *[(1)]* (2) Unless otherwise provided for in this rule, information, reports, or
18 documents may be transmitted to PERS or the Deferred Compensation Program [in]by
19 personal delivery or by use of:

20 (a) The United States Postal Service (USPS);

21 (b) A private express carrier as defined in ORS 293.660(2);

22 (c) Telephonic facsimile communication (fax);

1 (d) Electronic mail through the Internet (email); or

2 (e) *[By use of the]* PERS' Online Member Services (OMS) *[web site on the*
3 *Internet]*;

4 (f) Other sources approved by the Director for the transmission of reports or
5 documents.

6 ~~[(2)]~~(3) The following original documents shall be accepted by PERS or the Deferred
7 Compensation Program only if transmitted in person, or by use of USPS or by private
8 express carrier:

9 (a) Contracts and Agreements pertaining to the merger or integration of other
10 retirement systems into PERS.

11 (b) Any request by a member for confidential information under provisions of ORS
12 192.355(12).

13 (c) Subpoenas, garnishments, summons, and other legal documents that require
14 service on PERS. These documents will not be accepted unless they are served in
15 accordance with applicable law.

16 ~~[(3)]~~(4) The following standards shall be observed when transmitting any
17 information, report, or document to PERS or the Deferred Compensation Program by fax
18 or email. Failure to comply with these standards shall result in the PERS or the Deferred
19 Compensation Program not accepting the information, report, or document:

20 (a) The quality of the original hard copy shall be clear and dark enough to transmit
21 legibly.

22 (b) Any information, report, or document requiring signature shall be signed prior to
23 being transmitted.

1 (c) If PERS or the Deferred Compensation Program requests the transmission of
2 a specific form, the transmission *[Any report or document transmitted]* shall be on forms
3 furnished by PERS or the Deferred Compensation Program or substitute forms previously
4 approved by PERS or the Deferred Compensation Program, respectively.

5 (d) Any PERS or Deferred Compensation Program report or form shall be completed
6 as required in PERS instructions.

7 (e) If PERS or the Deferred Compensation Program requests the transmission of
8 a report or document that is part of a longer report or document, or contains
9 multiple pages, then *[T]* the entire text of the report or document must be transmitted.

10 Both sides of any two-sided PERS or Deferred Compensation Program form are to be
11 transmitted.

12 (f) For a report or document that requires accompanying documentation, all
13 components shall be transmitted together as one transmission.

14 (g) The first sheet of the transmission shall indicate the number of pages being
15 transmitted, and shall contain a telephone number to call if there are problems with the
16 transmission.

17 (h) Neither the original nor any additional copies of the facsimile filings should be
18 filed with PERS.

19 (i) The sender shall maintain the original of the document with the original
20 notarization or signature affixed, as well as proof of fax transmission.

21 *[(4)](5)* PERS or the Deferred Compensation Program may require the original, or a
22 certified copy of the original, where a question of authenticity arises.

23 *[(5)](6)* State regulations require encrypted messaging systems for
24 communicating confidential information such as date of birth, Social Security

1 number, or personal medical information. Because email communications for PERS
2 and the Deferred Compensation Program are not encrypted, it is PERS' policy to not
3 use email for sharing confidential information. Only *[requests for]* information,
4 reports, or documents *[regarding PERS or the Deferred Compensation Program,]* not
5 otherwise protected under the provisions of ORS 192.355, which do not contain
6 confidential information, may be transmitted by email *[through the Internet]*. If
7 confidential information is transmitted by email to PERS or the Deferred
8 Compensation Program, PERS cannot guarantee that such information may not be
9 intercepted and read by other parties besides the person to whom it is addressed.

10 (7) Information, reports, or documents submitted to PERS or the Deferred
11 Compensation Program may become a public record. Public records may be subject
12 to public inspection and copying, if not otherwise protected by federal or state law.

13 (8) This rule does not address the transmission of a remittance, a payment, a
14 remittance advice or a payment advice, which is addressed in OAR 459-005-0215.

15 Stat. Auth.: ORS 238.650

16 Stats. Implemented: ORS 192.355, 238.005 - 238.750, 243.435, and 243.470

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

1 ***[459-001-0010***

2 ***Filing Papers***

3 *(1) Notwithstanding OAR 459-005-0210, all petitions, written requests, documents*
4 *or other papers, related to the appeal of a staff or Board action, that are required to be*
5 *filed with, or which a person desires to submit to, the Board or the Director, shall be*
6 *personally delivered or mailed to the Director of the Public Employees Retirement*
7 *System, 11410 SW 68th Parkway, Tigard, OR 97223-8680, or P.O. Box 23700, Tigard,*
8 *OR 97281-3700.*

9 *(2) A filing shall be effective upon personal service or actual receipt in the office of*
10 *the Director in accordance with OAR 459-005-0220.*

11 *Stat. Auth.: ORS 183.341 & 238.650*

12 *Stats. Implemented: ORS 238.005 - 238.715 & 237.410 - 237.620]*

Action and Discussion Items

1. Final 2021 Earnings Crediting and Reserving
2. SB 1049 Implementation Update
3. Review of 2022 Legislative Session
4. Legislative Concept Proposals – 2023 Session
5. 2021-2023 Budget Development Update
6. Equal to or Better Than Testing Update



Oregon

Kate Brown, Governor

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March 28, 2022

TO: Members of the PERS Board
FROM: Richard Horsford, Chief Financial Officer
Amanda Marble, Financial Reporting Manager
SUBJECT: 2021 Final Earnings Crediting and Reserving

OVERVIEW

- Action: Allocate 2021 final earnings crediting.
- Subject: Crediting earnings for calendar year 2021 to the PERS Fund's accounts and reserves.

The PERS Board is charged with crediting the earnings from the PERS Fund each calendar year. Some of those allocations are directed by statute or rule; the balance is at the PERS Board's discretion.

2021 FINAL ALLOCATIONS

The PERS Board's Annual Earnings Crediting rule (OAR 459-007-0005) directs the crediting to the Judge and Tier Two member regular accounts, as well as the Oregon Public Service Retirement Plan (OPSRP) pension program, Benefits-in-Force, and Employer reserves. Staff recommends the following allocations be adopted by the PERS Board:

Non-Discretionary Allocations

1. Tier One Member Regular Accounts Reserve and Judge Member Accounts

Credit Tier One member regular accounts and Judge member accounts with the assumed earnings rate (7.20%) in effect during 2021.

Tier One Rate Guarantee Reserve: This reserve, established under ORS 238.255(1), is used to fund crediting of the assumed rate to Tier One member regular accounts when earnings are less than the assumed rate. Because earnings on Tier One member regular accounts for 2021 exceed the assumed rate, those excess earnings, in the amount of \$439.6 million, will be credited to Tier One Rate Guarantee Reserve, resulting in a balance in this reserve of \$966.4 million.

2. Tier Two Member Regular Accounts

Credit Tier Two member regular accounts with a proportional share of available PERS Fund Regular Account earnings, which will result in a final rate of 20.14%.

3. Benefits-in-Force and Employer Reserves

Credit the Benefits-in-Force and Employer Reserves evenly with the remaining available PERS Fund Regular Account earnings, which will result in a final rate of 20.14%.

4. OPSRP Member Accounts

OPSRP member accounts usually are credited with a proportional share of available PERS Fund Regular Account earnings, which will result in a final rate of 20.43%.

Oregon Public Employees Retirement System Calendar Year 2021 Final 2021 Crediting and Reserving Contingency Reserve Funding (All dollar amounts in millions)								
	Reserves Before Crediting	Gross Investment Income (a)	Investment Expense (b)	Administrative Expenses (c)	Other Adjustments ^(d)	Net 2021 Crediting (a+b+c+d)	Reserves After Crediting	2021 Rates
Tier One Member Regular Accounts	2,575.6	694.6	(46.4)	(3.7)	(459.0)	185.5	2,761.1	7.20%
Tier One Rate Guarantee Reserve	526.8	-	-	-	439.6	439.6	966.4	N/A
Tier Two Member Regular Accounts	951.4	213.0	(14.2)	(1.1)	(5.9)	191.8	1,143.2	20.14%
Benefits In Force Reserve	18,125.5	4,058.2	(271.2)	(21.9)	(113.3)	3,651.8	21,777.3	20.14%
Employer Reserves	35,304.0	7,904.3	(528.3)	(42.7)	(220.7)	7,112.6	42,416.6	20.14%
Tier One/ Two Employee Pension Stability Account ¹	126.0	16.5	(1.2)	-	9.7	25.0	151.0	20.14%
OPSRP Pension	8,417.9	1,721.1	(111.1)	(12.3)	122.6	1,720.3	10,138.2	20.43%
OPSRP Employee Pension Stability Account ²	91.8	10.8	(0.8)	-	8.8	18.8	110.6	20.43%
IAP Accounts, as a whole ³	11,187.3	2,008.4	(117.7)	(16.1)	(64.1)	1,810.5	12,997.8	16.18%
UAL Lump-Sum Pmt. Side Accounts ³	5,581.5	1,087.3	(30.5)	(0.2)	-	1,056.6	6,638.1	Various ⁵
Contingency Reserve	32.0	-	-	-	18.0	18.0	50.0	N/A
Total	\$82,919.8	\$17,714.2	(\$1,121.4)	(\$98.0)	(\$264.3)	\$16,230.5	\$99,150.3	

¹Per OAR 459-007-0005 (14)(a), Tier One/Two Employee Pension Stability Account will receive the Tier Two Member rate.

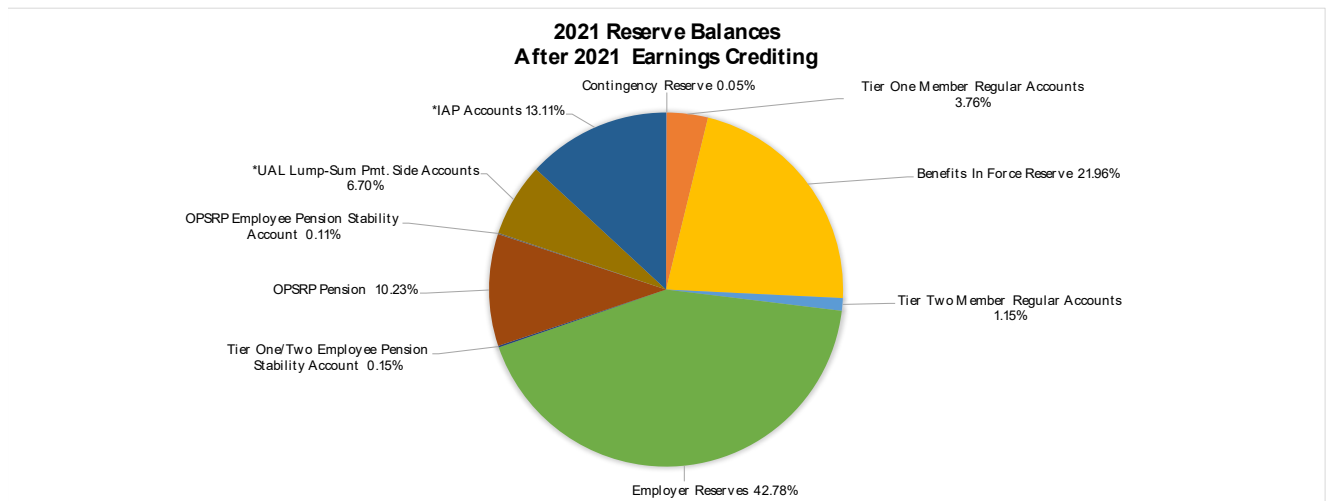
²Per OAR 459-007-0005 (14)(b), OPSRP Employee Pension Stability Account will receive the OPSRP Pension rate.

