

# OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING

Friday May 18, 2012 1:00 P.M.		PERS 11410 SW 68 <sup>th</sup> Parkway Tigard, OR	
ITEM		PRESENTER	
<b>A. Administration</b>			
1.	March 22, 2012 Board Meeting Minutes	CLEARY	
2.	Director's Report		
	a. Forward-Looking Calendar		
	b. OIC Investment Report		
	c. Operating Budget Report		
	d. Employer Reporting Update		
	e. Quarterly Report on Member Transactions		
	f. Overpayment Recovery Project Update		
<b>B. Administrative Rulemaking</b>			
1.	Second Notice of Disability Application Rules	RODEMAN	
2.	Adoption of Roth 457 Rules		
3.	Adoption of Annual Earnings Crediting Rule		
<b>C. Action and Discussion Items</b>			
1.	2013 Retiree Health Insurance Plan Renewals and Reserve Analysis	MILLIMAN BUTLER / MATCHETT	
	a. Rate Stabilization Reserve Analysis		
	b. Health Insurance Plan Renewals	RODEMAN / KNOLL	
2.	2013-15 Budget Development Update		
<b>D. Executive Session Pursuant to ORS 192.660(2)(f), (h), and/or ORS 40.225</b>			
1.	Litigation Update	LEGAL COUNSEL	

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

**2012 Meeting Dates:      January 27 - March 22 - May 18 - July 27 - September 28 - November 30**  
 James Dalton, Chair    Laurie Warner, Vice Chair    John Thomas    Pat West    Rhoni Wiswall    Paul R. Cleary, Executive Director

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# OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING

March 22, 2012  
Tigard, Oregon

## Board Members:

James Dalton, Chair  
John Thomas  
Laurie Warner  
Pat West  
Rhoni Wiswall

## Staff:

Donna Allen  
Helen Bamford  
Gay Lynn Bath  
Lisa Bianchi  
Paul Brown  
Paul Cleary  
David Crosley

Joe DeLillo  
Jon DuFrene  
Yvette Elledge  
Brian Harrington  
Rick Howitt  
Zue Matchett  
Jeff Marecic

Brenda Pearson  
Steve Rodeman  
Susan Sjordal  
Jason Stanley  
Stephanie Vaughn  
Yong Yang

## Outgoing Members

Eva Kripalani  
Mike Pittman

## Others:

Laurie Byerly  
Jim Carbone  
Keith Kutler  
Matt Larrabee

Linda Ely  
Marc Feldsman  
Anne Gottschalk  
Greg Hartman

Keith Kutler  
Victoria Nolan  
Thy Osborne  
P. Peg

Sue Perry  
Scott Preppernau  
Bill Robertson  
Laurie Sattenspiel

Chair James Dalton called the meeting to order at 1:00 P.M.

Chair Dalton welcomed incoming board members Rhoni Wiswall and John Thomas. Outgoing board members Eva Kripalani and Mike Pittman were recognized by the Board and staff for their years of service and valued contributions in multiple roles on the PERS Board.

## ADMINISTRATION

### A.1. BOARD MEETING MINUTES OF JANUARY 27, 2012

The Board unanimously approved the minutes from the January 27, 2012 Board meeting.

### A.2. DIRECTOR'S REPORT

Executive Director Cleary presented the Forward Looking Calendar noting the next Board meeting is Friday May 18<sup>th</sup>. Agenda items will include the 2013-15 budget development update and 2013 Retiree Health Insurance plan renewals. The July 27 Board meeting will include the approval to submit the 2013-15 agency request budget and the Milliman presentation of 2011 system-wide valuation results. There will be an audit committee meeting following the July 27 Board meeting.

Cleary presented the OPERF investment returns for January and February, noting that the regular account had returned 5.15 percent and the variable account 11.44 percent through the end of February.

Cleary presented the 2011-13 biennial operating budget indicating a positive variance of approximately 2.6% of the operating budget. Cleary reported the passage of SB 5701 will result in a \$750,000 reduction in the PERS budget limitation. Cleary shared how the agency is working with the LFO and BAM analysts to meet the objectives outlined in bill. This will be done in conjunction with the execution of a new management system focusing on the agency's core operating processes. Cleary noted the new management system will be reflected in the 2013-15 Agency Request Budget (ARB).

Cleary presented a special Employer Reporting Update focused on the new functionality to designate positions as "qualifying" or "non-qualifying", and the Quarterly Report on Member Transactions covering key workload activities. Cleary presented the 2012 Annual Legislative Session conclusion report, noting the main focus was budget re-balancing and agency staff-to-supervisor ratios.

Cleary presented the 2012 COLA results effective July 1, 2012 and noted the information is available on the PERS website. PERS retiree P. Peg asked that the COLA banking information be added to the website posting.

Chair Dalton presented the Board Governance subcommittee and work group assignments.

### **NOTICE OF RULEMAKING**

#### **B.1. NOTICE OF OSGP ROTH 457 RULES**

Rodeman gave notice of rulemaking for the OSGP ROTH 457 Rules. No action required.

#### **B.2. NOTICE OF ANNUAL EARNINGS CREDITING RULES**

Rodeman presented the notice of rulemaking for the Annual Earnings Crediting Rules. No action required.

### **RULE ADOPTION**

#### **B.3. ADOPTION OF TAX REMEDY RULES**

Tax Remedy Rules needed to implement the provision in HB 2456 were submitted for Board adoption. Rodeman said the rules have changed since they were first noticed to the Board on November 18, 2011 to reflect additional legal review and advice on how to treat various post-retirement changes in residency and related Oregon state income tax remedy benefit adjustments for eligible benefit recipients.

Warner moved and Thomas seconded to adopt the Tax Remedy Rules to implement HB 2456. Motion passed unanimously.

#### **B.4. ADOPTION OF MINIMUM RETROACTIVE PAYMENT RULE**

The Minimum Retroactive Payment rule was described by Rodeman and presented for Board adoption. The rule would set a \$5.00 minimum on one-time retroactive payments.

Warner moved and West seconded to adopt the Minimum Retroactive Payment Rule as recommended by staff. Motion passed unanimously.

#### **B.5. ADOPTION OF EARNINGS CREDITING RULES**

Rodeman presented the Earnings Crediting Rules for adoption to clarify the rate used to determine crediting of an installment payment in the year of distribution.

Warner moved and West seconded to adopt the Earnings Crediting Rules as presented by staff. Motion passed unanimously.

#### **B.6. ADOPTION OF REEMPLOYMENT OF RETIRED MEMBER RULES**

The modifications of the Reemployment of Retired Member Rules were presented for adoption. Rodeman stated no changes were made to the rules since they were noticed in January 2012. The rules update Social Security annual compensation limits and clarify the exception to work after retirement limitations for employees called to active military duty.

West moved and Warner seconded to adopt the Reemployment of Retired Member Rules. Motion passed unanimously.

#### **B.7. ADOPTION OF PETITION FOR RECONSIDERATION RULE**

Rodeman presented the Petition for Reconsideration Rule for adoption to clarify that such petitions must set forth the specific grounds for reconsideration.

Warner moved and West seconded to adopt the Petition for Reconsideration rule. Motion passed unanimously.

### **ACTION AND DISCUSSION ITEMS**

#### **C.1. 2011 FINAL EARNINGS CREDITING AND RESERVING**

Rodeman and Fiscal Services Administrator Jon DuFrene presented the 2011 Final Earnings Crediting and Reserving recommendations as detailed in the walk-in packet. The final crediting rates are slightly different from the preliminary rates and reflect distributing a portion of the Contingency Reserve (approximately \$199 million) to liquidate the 2008 deficit in the Tier One Rate Guarantee Reserve.

Chair Dalton had the Board ask questions to ensure a full understanding of the proposed crediting and reserving recommendations.