³Informational only. Not affected by Board reserving or crediting decisions.

⁴Primarily due to Tier One Rate Guarantee Reserve transfer of the Tier One member regular account excess earnings, Contingency Reserve funding, defined benefit commingled earnings transfer, and the earnings credited to mid-year retirements.

⁵The final earnings rate for the pre-2021 Side Accounts is 20.76%.

Note: The actual market returns for private equity investments are reported on a three-month lag as additional time is needed to value these non-public assets and returns. Private equity returns for the fourth quarter will be reflected in the following year earnings crediting.



*Informational only. Not affected by Board reserving or crediting decisions. IAP accounts receiving installments have already received 2021 earnings.

EARNINGS ALLOCATIONS DIRECTED BY STATUTE OR RULE

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

5. Individual Account Program (IAP): These member accounts are credited with actual earnings or losses of the PERS Fund Regular Account as required by ORS 238A.350 (1). The overall final IAP

earnings for 2021 are 16.18% after deducting IAP expenses. The table below illustrates the IAP earnings by tranche.

Oregon Public Employees Retirement System				
Final IAP TDF Earnings				
(All dollar amounts in thousands)				
TDF Fund	Reserves Before Crediting	2021 Crediting	Reserves After Crediting	2021 Rates
RAF Fund	\$ 749,850.2	\$ 104,198.1	\$ 854,048.3	13.89%
2025 Fund	1,421,054.2	201,847.0	1,622,901.2	14.20%
2030 Fund	1,919,093.2	314,014.5	2,233,107.7	16.36%
2035 Fund	2,179,550.2	396,444.6	2,575,994.8	18.18%
2040 Fund	1,879,744.9	345,200.9	2,224,945.8	18.36%
2045 Fund	1,438,765.9	256,481.2	1,695,247.1	17.82%
2050 Fund	778,991.8	130,621.9	909,613.7	16.76%
2055 Fund	322,794.2	48,156.0	370,950.2	14.91%
2060 Fund	88,145.1	10,018.3	98,163.4	11.36%
2065 Fund	17,679.7	2,590.0	20,269.7	14.64%
Total	\$ 10,795,669.4	\$ 1,809,572.5	\$ 12,605,241.9	

In accordance with Senate Bill 1049 (2019), effective July 1, 2020, for all currently employed Tier One/Tier Two and OPSRP members earning \$2,500/month or more (\$2,535 in 2021), a portion of their six percent monthly IAP contributions will be redirected to an “Employee Pension Stability Account.” The Employee Pension Stability Account (EPSA) will be used to pay for part of the member’s future pension benefit.

Of note, House Bill 2906 was passed in 2021, increasing the monthly salary threshold to \$3,333, effective January 1, 2022.

For earnings crediting purposes, Tier One/Tier Two member EPSA accounts will be credited with the same rate as Tier Two Regular Member accounts, which will result in a final rate of 20.14%.

For earnings crediting purposes, OPSRP member EPSA accounts will be credited with the same rate as OPSRP Pension Member Accounts, which will result in a final rate of 20.43%.

- 6. Employer Lump Sum Payment Accounts:** These accounts are credited with actual earnings or losses of the PERS Fund Regular Account less administrative expenses, as authorized by ORS 238.225. For 2021, the average final crediting rate for the side accounts established before 1/1/2021 is 20.76%. The final crediting rate for new lump sum payment accounts varies depending on the time of payments.
- 7. Health Insurance Accounts:** These accounts are created as part of the PERS Fund and directed by statute to be credited with actual earnings or losses, less the expense related to the administration of the programs (ORS 238.410(7); 238.415(4); 238.420(4)). For 2021, the final crediting rate for these accounts are 20.98% for the Retirement Health Insurance Account (RHIA), 18.19% for the Retiree Health Insurance Premium Account (RHIPA), and -0.04% for the Standard Retiree Health Insurance Account (SRHIA) (invested in the Treasury Short-Term Fund).

Oregon Public Employees Retirement System Health Insurance Accounts Final Rates	
Health Insurance Fund	2021
RHIA	20.98%
RHIPA	18.19%
SRHIA *	-0.04%

* Invested in the Treasury Short-Term Fund

8. Variable Annuity Account: This account is credited with earnings and losses on its distinct asset allocation of the PERS Fund. The Variable Annuity Account is only invested in equities and therefore its earnings are discrete from those of the more diversified PERS Fund Regular Account. For 2021, the final Variable Annuity Account earnings is 18.88%.

Administrative Expenses: PERS administrative costs are funded by earnings when they are sufficient, as they were in 2021 (ORS 238.610(1)). As directed by House Bill 4155 (2014 Regular Session), the administrative costs, to comply with Governmental Accounting Standards Board (GASB) 68 and 75 reporting standards, were \$27,238 and will be recovered from earnings on employer's contributions.

CONTINGENCY RESERVE ALLOCATION

ORS 238.670 (1) to limit the board's crediting of funds to the Contingency Reserve; specifically, "...the board may not credit further amounts to the reserve account if the amounts in the reserve account exceed \$50 million."

At the January 31, 2022 PERS Board Meeting, the board approved allocating \$17,998,958.35 of available earnings to the Contingency Reserve to fully fund the Contingency Reserve. Staff does not recommend any additional allocation at this time.

BOARD ACTION – FINAL EARNINGS CREDITING

The board's options for 2021 final earnings crediting include:

1. Pass a motion to "adopt the final crediting of earnings as presented for calendar year 2021."
2. Pass a motion adopting an alternative final allocation of 2021 earnings.

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

Action and Discussion Items

1. Final 2021 Earnings Crediting and Reserving
2. SB 1049 Implementation Update
3. Review of 2022 Legislative Session
4. Legislative Concept Proposals – 2023 Session
5. 2021-2023 Budget Development Update
6. Equal to or Better Than Testing Update



Oregon

Kate Brown, Governor

Public Employees Retirement System

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March 28, 2022

TO: Members of the PERS Board
FROM: Yvette Elledge-Rhodes, Deputy Director
SUBJECT: SB 1049 Implementation Update

Senate Bill (SB) 1049 was signed into law by the Governor on June 11, 2019. PERS staff continue to focus on completing work in an efficient and effective manner.

PROGRAM/PROJECT IMPLEMENTATION

The SB 1049 Implementation Program is being managed as one comprehensive program, with the following six individual projects. All projects go through the Enterprise Information Services (EIS) stage-gate process.

Project	Effective Date	Project Health and Status (as of 3/1/22)
SB 1049 Program		Program health: Yellow <ul style="list-style-type: none"> Program health will remain in Yellow status as Member Redirect is scheduled past the end of the 2021-23 biennium. Cross Project Effort health has returned to Yellow due to delays in Work Package (WP) 6.
Employer Programs Project	Effective 7/1/2019	Project ended 7/16/21.
Salary Limit Project	Effective 1/1/2020	Project ended 5/28/21.
Work After Retirement Project	Effective 1/1/2020	Project ended 2/24/22.
Member Redirect Project	Effective 7/1/2020	Project health: Green <ul style="list-style-type: none"> User Acceptance Testing for WP4.3 (EPSA CMA) completed on 3/1/22; on schedule for 3/24/22 deployment. Construction for WP6.1 (EPSA Retirement) completed, and Business Functional Testing (BFT) began. On schedule towards the 3/29/22 completion date. Business Requirement document under review to incorporate SB111A scope into WP8.1 (EPSA Pre-Retirement Death). Requirements may add time to project schedule.
Member Choice Project	Effective 1/1/2021	Project ended 8/4/21.
Technical Debt		Project health: Yellow

		<ul style="list-style-type: none"> • WP1 (Employer Statements) completed BFT on 2/18/22. User Acceptance Testing will begin 4/25/22. • WP2 (Benefit Account Transition Status) and WP3 (General Ledger Reversals, Including Side Accounts) Functional Design Specifications have been delivered to document as-is conditions of the technical debt areas which are causing errors. A decision will be made whether there is sufficient time and project budget to continue pursuing a solution. • New Change Request approved to add WP4 to project for jClarety Reporting Engine (Hyperion Replacement).
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Highlighted activities completed or in progress since late January 2022:

- Program and project activities
 - iQMS activities
 - Final Quarterly QA Status and Improvement report (January 2022) received 2/28/22
 - Draft Lessons Learned deliverable received 2/3/22
- Budget reporting
 - Continued monthly meetings with the Chief Financial Office, Legislative Fiscal Office, and the Governor’s Office in March
 - Work order contract approved for new Technical Debt project WP4

PROGRAM/PROJECT BUDGET

The high-level budget information is contained within page two of the attachment to agenda item A.2.c. The detailed budget can be viewed in the attached Monthly Status Report.

Budget development for the 2023-2025 program is underway. PERS staff will continue to update the board as program implementation continues throughout the year.

C.2. Attachment 1 – *Monthly Project Status Report and Roadmap*

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Program information:

Program start: July 1, 2019 | Program end: June 19, 2024

Subprojects:

Project 1: Employer Programs

Project start: July 1, 2019 | Project end: July 16, 2021

Project status: **Complete**

Project 2: Work After Retirement (WAR)

Project start: July 1, 2019 | Project end: February 24, 2022

Project status: **Complete**

Project 3: Salary Limit

Project start: July 1, 2019 | Project end: May 28, 2021

Project status: **Complete**

Program statement:

SB 1049 is comprehensive legislation intended to address the increasing cost of funding Oregon's Public Employees Retirement System (PERS), reduce system Unfunded Actuarial Liability (UAL) obligations, and provide relief to escalating contribution rate increases for public employers. Implementation will occur across six subprojects.

Project 4: Member Redirect

Project start: July 1, 2019 | Project end: April 25, 2024

Project status: **Green**

Project 5: Member Choice

Project start: October 23, 2019 | Project end: August 4, 2021

Project status: **Complete**

Project 6: Technical Debt

Project start: June 22, 2021 | Project end: August 31, 2022

Project status: **Yellow**

For details regarding individual project status, please refer to the respective project section(s) below.

Overall program status: **Yellow**

The program status continues to be yellow. Member Redirect has activities that continue into the 2023-2025 biennium, and that budget has neither been requested nor approved. Technical Debt has turned yellow due to the aggressive timeline to deliver the WP4 Hyperion Replacement and delays to that schedule's development. Details are in the Technical Debt section below.