PERS Coalition representative Greg Hartman asked the Board to consider making a distribution from the Contingency Reserve to Tier Two member accounts proportional to what was distributed to the Tier One Rate Guarantee Reserve. Hartman described the reason for his request. He clarified the Board does not have a legal obligation to make the distribution; but it seemed to be the fair thing to do.

All Board members provided comment on the request. Chair Dalton explained the Board has not determined that there is a surplus in the Contingency Reserve to support a proportional distribution to all accounts, and that such a decision could be made in the future, but for now he recommended just the targeted deployment to liquidate the 2008 deficit in the Tier One Rate Guarantee Reserve.

Warner moved and Wiswall seconded to approve the adoption of 2011 Final Earnings crediting as presented in the walk-in packet, with a portion of the Contingency Reserve used to liquidate the 2008 deficit in the Tier One Rate Guarantee Reserve. Motion passed unanimously.

## C.2.STRUNK/EUGENE OVERPAYMENT RECOVERY

Project Manager Paul Brown described the process used to determine how best to implement the overpayment recovery project. Brown described staff's review and analysis of several possible solutions before arriving at the recommendation before the Board. He noted one recovery approach will be followed for recipients who still receive an ongoing monthly benefit and another will be used for recipients who do not.

Rodeman reported the legislatively approved budget for the 2011-13 biennium did not include the positions or expenditure authority for the resources necessary to undertake the recovery project. Staff is requesting authorization to go before the Legislative Emergency Board in May to request an increase in the agency's 2011-13 biennial budget limitation. Rodeman provided a breakdown of the costs and related temporary and limited duration positions outlined in the walk-in packet.

Warner suggested recovery project efforts should include some means of informing the member of the outstanding balance remaining during the period of repayment.

PERS retiree Marc Feldsman posed three questions regarding the recovery efforts. 1) Would the benefit deductions be pre or post tax? 2) Is the percentage deduction applied to the benefit amount as it changes with COLAs or is it applied once to the benefit amount and then maintained as a fixed dollar deduction despite subsequent COLAs? 3) How will the deductions be reflected, if at all, on the member's 1099R? Director Cleary indicated these and the other questions would be addressed via FAQs on the agency website.

Greg Hartman asked the Board to consider allowing as much time as possible for retirees to respond to their notices of invoice and to use the Department of Revenue instead of an outside collection agency whenever possible.

Thomas asked if a trustee to trustee transfer would be possible for those who took a total lump sum. Rodeman described the previous communication with the IRS and explained that clear direction from the IRS would be necessary to implement such an option.

Thomas moved and Warner seconded to authorize PERS staff to request Legislative Emergency Board approval of an increase in the agency's 2011-13 biennial budget limitation, currently estimated at \$550,000 for Personal Services and \$1,050,000 for Services and

Supplies, and approval of three Limited Duration Revenue Agent 2 positions; with the budget estimate to be finalized and communicated to the Board via a copy of the final Emergency Board request letter. Motion passed unanimously.

Dalton adjourned the meeting at 2:30 PM.

Respectfully submitted,

A handwritten signature in black ink that reads "Paul R. Cleary". The signature is written in a cursive style with a large, stylized initial "P".

Paul R. Cleary  
Executive Director

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## **PERS Board Meeting Forward-Looking Calendar**

### **Friday, July 27, 2012**

Adoption of Disability Application Rules  
Notice of Benefit Equalization Fund Rule  
Notice of AP Variable Adjustment Rule  
Notice of Public Contracts Rules  
2013-15 Agency Request Budget Approval  
2011 Valuation Results  
Audit Committee Meeting

### **September 28, 2012**

Adoption of Benefit Equalization Fund Rule  
Adoption of AP Variable Adjustment Rule  
Adoption of Public Contracts Rules  
2013-15 Employer Rate Adoption