The WAR project successfully closed on 2/24/2022. This is the 4th of the original five SB 1049 projects to close.

The two remaining projects, Member Redirect and Technical Debt continue:

- The Member Redirect team completed User Acceptance Testing (UAT) for their next release early. They are on track to deploy on 3/24/2022.
- The SB 1049 Technical Debt project continues to make good progress on their 1st three work packages. The 4th work package, WP4 Hyperion Replacement, has started. This includes building the SSRS framework and incorporating it into the SDLC process needed for Member Redirect WP9.1.

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Budget health: Yellow

Work is planned for Member Redirect beyond the 2021-2023 biennium, but that budget has not been requested/approved yet.

29560- SB 1049 Implementation Program by Project					
Other Funds Lmt	21-23 Budget	Actual to Date	Projections	21-23 Total	Variance
Work After Retirement	\$ 1,127,741	\$ 523,647	\$ -	\$ 523,647	\$ -
Variance from WAR	\$ -	\$ -	\$ -	\$ -	\$ 604,094
Member Redirect	\$ 18,896,315	\$ 5,679,192	\$ 7,092,108	\$ 12,771,301	\$ 6,125,014
Technical Debt	\$ 2,790,741	\$ 409,533	\$ 633,823	\$ 1,043,356	\$ 1,747,385
				\$ -	\$ -
Total	\$ 22,814,797	\$ 6,612,372	\$ 7,725,932	\$ 14,338,304	\$ 8,476,493

29560- SB 1049 Implementation Program by POP					
Other Funds Lmt	21-23 Budget	Actual to Date	Projections	21-23 Total	Variance
Project Management & Admin	\$ 2,044,800	\$ 544,788	\$ 1,087,212	\$ 1,632,000	\$ 412,800
Quality Assurance and Testing	\$ 812,500	\$ 115,717	\$ 812,016	\$ 927,733	\$ (115,233)
Info Technology Applications	\$ 13,337,000	\$ 4,182,775	\$ 1,805,260	\$ 5,988,035	\$ 7,348,965
Operational Implementation	\$ 6,620,497	\$ 1,742,092	\$ 4,021,444	\$ 5,763,535	\$ 856,962
				\$ -	\$ -
Total	\$ 22,814,797	\$ 6,585,372	\$ 7,725,932	\$ 14,311,304	\$ 8,503,493

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Schedule health: **Yellow**

The Member Redirect schedule health is green. That project is successfully meeting all major project milestones. Technical Debt has turned yellow due to delays in creating the schedule for WP4 Hyperion Replacement. Cross Project is also yellow due to delays in development activities for WP6 IAP Balance Comparison Tool caused by Power Apps issues. Power Apps is a new tool at PERS and there is a longer than expected learning curve. Unknown yet if this delay will impact subsequent Cross Project milestones.

Scope health: **Green**

The program and project scope are understood and have been incorporated into program-level plans and schedules.

Quality Assurance activities:

- iQMS Deliverable 4.1.8 Quarterly QA Status and Improvement Report started 12/6/2021, completed 3/14/2022.
- iQMS Deliverable 2.6.1 Lessons Learned Report started 1/4/2022, due 3/24/2022.
- iQMS Deliverable 3.3.8 Periodic Quality Status Report started 1/27/2022, due 3/28/2022.
- iQMS Deliverable 4.1.9 Quarterly QA Status and Improvement Report started 3/7/2022, due 5/18/2022.

Emerging concerns/needs/impacts:

- As additional non-SB 1049 work efforts ramp up, there is an increased concern that SB 1049 resources, both people and technical, may be affected. The SB 1049 team continues to monitor resource allocations and mitigate impacts where issues are found. The SB 1049 Project Managers are also proactively managing their schedules to ensure major milestones are kept on track.
- The Hyperion Replacement effort has ramped up and involves three separate work streams managed by three separate groups, only one of which belongs to SB 1049. This has led to early confusion regarding scope, roles, and schedules. The Strategic and Operational Planning (SOP) team has recently assigned a project manager to oversee the three work streams and improve the communication and coordination between them.
- The Production Data Center Migration (PDCM) project is nearing completion. We have been monitoring it for potential impact to SB 1049, but no impacts have been reported. We expect this concern to be removed in the next few weeks.

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Program Risks and Mitigation

Listed below are the most critical risks for this project.

For the complete Risk Log, please see the Risk Log tab in the most recent weekly status report: [SB 1049 Program Weekly Status Report](#)

#	Risk Description	Mitigation and/or Contingency Plan	Notes
20	Internal Staffing: Resource shifting, competing priorities, or over allocation impact the availability of dedicated project resources	➤ The Project Management Office continues to conduct cross-project bi-weekly meetings to discuss resource allocations across all PERS projects.	Increased Maintenance and Enhancement (M&E) activities have increased concerns for resource availability through approx. Sept 2022.
81	Technology Risk: Complexity and fragility of jClarety system.	➤ Some or all the SB 1049 projects may require attention to fixing technical debt or finding appropriate work arounds.	
39	Critical Resources Allocated to non-SB 1049 Work: Critical SB 1049 resources are allocated to non-SB 1049 work, impacting availability for SB 1049 work and causing schedule delays.	<ul style="list-style-type: none"> ➤ Assess project and resource plans for any new work effort to determine impact to SB 1049 ➤ Proactively manage any identified resource constraints and work with managers to mitigate SB 1049 impact. 	Non-SB 1049 work efforts include, but are not limited to: <ul style="list-style-type: none"> • Maintenance & Enhancements, including Hyperion Replacement • Production Data Center Migration (PDCM) • W-4 Tax Form Project
63	Lack of Project Agency Portfolio Management: Lacking a comprehensive project portfolio tool hampers our ability to confidently prepare and assign resources.	➤ SB 1049 Program resource allocations are regularly reviewed. The Project Management Office has also commenced regular meetings to evaluate resource enterprise impacts of projects in the agency portfolio.	PERS has also initiated the Enterprise Portfolio Management (EPM) project that, once implemented, will facilitate better management of multiple concurrent projects. SOP oversight has been added to coordinate the 3 Hyperion Replacement work streams.

Program Issues and Action Plans

Listed below are the most critical issues for this project.

For the complete Issue Log, please see the Issue Log tab in the most recent weekly status report: [SB 1049 Program Weekly Status Report](#)

No	Issue	Resolution / Notes	Estimated Resolution Date
	No Current Issues		

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Program information: Cross Project Effort

Start: May 28, 2020 | **End:** May 13, 2022
Project Manager: Susan K. Mundell

Cross Project Effort objective:

The Cross Project Effort is focused on technical tools, and extracts that are used across multiple SB 1049 projects. Originally, these efforts were included as Work Packages within the individually impacted projects. The scope of this effort has not changed, but the work has been restructured to ensure it receives an appropriate level of coordination and ensure the success of the necessary inter-project integrations.

Overall status: Yellow

Narrative: Work Package 3 (WP3): Individual Account Program (IAP) Divorce tool successfully deployed on 3/4/2022. Elaboration for WP5.2 Prior Year Earnings Invoicing tool has ended. The elaboration concluded that the current tool meets the SB 1049 Minimum Viable Product requirements so there will not be any additional changes to this tool. The next step for this tool is to begin testing of the Target Date Fund functionality that was previously released with this tool. This functionality could not be tested until after 2021 rates were posted to the system. Testing begins on 4/6/2022. WP6: IAP Balance Comparison tool environment set up is still underway and being tested the by PERS Architect. Unfortunately, there have been many challenges with the new platform, Power Apps, that have delayed development. Information Services Division is working with Microsoft Power Apps Engineers to resolve these issues. While we still don't know the full ramifications to the development timeline from this delay, it has put Cross Project Effort into a Yellow Status. A Change Request to move out the deployment of WP7.3 Payouts Actuarial Extract has been approved by the SB 1049 Steering Team. This no cost CR simply aligns this release with the final Member Redirect release.

Schedule Deliverables and Milestones

Milestones Schedule				
Milestone	Percent Complete	Baseline Finish Date	Actual / Forecast Finish Date*	Status/ Notes
WP3: IAP Divorce Tool Deployed	100%	2/22/2022	3/4/2022	
WP5.2: Prior Year Earnings Invoice Tool Deployed	0%		5/20/2022	
WP4.2: IAP Adjustment Calculator Deployed	0%		6/01/2022	
WP6: IAP Balance Comparison Tool	0%		9/06/2022	
WP7.3: Payouts Actuarial Extract	0%		3/28/2024	
Cross Project Effort Closure	0%		5/13/2024	

*Finish Date Color: Green = on Schedule, Yellow = in Jeopardy, Red = Late

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen



Senate Bill (SB) 1049 Implementation Road Map 2019-2021 Biennium

	2019						2020						2021											
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Employer Programs	<ul style="list-style-type: none"> 7/1/19 – Effective Date 9/3/19 – Employer Incentive Fund (EIF) Application #1 Opens 11/27/19 – EIF Application #1 Closes 12/2/19 – EIF Application #2 Opens 												<ul style="list-style-type: none"> 8/6/20 – Employer Rate Projection Tool (ERPT) Assessment Complete 12/1/20 – EIF Application #2 Closes 3/30/21 – Work Package (WP) 1 Migrate and Adapt ERPT → 6/30/21 – WP2 ERPT Stakeholder Acceptance and Deployment → 											
Salary Limit							<ul style="list-style-type: none"> 12/24/19 – Work Package (WP) 1 – Short Term 1/1/20 – Effective Date 1/24/20 – WP2 Post 2020 Salary Limit – Long Term 						<ul style="list-style-type: none"> 11/19/20 – WP3 User Screens to Record Annual Salary Limit – Long Term 5/13/21 – WP4 Proration Reports and Workflow – Long Term → 5/28/21 – Project Close → 											
Work After Retirement							<ul style="list-style-type: none"> 12/19/19 – Work Package (WP) 1 Retiree Wages Suspended – Short Term 1/1/20 – Effective Date 						<ul style="list-style-type: none"> 11/19/20 – WP2 New Wage Codes with General Ledger (GL) Integration – Long Term 5/13/21 – WP3 Retro Rate Change – Long Term → 											
Member Redirect	<ul style="list-style-type: none"> 6/18/20 – Work Package (WP) 1 Employee Pension Stability Account Set Up/Batch/General Ledger – Short Term → 						<ul style="list-style-type: none"> 7/1/20 – Effective Date → 1/21/21 – WP5.2 Online Member Services User Interface – Long Term → 1/26/21 – WP2 TIED SSIS – Non-jClarety – Long Term → 6/24/21 – WP4.2 EPSA Display, and WP12 Full EPSA Set up Screen – Long Term → 						<ul style="list-style-type: none"> 9/22/20 – Voluntary Contributions Initial Functionality – Long Term 10/30/20 – WP2.2 IAP Forecaster Tool – non-jClarety – Long Term 11/19/20 – Voluntary Contributions Final Functionality Release – Long Term 3/23/21 – WP3 EPSA Earnings – Long Term 											
Member Choice	<ul style="list-style-type: none"> 10/23/19 – Project Kick Off 5/15/20 – Member Annual Statements (MAS) Flyer Communication → 						<ul style="list-style-type: none"> 8/19/20 – Member Choice Notification → 8/20/20 – Work Package (WP) 1 Online Member Services (OMS) Changes Deployed 9/1-30/20 – Election Period 3/23/21 – WP2 OMS & jClarety Enhancements – Long Term → 5/1/21 – Member Choice reflected in MAS → 6/24/21 – WP3 Online Member Services (OMS) Election and Bugs → 						<ul style="list-style-type: none"> 1/1/21 – Effective Date 											
PROGRAM INITIATIVE																								
Cross Project Effort	<ul style="list-style-type: none"> 1/26/21 – WP2.1 IAP Payment Recon (short-term) → 3/18/21 – WP1.2 IAP Validator Tool (long-term) → 4/27/21 – WP2.2 IAP Payment Recon (long-term) → 5/13/21 – WP7.2 Employer Information Actuarial Extract → 6/18/21 – WP5.1 PYE Invoicing Tool → 6/24/21 – WP7.1 Non-Retired Census Actuarial Extract → 6/28/21 – WP4.1 IAP Adjustment Calculator → 																							

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen



Senate Bill (SB) 1049 Implementation Road Map 2021-2023 Biennium

	2021						2022						2023											
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Employer Programs	● 7/16/21 – Project Close																							
Work After Retirement							● 12/16/21 – WP4 Side Account Credit Allocation ● 2/24/22 – Project Close																	
Member Redirect							● 10/14/21 – WP5 Voluntary Contribution Maintenance – Long Term ● 3/24/22 – WP4.3 EPSA Transaction Display – Long Term						● 7/21/22 – WP6.1 EPSA Retirement – Long Term ● 2/23/23 – WP9.1 EPSA Withdrawal – Long Term → ● ● 2/23/23 – WP9.2 Alter OPSRP Withdrawal – Long Term → ●											
Member Choice	● 8/4/21 – Project Close						March 18																	
Technical Debt	● 7/1/21 – Project Kickoff						● 3/31/22 – WP2 Benefit Account Transition Status – Functional Design Specification Completed ● 4/30/22 – WP3 General Ledger Reversals, Including Side Accounts – Functional Design Specification Completed ● 7/21/22 – WP1 Employer Statements																	
PROGRAM INITIATIVE																								
Cross Project Effort	● 5/20/22 – WP5.2 PYE Invoicing Tool ● 6/1/22 – WP4.2 IAP Adjustment Calculator ● 10/5/22 – WP6 IAP Balance Comparison Tool																							

2023-2025 Biennium

	2023						2024						2025											
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Member Redirect	● 7/20/23 – WP8.1 EPSA Pre-Retirement Death – Long Term ● 7/20/23 – WP10 Backlog Implementation – Long Term						● 12/21/23 – WP11.1 Reemployment – Long Term ● 12/21/23 – WP11.2 Excess EPSA – Long Term ● 3/28/24 – WP12.2 Final Backlog Implementation – Long Term						● 3/28/24 – Migration Finalization ● 4/25/24 – Project Close											
PROGRAM INITIATIVE																								
Cross Project Effort	● 3/4/24 – WP3 IAP Divorce Tool ● 3/28/24 – WP7.3 Tier One/Tier Two/OPSRP Payouts Actuarial Extract																							

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Project information: Work After Retirement (WAR)

Project start: July 1, 2019 | Project end: 2/24/2022

Project Manager: Susan K. Mundell

Project objective:

Effective January 1, 2020, the Work After Retirement (WAR) sections of SB 1049 allow most service retirees to work unlimited hours for PERS participating employers in calendar years 2020-2024 while retaining their retirement benefit. It also requires employers to pay employer contributions on retirees' salary during that period.

Overall project status: Complete

Project Narrative:

The WAR project successfully closed on 2/24/2022. The project closure quality gate, the project schedule, the budget closure, and project closure report were all completed by 2/24/2022.

The WAR project successfully deployed new functionality to report return-to-work retirees, retroactive rate changes, and side account crediting, which fully integrates with the General Ledger to invoice employers on the retiree wages as required by the Senate Bill 1049 legislation passed by the Oregon Legislature and signed by the Governor in 2019.

Work Packages:

Work Package 1: Suspend DTL2-07 Retiree Wage Codes – Short-term

- Production Deployment Date: 12/19/2019 (Complete)

Work Package 2: New Wage Codes with General Ledger Integration – Long-term

- Production Deployment Date: 11/19/2020 (Complete)

Work Package 3: Retro Rate Change – Long-term

- Production Deployment Date: 5/13/2021 (Complete)

Work Package 4: Side Account Credit Allocation

- Production Deployment Date: 12/16/2021 (Complete)

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Budget health: Green

29560 SB1049 - Work After Retirement (WAR) Project					
Expenses	Budget	Actual to Date	Projections	Total	Variance
*Personal Services - PERS	\$ 228,674	\$ 228,674	\$ -	\$ 228,674	\$ -
Personal Services - SB1049	\$ 200,000	\$ 69,300	\$ (0)	\$ 69,300	\$ 130,700
Office Expenses	\$ 100,000	\$ 1,499	\$ -	\$ 1,499	\$ 98,501
Professional Services	\$ 485,741	\$ 155,749	\$ -	\$ 155,749	\$ 329,992
IT Professional Services	\$ 337,000	\$ 297,098	\$ -	\$ 297,098	\$ 39,902
IT Expendable Property	\$ 5,000		\$ -	\$ -	\$ 5,000
Move Variance to REDRCT	\$ -	\$ 604,094	\$ -	\$ 604,094	\$ (604,094)
SB 1049 Total Expenses	\$ 1,127,741	\$ 523,647	\$ (0)	\$ 523,647	\$ 0
Project Total	\$ 1,356,415	\$ 752,321	\$ (0)	\$ 752,321	\$ 0
Average Monthly Spend (Burn Rate)		\$ 74,806.72	\$ (0.03)		
*Not included in SB1049 expenses					

Schedule Health: Green

All major milestones have been completed.

Scope health: Green

The scope for all work packages has been delivered.

Quality Assurance activities:

- All quality assurance activities have been completed.

Emerging concerns/needs/impacts:

- No emerging concerns

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

High Level Project Risks and Mitigation

Listed below are the most critical risks for this project.

For the complete Risk Log, please see the Risk Log tab in the most recent weekly status report: [WAR Weekly Status Report](#)

	Risk Description	Mitigation and/or Contingency Plan	Notes
	No Current Risks		

Project Issues and Action Plans

Listed below are the most critical issues for this project.

For the complete Issue Log, please see the Issue Log tab in the most recent weekly status report: [WAR Weekly Status Report](#)

	Risk Description	Mitigation and/or Contingency Plan	Notes
	No Current Issues		

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Project Schedule Deliverables and Milestones

Milestones Schedule				
Milestone	Percent Complete	Baseline Finish Date	Actual / Forecast Finish Date*	Status/ Notes
WP1 - Phase Closure Complete	100%	2/13/2020	2/13/2020	
WP2 - Deployment Complete	100%	10/22/2020	11/19/2020	
WP4 - High Level Estimate Complete	100%	2/25/2021	2/25/2021	
WAR - Baselined Effort Based Project Schedule	100%	3/5/2021	3/5/2021	
WP3 - Business Functional Testing (BFT) Complete	100%	3/19/2021	3/19/2021	
WP3 - Ready for User Acceptance Testing (UAT) Quality Gate	100%	3/29/2021	3/26/2021	
WP3 - User Acceptance Testing Complete	100%	5/7/2021	5/07/2021	
WP3 - Quality Assurance Testing Complete	100%	5/7/2021	5/07/2021	
WP3 - Move to Production Quality Gate Complete	100%	5/12/2021	5/11/2021	
WP3 - Deployment Complete	100%	5/13/2021	5/13/2021	
WAR - Rebaselined Effort Based Project Schedule (WP4)	100%	5/20/2021	5/20/2021	
WP3 - Phase Closure Complete	100%	5/27/2021	5/27/2021	
WP4 - Business Requirements Document Complete	100%	7/12/2021	7/12/2021	
WP4 - Development Complete	100%	10/5/2021	10/5/2021	
WP4 - Business Functional Testing (BFT) Complete	100%	10/26/2021	10/26/2021	
WP4 - User Acceptance Testing (UAT) Complete	100%	12/10/2021	12/10/2021	
WP4 - Deployment Complete	100%	12/16/2021	12/16/2021	
WP4 - Phase Closure Complete	100%	1/4/2021	1/4/2021	
WAR Budget Closure	100%	2/24/2022	2/24/2022	
WAR Project Complete	100%	2/28/2021	2/24/2022	

*Finish Date Color: Green = on Schedule, Yellow = in Jeopardy, Red = Late

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Project information: Member Redirect

Project start: July 1, 2019 | **Project end:** April 25, 2024
Project Manager: Chris Yu

Overall project status: **Green**

Project Narrative: The overall project health is green, and activities are progressing on schedule. The Move to Production Quality Gate activities for work package 4.3 (EPSA Correct Member Account) was completed on 3/11/2022 and will deploy to production on 3/24/2022. The user acceptance testing was successful and completed a week earlier than scheduled. The technical review for work package 8.1 (EPSA Pre-Retirement Death) and SB111A (this piece of legislation grants an optional spouse death benefit for Tier 1/Tier 2 pre-retired death accounts and more closely aligns OPSRP spousal death benefits with that option) was extended to 6/30/2022 because of competing priorities and overall size and scope of the work package. This does not impact the downstream milestones for work package 8.1 (EPSA Pre-Retirement Death). The construction task for work package 9.1 (EPSA Correct Member Account) and 9.2 (Alter OPSRP Withdrawal) began on 3/1/2022. The completion of the WP9.1 (EPSA Correct Member Account) construction task is dependent on Technical Debt WP4 Hyperion Replacement.

Work Packages:

Work Package 4.3 EPSA Correct Member Account - Long-Term

- Production Deployment Date: 3/24/2022
- User Acceptance Testing was completed on 3/1/2022
- Move to Production Quality Gate sign-off completed on 3/11/2022

Work Package 9.1 EPSA Correct Member Account - Long-Term

- Production Deployment Date: 2/23/2023
- Construction will be completed on 9/30/2022
- Business Functional Testing will begin on 10/3/2022

Additional long-term work packages exist. See the Milestones Schedule for a complete list of work packages

Project objective:

Effective July 1, 2020 this section of the bill redirects a portion of member contributions to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% and the member's monthly salary is more than \$2,500.