### **November 30, 2012**

Audit Committee Meeting

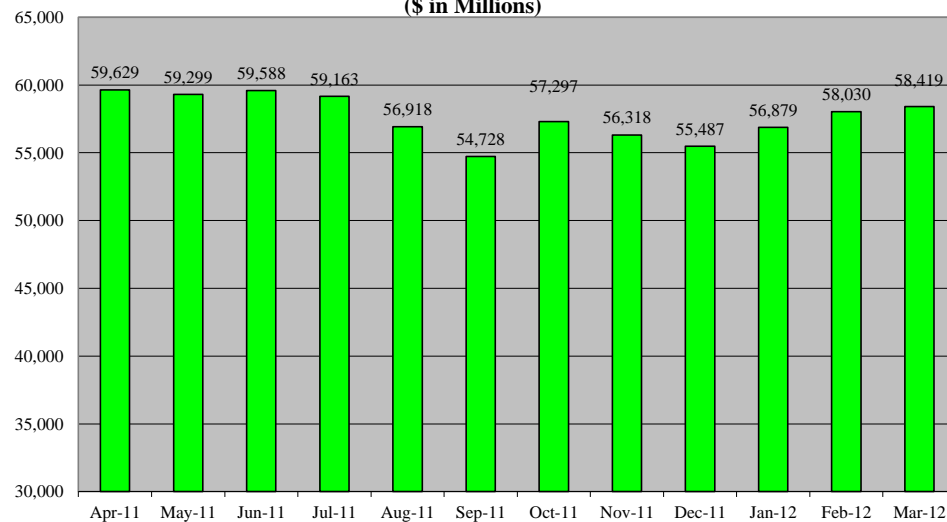
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OPERF	Regular Account				Historical Performance (Annual Percentage)					
	Policy <sup>1</sup>	Target <sup>1</sup>	\$ Thousands <sup>2</sup>	Actual	Year-To-Date <sup>3</sup>	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
Public Equity	38-48%	43%	\$ 21,212,760	36.9%	12.99	(0.75)	7.46	22.20	1.12	0.08
Private Equity	12-20%	16%	13,775,849	23.9%	3.31	7.82	12.57	14.88	3.57	5.85
<b>Total Equity</b>	<b>54-64%</b>	<b>59%</b>	<b>34,988,609</b>	<b>60.8%</b>						
Opportunity Portfolio			972,520	1.7%	6.73	0.25	9.88	18.93	6.10	4.39
<b>Total Fixed</b>	<b>20-30%</b>	<b>25%</b>	<b>14,627,250</b>	<b>25.4%</b>	<b>3.13</b>	<b>7.30</b>	<b>8.15</b>	<b>14.26</b>	<b>8.35</b>	<b>7.23</b>
Real Estate	8-14%	11%	6,563,120	11.4%	3.94	9.62	14.02	9.17	(2.69)	(1.71)
Alternative Investments	0-8%	5%	381,673	0.7%	0.20					
Cash	0-3%	0%	19,289	0.0%	0.81	0.60	0.70	1.21	1.11	1.88
<b>TOTAL OPERF Regular Account</b>		<b>100%</b>	<b>\$ 57,552,461</b>	<b>100.0%</b>	<b>6.75</b>	<b>4.21</b>	<b>9.44</b>	<b>17.31</b>	<b>2.96</b>	<b>2.60</b>
<b>OPERF Policy Benchmark</b>					<b>8.53</b>	<b>4.43</b>	<b>8.80</b>	<b>15.43</b>	<b>3.19</b>	<b>3.09</b>
Value Added					(1.78)	(0.22)	0.64	1.88	(0.23)	(0.49)
<b>TOTAL OPERF Variable Account</b>			<b>\$ 866,435</b>		<b>12.22</b>	<b>(0.78)</b>	<b>7.12</b>	<b>21.60</b>	<b>0.86</b>	<b>(1.16)</b>

Asset Class Benchmarks:

Russell 3000 Index	12.87	7.18	12.18	24.26	4.35	2.18
MSCI ACWI Ex US IMI Net	11.60	(7.34)	2.81	19.95	(1.96)	(1.07)
MSCI ACWI IMI Net	12.14	(1.18)	6.75	21.66	0.59	0.09
Russell 3000 Index + 300 bps--Quarter Lagged	12.92	4.06	11.93	18.46	2.70	3.79
Oregon Custom FI Benchmark	2.26	7.00	6.17	7.33	5.86	5.99
NCREIF Property Index--Quarter Lagged	3.94	9.62	14.02	9.17	(2.69)	(1.71)
91 Day T-Bill	0.01	0.06	0.11	0.13	0.40	1.23

**TOTAL OPERF NAV**  
(includes variable fund assets)  
One year ending March 2012  
(\$ in Millions)



<sup>1</sup>OIC Policy 4.01.18, as revised April 2011.