Work Package 6.1 EPSA Voluntary Contribution Maintenance- Long-Term

- Production Deployment Date: 7/21/2022
- Construction was completed on 1/31/2022
- Business Functional Testing will be completed on 3/29/2022
- User Acceptance Testing will be completed on 7/5/2022

Work Package 9.2 Alter OPSRP Withdrawal - Long-Term

- Production Deployment Date: 2/23/2023
- Construction will be completed on 9/30/2022
- Business Functional Testing will begin on 10/3/2022

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Budget health: Green

There will need to be additional funding for 2023-2025, which will be tracked at the program level.

29560 SB1049 - Member Redirect Project					
Expenses	Budget	Actual to Date	Projections	Total	Variance
*Personal Services - PERS	\$ 1,658,226	\$ 424,292	\$ 1,233,934	\$ 1,658,226	\$ -
Personal Services - SB1049	\$ 5,603,697	\$ 1,588,635	\$ 4,015,062	\$ 5,603,697	\$ -
Services and Supplies	\$ 1,927,618	\$ 364,353	\$ 1,322,607	\$ 1,686,960	\$ 240,658
IT Professional Services	\$ 11,110,000	\$ 3,726,205	\$ 1,754,439	\$ 5,480,644	\$ 5,629,356
IT Expendable Property	\$ 200,000		\$ -	\$ -	\$ 200,000
Data Processing Hardware	\$ 55,000		\$ -	\$ -	\$ 55,000
Unprojected Varaične form WAR Project	\$ 604,094	\$ -	\$ -	\$ -	\$ 604,094
SB1049 Total Expenses	\$ 18,896,315	\$ 5,679,192	\$ 7,092,108	\$ 12,771,301	\$ 6,729,108
Project Total	\$ 20,554,541	\$ 6,103,484	\$ 8,326,042	\$ 14,429,527	\$ 6,729,108
Average Monthly Spend (Burn Rate)		\$ 811,313.21	\$ 417,182.84		
*Not included in SB1049 Expenses					

Schedule Health: Green

The Technical Review task for WP8.1 (EPSA Pre-Retirement Death) was extended to 6/30/2022; however, this does not impact the project's critical path. All other major milestones are on schedule.

Scope health: Green

The project scope is understood for all releases.

Quality Assurance activities:

- The Release to Production Quality Gate for work package 4.3 (EPSA Correct Member Account) was completed on 3/11/2022
- The Monthly Release Management Report will be submitted for Quality Check Point review on 3/31/2022

Emerging concerns/needs/impacts:

- The M&E Hyperion Conversion effort may have an impact to testing resources for WP6.1 (EPSA Voluntary Contribution Maintenance). Once the M&E schedule is built, the Project Manager will confirm any resource impacts and develop a mitigation plan.

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

High Level Project Risks and Mitigation

Listed below are the most critical risks for this project.

For the complete Risk Log, please see the Risk Log tab in the most recent weekly status report: [Member Redirect Weekly Status Report](#)

#	Risk Description	Mitigation and/or Contingency Plan	Notes
83	WP8.1 Scope and Size: Based on current progress on the business requirements document, there is a concern that the size and scope of the coding of this work package will not fit within the scheduled timeline	➤ Review requirements and see if any can be deferred to later (backlog). Other options include a change request to extend current baseline duration or remove certain scope to maintain current schedule.	After discussion with the Solutions Architect on 3/1/2022, there is concern that the construction task for WP8.1 will not be completed by the baseline finish date. A mitigation plan will be confirmed after the technical review is complete on 6/30/2022.
2	Complexity of Effort: The forecasted amount of work, timing, and complexity is inaccurate, or assumptions made that are off base.	➤ The project manager will continue to work with the project team to manage the project schedule and resources.	WP8.1 (EPSA Pre-Retirement Death) may be more complex than was projected. This would impact the duration of construction and testing efforts. The Project Manager will validate these projections after the technical review is complete 6/30/2022
4	Internal Staffing: Resource shifting, competing priorities, or over allocation impact the availability of dedicated project resources, or a key resource leaves PERS	➤ The Project Management Office continues to conduct cross-project bi-weekly meetings to discuss resource allocations across all PERS projects, including SB 1049 and non-SB 1049 projects.	There is a Hyperion Replacement effort that will convert Hyperion reports in jClarety to SSRS. The M&E portion of this effort poses a risk in overlapping testing resources with Member Redirect, which will pose a risk to the WP6.1 UAT and deployment.

Project Issues and Action Plans

Listed below are the most critical issues for this project.

For the complete Issue Log, please see the Issue Log tab in the most recent weekly status report: [Member Redirect Weekly Status Report](#)

No	Issue	Resolution / Notes	Estimated Resolution Date
	No current issues		

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Project Schedule Deliverables and Milestones

Milestones Schedule				
Milestone	Percent Complete	Baseline Finish Date	Actual / Forecast Finish Date*	Status/ Notes
WP2.1 - Tool for IAP Earnings Data	100%	1/26/2021	1/26/2021	
WP3.1 - EPSA Earnings	100%	3/23/2021	3/23/2021	
WP3.2 - Member Annual Statement Extract	100%	3/23/2021	3/23/2021	
WP4.2 - EPSA Transaction Display	100%	6/24/2021	6/24/2021	
WP12 - Full EPSA Set up screen	100%	6/24/2021	6/24/2021	
WP5.1 - Voluntary Contribution maintenance	100%	10/14/2021	10/14/2021	
WP4.3 - EPSA Correct Member Account	0%	3/24/2022	3/24/2022	
WP6.1 - EPSA Retirement	0%	7/21/2022	7/21/2022	
WP9.1 - EPSA Withdrawal	0%	2/23/2023	2/23/2023	
WP9.2 - Alter OPSRP Withdrawal	0%	2/23/2023	2/23/2023	
WP8.1 - EPSA Pre-Retirement Death	0%	7/20/2023	7/20/2023	
WP10 - Backlog Implementation	0%	7/20/2023	7/20/2023	
WP11.1 - Re-Employment	0%	12/21/2023	12/21/2023	
WP11.2 - Excess EPSA	0%	12/21/2023	12/21/2023	
WP12.2 - Final Backlog Implementation	0%	3/28/2024	3/28/2024	
Migration Finalization	0%	3/28/2024	3/28/2024	
Project Complete	0%	4/25/2024	4/25/2024	

*Finish Date Color: Green = on Schedule, Yellow = in Jeopardy, Red = Late

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Project information: Technical Debt

Project start: June 22, 2021 | **Project end:** August 31, 2022
Project Manager: Joli Whitney

Project objective:

The SB 1049 Technical Debt Project will address areas of technical debt which have been encountered and identified in the SB 1049 Implementation Program and prioritized for resolution. Resolution of technical debt will be limited to those items that are created by SB 1049, are exacerbated by SB 1049, or inhibit PERS' ability to complete SB 1049 requirements.

Overall project status: **Yellow**

Project Narrative: Work Package 1 (WP1 Employer Statements) is on track to begin User Acceptance Testing on 4/25/2022.

Work Package 2 (WP2 Benefit Account Status Transition) and Work Package 3 (WP3 General Ledger and Side Account Reversals) both seek to document the existing technical design of these areas with a functional design specification document. The WP2 document is in the final review stage, and we believe there will be no additional work requested on this item. WP3, however, revealed areas of SB 1049 technical debt which will need to be addressed further. A new change request will be developed to explore solution options and provide work estimates to be considered by the SB 1049 Steering Team.

Work Package 4 (WP4 Hyperion Replacement) is in the process of schedule development to identify tasks and milestones needed to deliver the new reporting engine in jClarety to replace Hyperion (an Oracle report generator). A notice to proceed was issued by DOJ on 3/9/2022. There are reporting dependencies for Member Redirect Work Package 9.1 which will be impacted if this solution is not addressed immediately. The SB 1049 scope does not include converting the existing jClarety reports. This will be done as an M&E effort outside of SB 1049. This new work will extend the current Technical Debt project end date. The new project date will be reported on next month's report as it is still being determined. The yellow project health status is a result of the aggressive timeline to deliver this solution and the ambiguity of roles as there are several teams involved which has led to delays in schedule development.

Note that the project closure date will continue to be subject to change as additional items are added into project scope. This is planned and expected. All scope is added via the SB 1049 Change Request Process and approved by the SB 1049 Steering Team.

Work Packages:

Work Package 1: Employer Statements

- Production Deployment Date: 7/21/2022
- Development completed on 11/16/2021
- BFT completed on 2/18/2022
- UAT scheduled to begin on 4/25/2022

Work Package: 2 Benefit Account Status Transition

- Functional Design Specification Document Complete 3/31/2022

Work Package 3: General Ledger and Side Account Reversals

- Functional Design Specification Document Complete 4/30/2022

Work Package 4: Hyperion Replacement

- Milestones TBD

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Budget health: Green

Technical Debt Project is currently within the budget allocated by the Legislature.

29560 SB1049 - Technical Debt Project					
Expenses	Budget	Actual to Date	Projections	Total	Variance
*Personal Services - PERS	\$ 200,000	\$ 167,006	\$ 32,994	\$ 200,000	\$ -
Personal Services - SB1049	\$ 200,000	\$ 69,300	\$ 130,700	\$ 200,000	\$ -
Office Expenses	\$ 105,000	\$ 1,959	\$ 7,041	\$ 9,000	\$ 96,000
IT Professional Services	\$ 1,985,000	\$ 118,990	\$ 280,846	\$ 211,500	\$ 1,585,164
Professional Services - QA + PM	\$ 485,741	\$ 219,283	\$ 215,237	\$ 434,520	\$ 51,221
IT Expendable Prop	\$ 15,000		\$ -	\$ -	\$ 15,000
SB1049 Expenses	\$ 2,790,741	\$ 409,533	\$ 633,823	\$ 1,043,356	\$ 1,747,385
Project Total	\$ 2,990,741	\$ 576,539	\$ 666,817	\$ 1,055,020	\$ 1,747,385
Average Monthly Spend (Burn Rate)		\$ 58,504.66	\$ 90,546.20		
*Not included in SB1049 Expenses					

Schedule Health: Yellow

WP1, WP2, and WP3 are all baselined and progressing on-schedule. WP4 schedule development is in process.

Scope health: Green

The current project scope is well understood.

Quality Assurance activities:

- WP2 Functional Design Specification Document scheduled for Quality Check Point review on 3/31/2022
- WP3 Functional Design Specification Document scheduled for Quality Check Point review on 4/29/2022
- WP4 Draft System Design Specification Document scheduled for Quality Check Point review on 4/29/2022

Emerging concerns/needs/impacts:

- There is a very aggressive deadline from Oracle to remove Hyperion from our systems and our initial effort estimate shows that this deadline may be missed. We are evaluating what, if any, opportunities are available to do this work more quickly.

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

High Level Project Risks and Mitigation

Listed below are the most critical risks for this project.