<sup>2</sup>Includes impact of cash overlay management.

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

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# Oregon

John A. Kitzhaber, M.D., Governor

## Public Employees Retirement System

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May 18, 2012

TO: Members of the PERS Board  
FROM: Kyle J. Knoll, Budget Officer  
SUBJECT: Operating Budget Report

### 2011-13 BUDGET UPDATE

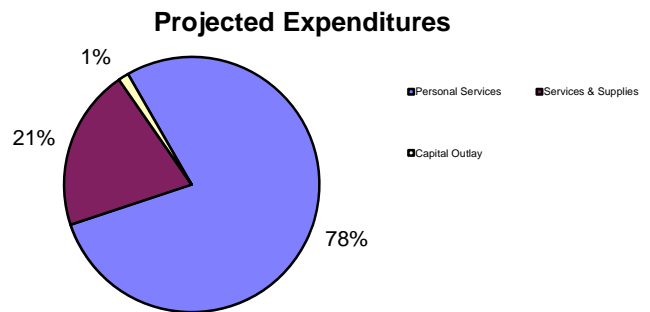
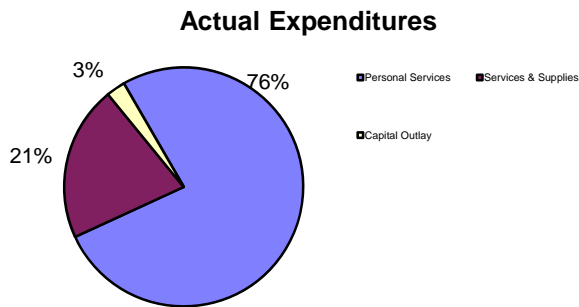
Operating expenditures for March 2012 were \$ 2,762,035. April 2012 expenditures close in the Statewide Financial Management System (SFMS) May 18th, and will be included in the July budget report to the Board.

- To date, through the first nine months (37.5%) of the 2011-13 biennium, the Agency has expended a total of \$ 26,547,469, or 34.36% of PERS' legislatively approved operating budget.
- PERS operating budget now totals \$77,260,820. This reflects a reduction of \$750,000 in compliance with Senate Bill (SB) 5701A. The total statewide budget reduction to restructure state government business operations and management of agency programs was \$31.8 million.
- The current projected positive variance is \$ 1,103,739, or approximately 1.4% of the operating budget.