For the complete Risk Log, please see the Risk Log tab in the most recent weekly status report: [Technical Debt Weekly Status Report](#)

#	Risk Description	Mitigation and/or Contingency Plan	Notes
1	Competing SB 1049 Resources	Careful coordinated schedule planning and priorities within the program and all projects	We continue to monitor resource allocations and anticipate this risk to increase as we prepare for WP1 UAT in April 2022.
2	Complexity of Effort: The forecasted amount of work, timing, and complexity is inaccurate, or assumptions made that are off base.	Schedule additional time to analyze complex code.	WP2 & WP3 are fully documenting the as-is state of the technical debt area in a functional design specification. This will provide a better understanding of the scope of the problem before moving forward with a solution.
12	Vendor or Contractor Staff: Work orders for contracted resources are not finalized within scheduled timelines and/or contracted staff experience levels are inadequate.	If the resources are not able to be retained, we will add more time to the project schedule to allow for training ramp up	This risk was increased as we have evaluated the initial needs following the WP2 & 3 FDS reviews and believe we will move forward with a CR for items related to WP3. The time to develop a CR and WOC amendment is very short and may not be completed before the current WOC expires.
14	Ambiguity of Effort to Address All Hyperion Replacement Needs for Enterprise	An enterprise-wide effort has been developed with an assigned project manager to clarify roles, maintain open communication between teams and stakeholders and develop a high-level schedule of all efforts,	The approach to build the SSRS Solution, convert batch reports, and remove Hyperion from our system involves several teams and has been suffering a lack of clarity and confusion over roles and responsibilities

Project Issues and Action Plans

Listed below are the most critical issues for this project.

For the complete Issue Log, please see the Issue Log tab in the most recent weekly status report: [Technical Debt Weekly Status Report](#)

No	Issue	Resolution / Notes	Estimated Resolution Date
	No current issues	.	

SB 1049 Implementation Program

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Project Schedule Deliverables and Milestones

Milestones Schedule				
Milestone	Percent Complete	Baseline Finish Date	Actual / Forecast Finish Date*	Status/ Notes
Program CR002- Technical Debt approved by Steering Team	100%	6/22/2021	6/22/2021	
Finalize project charter	100%	6/30/2021	6/30/2021	
Project kick off	100%	7/1/2021	7/1/2021	
Baselined project schedule (WP1 only)	100%	9/14/2021	9/14/2021	
WP1- Development Complete	100%	11/9/2021	11/16/2021	
WP1- Business functional testing (BFT) complete	100%	2/18/2022	2/18/2022	
WP2- Functional Design Specification Document complete	0%	3/31/2022	3/31/2022	
WP3- Functional Design Specification Document complete	0%	4/29/2022	4/29/2022	
WP4-Draft System Design Specification Document complete	0%	TBD	4/29/2022	
WP4- Other Milestones TBD	0%	TBD	TBD	
WP1- User acceptance testing (UAT) complete	0%	7/5/2022	7/5/2022	
WP1- Release to production Quality Gate complete	0%	7/20/2022	7/20/2022	
WP1- Production deployment complete	0%	7/20/2022	7/20/2022	
WP1- Lessons Learned	0%	8/4/2022	8/4/2022	
Project Closure Quality Gate	0%	8/31/2022	8/31/2022	
Project ends	0%	8/31/2022	8/31/2022	

*Finish Date Color: Green = on Schedule, Yellow = in Jeopardy, Red = Late

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Project information: Salary Limit

Project start: 7/01/ 2019 | Project end: 5/28/2021

Project Manager: Bruce Rosenblatt

Project objective:

The Salary Limit Project is necessary because SB 1049 redefined "salary," which changes the calculation method for Final Average Salary, and contributions for members with subject salary greater than \$195,000. This limit is on salary for plan purposes, and is not a salary cap. The Salary Limit was adjusted for the Consumer Price Index, on 1/04/2021. The redefinition impacts the data and business processes used by diverse teams at PERS, including Benefit Calculations, Member Estimates, Data Verifications, Employer Data Reporting, and Account Data Reviews and Reporting.

Overall project status: Complete

Project Narrative: The Salary Limit Project was successfully closed on 5/28/2021.

Work Packages:

Work Package 1: Short-term Minimum Viable Product (MVP)

- Production Deployment Date: 12/24/2019 (Complete)

Work Package 2: Annual Implementation of New Salary Limit

- Production Deployment Date: 1/23/2020 (Complete)

Work Package 3: Adding self-service screens to jClarety system to record annual changes and effective dates - Long-term

- Production Deployment Date: 11/19/2020 (Complete)

Work Package 4 - Enhances proration work processes when partial year calculations may apply - Long-term

- Production Deployment Date: 5/13/2021 (Complete)

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Project information: Employer Programs

Project start: July 1, 2019 | **Project end:** July 16, 2021

Project Manager: Joli Whitney

Project objective:

The Employer Programs section of SB 1049 expands the requirements for the Employer Incentive Fund (EIF); and appropriates \$100 million from the General Fund to the Employer Incentive Fund; directs net proceeds from Oregon Lottery Sports betting to the Employer Incentive Fund; allows participating public employers who make larger than \$10 million deposits to side accounts to determine when they wish to have these funds included in their employer rate assessment; and requires all public employers to participate in the Unfunded Actuarial Liability Resolution Program (UALRP).

Overall project status: Complete

Project Narrative: The Employer Programs project was successfully closed on 7/16/2021.

Work Packages:

WP1 Migrate and Adapt ERPT

- Acceptance Quality Gate: 3/23/2021 (this WP was not released to production) (Complete)

WP2 ERPT Stakeholder Acceptance and Deployment to Cloud

- Production Deployment Date: 6/3/2021 (Complete)

Status Report for March 18, 2022

Executive Sponsor: Kevin Olineck
Program Manager: James Allen

Project information: Member Choice

Project start: October 23, 2019 | Project end: August 4, 2021

Project Manager: Joli Whitney

Project objective:

The Member Choice sections of SB 1049 give members a say in how their Individual Account Program (IAP) accounts will be invested. Members' regular IAP accounts are currently allocated to Target-Date Funds (TDF) based on their year of birth. Beginning with calendar year 2021, members will be able to elect a TDF other than the default TDF.

Overall project status: Complete

Project Narrative: The Member Choice project was successfully closed on 8/4/2021.

Work Packages:

WP1.1 Online Election

- Production Deployment Date: 8/20/2020 (Complete)

WP1.2 Voya's updates to website and nightly sweep program

- Production Deployment Date: 1/19/2021 (Complete)

WP1.3 PERS paper form election process including workflow

- Production Deployment Date: 8/12/2020 (Complete)

WP1.4 Development of new reports (to Voya and internal)

- Production Deployment Date 9/29/2020 (Complete)

WP2- Refining TDF Processes - Long-term

WP2.1 -Online Member Services and jClarety Enhancements

- Production Deployment Date: 3/23/2021 (Complete)

WP2.2 -Central Data Management Reports







- Production Deployment Date: 6/15/2021 (Complete)

WP3- Online Member Services Election and Bugs

- Production Deployment Date: 6/24/2021 (Complete)

Senate Bill (SB) 1049 Implementation Road Map

2019-2021 Biennium

	2019						2020						2021											
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
 Employer Programs	<ul style="list-style-type: none"> 7/1/19 – Effective Date 9/3/19 – Employer Incentive Fund (EIF) Application #1 Opens 						<ul style="list-style-type: none"> 11/27/19 – EIF Application #1 Closes 12/2/19 – EIF Application #2 Opens 						<ul style="list-style-type: none"> 8/6/20 – Employer Rate Projection Tool (ERPT) Assessment Complete 12/1/20 – EIF Application #2 Closes 3/30/21 – Work Package (WP) 1 Migrate and Adapt ERPT →● 6/30/21 – WP2 ERPT Stakeholder Acceptance and Deployment →● 											
 Salary Limit							<ul style="list-style-type: none"> 12/24/19 – Work Package (WP) 1 – Short Term 1/1/20 – Effective Date 1/24/20 – WP2 Post 2020 Salary Limit – Long Term 						<ul style="list-style-type: none"> 11/19/20 – WP3 User Screens to Record Annual Salary Limit – Long Term 5/13/21 – WP4 Proration Reports and Workflow – Long Term →● 5/28/21 – Project Close →● 											
 Work After Retirement							<ul style="list-style-type: none"> 12/19/19 – Work Package (WP) 1 Retiree Wages Suspended – Short Term 1/1/20 – Effective Date 						<ul style="list-style-type: none"> 11/19/20 – WP2 New Wage Codes with General Ledger (GL) Integration – Long Term 5/13/21 – WP3 Retro Rate Change – Long Term →● 											
 Member Redirect							<ul style="list-style-type: none"> 6/18/20 – Work Package (WP) 1 Employee Pension Stability Account Set Up/Batch/General Ledger – Short Term 7/1/20 – Effective Date 						<ul style="list-style-type: none"> 9/22/20 – Voluntary Contributions Initial Functionality – Long Term 10/30/20 – WP2.2 IAP Forecaster Tool – non-jClarety – Long Term 11/19/20 – Voluntary Contributions Final Functionality Release – Long Term 1/21/21 – WP5.2 Online Member Services User Interface – Long Term →● 1/26/21 – WP2 TIED SSIS – Non-jClarety – Long Term →● 6/24/21 – WP4.2 EPSA Display, and WP12 Full EPSA Set up Screen – Long Term →● 3/23/21 – WP3 EPSA Earnings – Long Term 											
 Member Choice	<ul style="list-style-type: none"> 10/23/19 – Project Kick Off 5/15/20 – Member Annual Statements (MAS) Flyer Communication →● 						<ul style="list-style-type: none"> 8/19/20 – Member Choice Notification →● 						<ul style="list-style-type: none"> 8/20/20 – Work Package (WP) 1 Online Member Services (OMS) Changes Deployed 9/1-30/20 – Election Period 3/23/21 – WP2 OMS & jClarety Enhancements – Long Term →● 5/1/21 – Member Choice reflected in MAS →● 6/24/21 – WP3 Online Member Services (OMS) Election and Bugs →● 1/1/21 – Effective Date 											
PROGRAM INITIATIVE																								
 Cross Project Effort	<ul style="list-style-type: none"> 1/26/21 – WP2.1 IAP Payment Recon (short-term) →● 3/18/21 – WP1.2 IAP Validator Tool (long-term) →● 9/17/20 – WP1.1 IAP Validator Tool (short-term) →● 4/27/21 – WP2.2 IAP Payment Recon (long-term) →● 5/13/21 – WP7.2 Employer Information Actuarial Extract →● 6/18/21 – WP5.1 PYE Invoicing Tool →● 6/24/21 – WP7.1 Non-Retired Census Actuarial Extract →● 6/28/21 – WP4.1 IAP Adjustment Calculator →● 																							

Senate Bill (SB) 1049 Implementation Road Map

2021-2023 Biennium

	2021						2022												2023					
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Employer Programs	● 7/16/21 – Project Close																							
Work After Retirement							● 12/16/21 – WP4 Side Account Credit Allocation																	
							● 2/24/22 – Project Close																	
Member Redirect							● 10/14/21 – WP5 Voluntary Contribution Maintenance – Long Term																	
							● 3/24/22 – WP4.3 EPSA Transaction Display – Long Term																	
							● 7/21/22 – WP6.1 EPSA Retirement – Long Term																	
							● 2/23/23 – WP9.1 EPSA Withdrawal – Long Term → ●																	
							● 2/23/23 – WP9.2 Alter OPSRP Withdrawal – Long Term → ●																	
Member Choice	● 8/4/21 – Project Close																							
							March 18																	
Technical Debt	● 7/1/21 – Project Kickoff						● 3/31/22 – WP2 Benefit Account Transition Status – Functional Design Specification Completed																	
							● 4/30/22 – WP3 General Ledger Reversals, Including Side Accounts – Functional Design Specification Completed																	
							● 7/21/22 – WP1 Employer Statements																	
PROGRAM INITIATIVE																								
Cross Project Effort							● 5/20/22 – WP5.2 PYE Invoicing Tool																	
							● 6/1/22 – WP4.2 IAP Adjustment Calculator																	
							● 10/5/22 – WP6 IAP Balance Comparison Tool																	

2023-2025 Biennium

	2023						2024												2025					
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Member Redirect	● 7/20/23 – WP8.1 EPSA Pre-Retirement Death – Long Term						● 3/28/24 – Migration Finalization																	
	● 7/20/23 – WP10 Backlog Implementation – Long Term						● 4/25/24 – Project Close																	
							● 12/21/23 – WP11.1 Reemployment – Long Term																	
							● 12/21/23 – WP11.2 Excess EPSA – Long Term																	
							● 3/28/24 – WP12.2 Final Backlog Implementation – Long Term																	
PROGRAM INITIATIVE																								
Cross Project Effort							● 3/4/24 – WP3 IAP Divorce Tool																	
							● 3/28/24 – WP7.3 Tier One/Tier Two/OPSRP Payouts Actuarial Extract																	

Action and Discussion Items

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5. 2021-2023 Budget Development Update
6. Equal to or Better Than Testing Update



Oregon

Kate Brown, Governor

Public Employees Retirement System

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March 28, 2022

TO: Members of the PERS Board
FROM: Heather Case, Senior Policy Advisor
SUBJECT: Review of 2022 Legislative Session

2022 LEGISLATIVE SESSION

The 2022 legislative session adjourned *sine die* on Friday, March 4. During the session, PERS made required reports related to Preliminary Earnings Crediting, Senate Bill (SB) 1566 (2018) Employer Programs, and implementation of Senate Bill (SB) 1049 (2019). We also followed the progress of many bills that would have an impact on PERS the agency, or PERS the system, if passed. Four policy and budget bills will have an impact on PERS the system, which the agency will work on implementing in the coming months. These will be outlined below.

REPORTING REQUIREMENTS

PERS' latest budget bill, Senate Bill 5536 (2021), included direction to report to the Joint Committee on Information Management and Technology regarding implementation of SB 1049. This report was submitted in writing only and acknowledged by the committee on January 11, 2022. The report contained the following:

- Update on project scope, schedule, budget, and total cost of ownership.
- Identification of costs associated with one-time solutions versus permanent solutions.
- Current project risks, likely impacts, and mitigation strategies.
- Explanation of the delay related to implementing member redirect and associated costs and actuarial impact.
- Independent quality assurance reporting on the project.
- Impact of SB 1049 (2019) information technology project on routine agency operations.
- Whether SB 1049 (2019) is meeting financial objectives.

In compliance with SB 1566 (2018), PERS also submitted required reporting regarding implementation and status of the Employer Incentive Fund (EIF) and the School District Unfunded Actuarial Liability Fund (SDULF). This report was heard by the Joint Committee on Ways and Means, who acknowledged the receipt of the report on February 18.

Finally, each year, PERS reports to the legislature on board action related to Preliminary Earnings Crediting. PERS submitted this report after the PERS Board meeting in January. The Joint Committee on Ways and Means acknowledged receipt of this report on February 18. Final Earnings Crediting action taken by the PERS Board today will also be reported to the legislature.

Meeting materials and analysis from the Legislative Fiscal Office regarding the SB 1566 report and the Preliminary Earnings Crediting Report are [available online](#).

2022 LEGISLATION

Four bills that have an impact on PERS statutes or programs were passed during the 2022 legislative session.

Bill Number	Relating Clause	Of Interest to PERS
SB 1522	Relating to education	An amendment to the original bill included clarification that narrowed the provisions of SB 111 (2021) regarding salary paid to Oregon Public Service Retirement Plan (OPSRP) members of charter schools. This narrowing ensures that the retroactive application does not apply to every charter school employer.
SB 1525	Relating to connection to federal tax law	This bill, introduced every year by the Legislative Revenue Office, updates the date for PERS' statutory connections to the internal revenue code.
HB 5202	Relating to state financial administration; and declaring an emergency.	While state agency budgets are only done every odd year legislative session, the short session budget bill encapsulates work done in the interim, as well as adjustments needed. This budget bill allocated \$17,250,000 of general funds to the Employer Incentive Fund to fund the EIF waitlisted employers.
SB 5703	Relating to state financial administration; and declaring an emergency.	Known as the "lottery bill," this bill revised the amount of lottery funds allocated to the Employer Incentive Fund based on the latest state revenue forecast.

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March 28, 2022

TO: Members of the PERS Board
FROM: Heather Case, Senior Policy Advisor
SUBJECT: Legislative Concept Proposals- 2023 Legislative Session

2023 LEGISLATIVE CONCEPTS

State agencies are developing requests for legislation to be considered during the 2023 legislative session. PERS has spent our time since the last board meeting refining these concepts, meeting with stakeholders (including member and employer groups, and the Governor's Office), and we are now working on specific statutory language, as well as preliminary fiscal impacts to the agency, members, or employers.

Today, we are asking the PERS Board to vote to approve continuing forward with the legislative concepts below, which will allow us to make the formal request to the Department of Administrative Services (DAS) and the Governor's Office to move forward with drafting these bills.

What follows are three bills. The largest of these bills consists of statutory clean-up actions in order to provide clarification, align standards, and make improvements in advance of the agency's modernization efforts. The most significant change between this list and the list presented at the January board meeting is that PERS has decided not to move forward with the OSGP auto-enrollment concept at this time.

Three Possible Individual Bills

1. Modernization Clean-Up Bill
2. Increase to Divorce Decree Processing Fee
3. Social Security Statutes Clean-Up

Modernization Clean-Up Bill

This is by far the largest bill, and may be split into multiple bills in order to enhance readability. The modernization clean-up effort focuses on cleaning up provisions of the system as the agency turns its attention to modernization. To avoid programming inefficient and inconsistent standards into a new technology system, this bill will clarify statutes, align similar standards, and substantively clarify and improve processes.

The topics identified for improvement are as follows:

- Apply all tax remedy statutory requirements to judge members.

- Add the word “full” to the definition of a qualifying position, to ensure that 600 hours is required in a “full calendar year.”
- Allow a member to withdraw their contributions from their loss of membership account when they again go inactive (and initiate a withdrawal).
- Clarify tax remedy calculation to support current practice.
 - This would involve a change to the formula used to calculate tax remedy, to $(1/.91)-1$. This will avoid any potential payouts of more than 100% of a member’s benefit.
- Amend definition of salary to clarify employer paid pre-tax contributions (included for final average salary calculations, excluded for the purpose of determining member contributions). This provides statutory clarification of our current practice.
- Align time for police and fire (P&F) unit purchases at retirement to the longer 90 days.
- Clarify judge member beneficiary provisions to align with all members’ ability to designate contingent beneficiaries.
- Clarify judge member withdrawal provisions
- Align intestate standards between Tier One/Tier Two and Oregon Public Service Retirement Plan (OPSRP) members.
 - While we have not landed on a specific alignment, the agency is leaning towards aligning to the OPSRP intestate standards, which would not require surviving family members to go through probate as quickly to receive funds.
- Align OPSRP retirement credit and disability retirement credit standards for school employees.
- Allow payout of pre-retirement IAP death benefit to small estates.
- Locking member data (both going forward and eventually legacy data).
 - Based on feedback from stakeholders, we plan to keep statutory changes at a high level, to allow us to work directly with both employer and member groups regarding expectations, appeal mechanisms, and safeguards for unexpected situations. By keeping statutory changes at a high level, this will help us engage more directly with stakeholders during the rulemaking process to work out details.
- Increase time allowed for bereaved spouse to elect an alternate pre-retirement death benefit for Tier One/Tier Two members.
 - OPSRP members only have one death benefit available to them, while Tier One/Tier Two members have a death benefit, and an optional death benefit to choose from. Currently this deadline for making a choice is 60 days from the date of death, which we have heard from many bereaved spouses is not enough time to make this election. Additionally, in order to make an informed decision, spouses need to receive an estimate from PERS of the benefit amount under each option. Extending this deadline to allow 60 days from the date of the estimate instead of

the date of death would ensure that the agency's processing time does not contribute to the deadline passage.

- Allow OPSRP P&F members P&F retirement eligibility as long as required continuous five years in a P&F position was the member's last PERS-participating employment before retirement.
 - Currently, in order to retire as a P&F member (with the subsequent earlier "normal" retirement age), a P&F member must be "continuously employed" for five years in a P&F position immediately before retirement. This fix would ensure that a member who takes any time between their last day of employment and their effective retirement date would continue to be considered P&F for the purposes of retirement age.
- Clarify inconsistency between OPSRP disability and early retirement timing.

Increase to Divorce Decree Processing Fee

Currently, Oregon Revised Statute (ORS) 238.465(9) caps the processing fee charged to members who require the agency to process a divorce decree (which involves administering an alternate payee award) at \$300. This amount was originally set in 1993. Since 1996, Oregon Administrative Rule (OAR) 459-045-0090 has provided "The Board has determined that actual and reasonable administrative expenses incurred by PERS for obtaining data and making calculations to administer an alternate payee award will always exceed \$300." As of 2019, the approximate cost to process a divorce decree was \$1,300.

PERS processes approximately 900 divorce decrees each year. While we do need to raise the cap on this fee, we are currently working with DAS and the Governor's Office regarding the best way to do this. Initially, we considered an incremental approach with an eventual tie in with the Consumer Price Index (CPI) for yearly increases thereafter. However, currently, the agency is also considering a one-time increase of the cap to \$1,300, with a tie in with CPI for yearly increases thereafter. This would avoid us having to go back to the legislature multiple times, and tie the fee to CPI sooner, but would also be a large one-time increase.

Social Security Statutes Clean-Up

From 1951 through December 31, 1986, the PERS Director was also the state's social security administrator, and PERS was previously responsible for collecting FICA taxes and remanding them to the federal Social Security Administration. Later, that responsibility was delegated to the IRS. Although amendments were made to the applicable statutes in prior legislative sessions, some references to the fiduciary function of FICA collection by the State Social Security Administration remain in statute. Statute also grants the State authority to sweep the State Social Security account. We no longer have access to this account to sweep it. This bill will delete these references in ORS Chapter 237.

NEXT STEPS

Upon PERS Board approval of the 2023 legislative concepts at this meeting, DAS and the Governor's Office will give a final review of the agency's request for legislation and determine which will move forward to Legislative Counsel for drafting. Bill drafts will be developed over the summer and PERS will be able to review these drafts to ensure the bill will achieve the desired intent. Bill drafts will be available for the December board meeting when we will seek approval to ask the Governor for bill introduction. Final agency requests for introduction are due to DAS and the Governor's Office before December 9, 2022.

BOARD OPTIONS

The PERS Board may:

1. Pass a motion to "recommend approval to submit requests to DAS for drafting legislative concepts for the 2023 legislative session."
2. Direct staff to explore other options.

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

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March 28, 2022

TO: Members of the PERS Board
 FROM: Richard Horsford, Chief Financial Officer
 Greg Gabriel, Budget Officer
 SUBJECT: 2023-25 Budget Development

OVERVIEW

The 2023-25 State Agency Budget Kick-Off Meeting occurred March 16, 2022. Agencies received guidance regarding budget preparation for the upcoming biennium. As PERS emerges from its 75th year as an agency, we recognize that we must re-imagine how we evolve and deploy our business capabilities via our people, processes, and technologies. This evolution is necessary to meet our member and employer needs into the future. Members and employers have a desire for more personalized and updated service delivery such that they can be informed, interact, and transact with PERS at the time of their choosing using the channel of their choosing. This re-imagining of our service delivery model will be accomplished, in alignment with our Strategic Plan, via an overarching modernization program that, ultimately, ensures that we are meeting those future stakeholder needs with the most effective and efficient means to do so.

BUDGET DEVELOPMENT ACTIVITIES

The Agency Request Budget (ARB), one of three phases of budget development for the 2023-25 biennium, is officially underway. During this first phase, the agency carefully evaluates its operations and puts forth policy package requests in an effort to improve efficiency and increase value to its members. The agency is considering the following policy package requests and program reductions for the 23-25 budget cycle, which increases our current operating budget.

Division	Staff	Position Re/class	Total
Central Administration	3	1	555,629
Information Services	6	12	1,302,819
Operations	5	3	1,204,244
Compliance, Audit, and Risk	1		1,098,799
Core Retirement / SB1049	29		16,466,162
Core Retirement / Modernization			TBD
Agency Request Total	44	16	\$20,627,653

The proposed policy packages are to be considered preliminary, as the agency is reviewing these to gain a better understanding of our future needs and will use this information to finalize our budget requests. This includes reviewing which resource requests are full-time versus limited duration, as well as if there is an opportunity to offset contractor costs for full-time resources. The agency will present an updated request at the May 27, 2022 board meeting.

Final board approval of the 2023-25 ARB will occur during the PERS Board meeting on July 22, 2022.

Central Administration Division

Human Resource Workload: 2 Positions | \$240,307

This request is to better prepare and align our human capital management plans to PERS' mission and strategic goals. This will enable the executive team to leverage the workforce to achieve results. The agency is requesting to hire a Human Resource Analyst 3 and re-class one HRA position to a Human Resource Analyst 1.

Facilities Staffing: 2 Positions | \$264,322

The goal of this proposal is to achieve the appropriate level of PERS' Procurement, Facilities & Logistics (PFL) unit staffing required to deliver essential services that are critical to supporting the PERS mission. This request adds two Office Specialist 2 positions for facilities.

Communications Enterprise Training: 0 Positions | \$51,000

This improvement package would allow the Communications Section to improve its support of agency operations and needs, making the section personnel more skilled and processes more efficient, while enabling the teams to produce a higher caliber of deliverables.

Information Services Division

Workforce Development Plan: 11 Positions | \$1,406,319

Information technology development and support requirements have greatly increased over the past decade. Information Services positions have remained static over that time while complexity of the pension system and technology requirements have increased. Operational service requests and incidents have also increased over the last few biennia and the number of supporting staff is insufficient to meet agency service level requirements. This request would add six new positions and re-class five others to meet the growing demand and complexity within Information Services.

Location Hardware Refresh: 0 Position | \$896,500

This request addresses the upcoming need to complete the seven-year cyclical refresh that is required of the agency's ORION hardware. Currently, most of the hardware is end of life and end of support or will be end of support at the beginning of the 23-25 biennium.

IT Professional Services Reduction: 0 Position | (\$1,000,000)

The agency will be requesting a reduction of its current service level IT Professional Services budget in order to offset the costs of the requested policy packages in this division.

Operations Division

Member Services Workload: 2 Positions | \$108,410

The purpose of this request is to increase the capability of the Member Information Center by reclassifying one Operations and Policy Analyst 2 position and adding one Retirement Counselor 2 position to address escalations and increased call volumes.

Data Services Staffing: 3 Positions | \$534,641

This request would secure a permanent Training and Development Specialist 2 position to support enhancing and fulfilling employer engagement, education, and training responsibilities.

Additionally, this request would extend two limited duration Retirement Counselor 2 positions for the Qualifying/Non-Qualifying (Q/NQ) project.

Calculations Staffing: 4 Positions | \$60,055

This is a request for reclassifying four positions in the Calculations section to address the growing backlog of calculations and service retirements. This will enable the agency to maintain service level agreements and increase customer service.

PERS Health Insurance Contract: 2 Positions | \$1,001,138

A request for proposal (RFP) for the PHIP third-party administrator (TPA) contract is overdue with the current contract being over 20 years old. The current PHIP TPA performs the operational processes for the program. The goal is to execute an RFP and new contract without disruption to the members. A re-class of an existing Administrative Specialist 2 to a Program Analyst 2 along with a limited duration Administrative Specialist 2 will assist with workload increases.

Professional Services Reduction: 0 Positions | (\$500,000)

The agency will be requesting a reduction of its current service level Professional Services budget in order to offset the costs of the requested policy packages in this division.

Compliance, Audit and Risk Division

Enterprise Risk Management Program: 1 Position | \$1,098,799

This proposal is intended to enhance the capabilities of the agency by hiring a resource to implement an Enterprise Risk Management program, with the assistance of a consultant. This ties together strategy and business plans using risk management methodologies as one of the key decision-making criteria.

Core Retirement Systems Applications

Modernization: TBD Positions | \$ TBD

This business case is a proposal to achieve program funding for Phase One of the ORION Modernization Program. This first phase will encompass projects such as part one of Customer Relationship Management (CRM) implementation, telephony upgrades, redesigning member correspondence, and preparing for the pension administration enhancements in Phase Two.

SB1049 Resources: 29 Positions | \$16,466,162

This request continues the agency's efforts to implement SB 1049. The request includes nine positions for various operational duties, which will become permanent staff of the agency and 20 limited duration positions to assist with implementation and workload increases as the implementation efforts finish over the course of this biennium. Additional costs for contract services are estimated at \$11.0M at this time.

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March 28, 2022

TO: Members of the PERS Board
FROM: Jake Winship, Actuarial Manager
SUBJECT: Equal to or Better (ETOB) Testing

OVERVIEW

Oregon Administrative Rule 459-030 permits public employers to provide retirement benefits to its police officers and firefighters exempt from the requirement to participate in the Oregon Public Employees Retirement Plan (PERS). In order to obtain this exemption, the public employer must petition the PERS Board. The board has engaged the actuarial consulting firm Independent Actuaries, Inc. (IAI) to determine whether the plan provides benefits equal to or better than those available to PERS members similarly situated. This determination must take place within the calendar year 2022.

BACKGROUND

Milliman actuaries introduced this topic to the board at its October 1, 2021 meeting. An update was presented on December 3, 2021, and the PERS Board took the following actions:

1. Affirmed the provisions of OAR 459-030 as the basis for equal to or better than testing determination.
2. Directed agency staff to solicit a request for quote.
3. Approved a revised timeline for completion of ETOB testing.

At the January 31 board meeting, staff presented the results of the request for quote. Based on this, the PERS Board awarded the contract for determination of ETOB to Independent Actuaries, Inc.

ACTIONS SINCE LAST MEETING

Based on board authorization to proceed, PERS Procurement staff drafted a contract with Independent Actuaries, Inc. to perform actuarial determination of ETOB. The contract specified the performance requirements and compensation associated with this project. The contract was executed based on IAI signature, obtained February 18.

Procurement staff also drafted intergovernmental agreements for each of the nine plans subject to ETOB. These are as follows:

City of Forest Grove
City of Portland (FPDR)

City of Seaside
City of Springfield
City of The Dalles
Morrow County
Tillamook County
Union County
Wheeler County

Per statute, these entities are required to recompense the costs incurred by PERS on their behalf. This totals a fixed fee of \$72,000, which is allocated to each plan *pro rata* as \$8,000. The last signed agreement was received on March 2 and IAI was granted notice to proceed.

PERS Actuarial staff met with consulting actuaries from IAI on Monday, March 7. The principal work will be performed by Aeron Riordan, ASA, EA, MAAA, with review by Steven Diess, EA, MAAA. We outlined expectations and mechanisms for IAI to receive needed plan information and provided a list of plan contacts to facilitate this process. We also established regular check-in meetings to monitor progress and identify any obstacles in a timely manner.

Based on this discussion and the requirements identified in the request for quote, IAI stated their intention to perform a two-step process for the ETOB determination. The first step would assess the contribution and benefit formula for each defined benefit plan subject to determination. If each element is at least as generous as the corresponding PERS element, the plan is deemed to satisfy equal to or better than requirements.

The second phase would require more intensive study and would apply to each defined contribution plan and any defined benefit plans which do not unambiguously pass the first review. Independent Actuaries, Inc. will report the results of the first phase and necessary actions to complete the determination to the PERS Board at its May 27 meeting.

The final presentation will occur at the July 22 board meeting. This will certify for each plan whether it satisfies the equal to or better than requirements. If it does not, IAI will present possible actions which the plan can take to remedy the situation.

ACTIONS NEEDED

Staff recommends that the board approve the following actions:

1. Pass a motion to affirm that the course of action proposed above is acceptable. In particular, confirm that no further analysis is needed for defined benefit plans where each benefit component is equal to or greater than the corresponding PERS benefit.
2. Approve the revised timeline for completion of ETOB testing as follows:

March 2022	Obtain current demographic, salary, and plan data
April 2022	Perform testing for all impacted employers
May 2022	Recommend pass for all defined benefit plans whose individual components meet or exceed those for PERS Identify all plans which require further investigation
July 2022	Final report to PERS Board at July 22, 2022 meeting Identify corrective action for any employers who fail ETOB testing

BOARD OPTIONS:

The PERS Board may:

1. Pass a motion to affirm the two-stage process for Equal to or Better than testing (or direct staff to explore other options).
2. Pass a motion to approve the proposed timeline (or direct staff to revise the schedule).

STAFF RECOMMENDATION

Staff recommends the board pass the two motions.