**2011-13 Agency-wide Operations - Budget Execution**  
**Summary Budget Analysis**  
For the Month of: March 2012

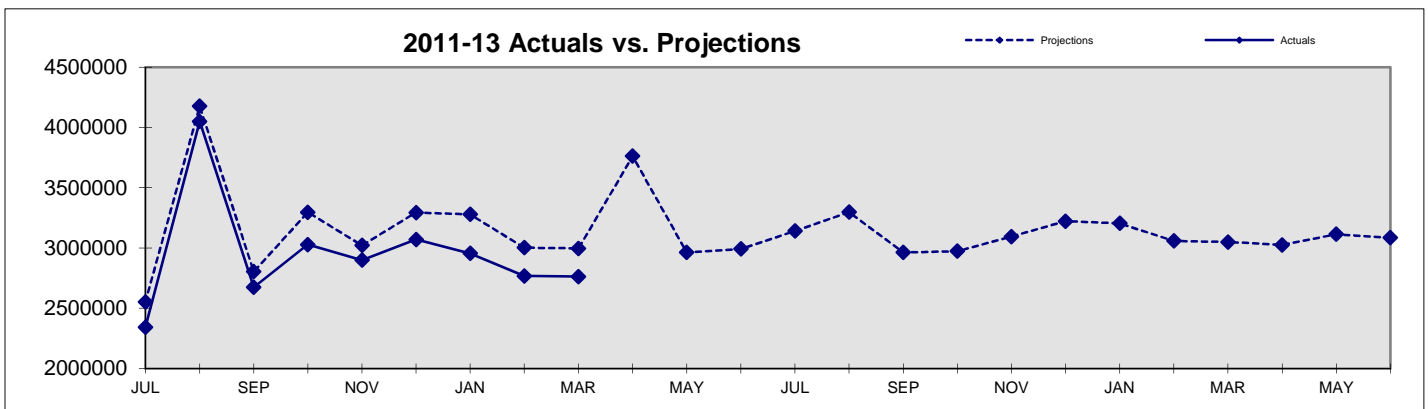
**Biennial Summary**

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2011-13 LAB	Variance
Personal Services	20,297,179	36,724,255	57,021,434	55,827,463	(1,193,971)
Services & Supplies	5,564,551	11,707,651	17,272,202	20,505,769	3,233,567
Capital Outlay	685,738	1,177,707	1,863,445	927,588	(935,857)
<b>Total</b>	<b>26,547,469</b>	<b>49,609,613</b>	<b>76,157,081</b>	<b>77,260,820</b>	<b>1,103,739</b>



**Monthly Summary**

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Monthly Projected Exp.
Personal Services	2,196,272	2,383,374	187,102	2,255,242	2,448,284
Services & Supplies	526,638	573,208	46,570	618,283	639,924
Capital Outlay	39,125	40,000	875	76,193	41,296
<b>Total</b>	<b>2,762,035</b>	<b>2,996,582</b>	<b>234,546</b>	<b>2,949,719</b>	<b>3,129,504</b>



**2009-11 Biennium Summary**

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2009-11 LAB	Variance
Personal Services	50,562,257		50,562,257	52,751,494	2,189,237
Services & Supplies	25,938,410		25,938,410	29,916,870	3,978,460
Capital Outlay	1,384,164		1,384,164	593,588	(790,576)
<b>Total</b>	<b>77,884,830</b>		<b>77,884,830</b>	<b>83,261,952</b>	<b>5,377,122</b>



# Oregon

John Kitzhaber, MD, Governor

## Public Employees Retirement System

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May 18, 2012

TO: Members of the PERS Board  
FROM: Yvette Elledge, Customer Services Division Administrator  
SUBJECT: Employer Reporting Update

PERS is currently working with 906 employer-reporting units to process all outstanding employer reports and suspended records. In addition, PERS continues to monitor all employer accounts receivables and conduct its Employer Outreach Program.

### EMPLOYER REPORTING

The table below shows the status as of April 27, 2012 of employer reports and member records for calendar years 2010, 2011, and through April 27, 2012\*.

	<u>CY 2010</u>	<u>CY 2011</u>	<u>CY 2012*</u>
Reports due:			
▪ Number expected	13,404	13,388	3,975
▪ Number received	13,394	13,354	3,946
▪ Percent received	99.93%	99.75%	99.27%
▪ Goal	99.0%	99.0%	99.0%
Reports fully posted at 100%:			
▪ Number	12,691	10,685	2,311
▪ Percent fully posted at 100%	94.68%	79.81%	58.14%
▪ Goal	95.0%	95.0%	95.0%
Records due (estimated)	3,674,719	3,635,239	1,175,865
Records not posted:			
▪ Number	11,684	69,639	69,038
▪ Percent not posted	0.32%	1.92%	5.87%
▪ Goal	≤ .2%	≤ .2%	≤ .2%
Contributions posted	\$ 512,895,154	\$ 512,758,343	\$ 155,505,567
Contributions not posted	\$ 567,890	\$ 1,684,139	\$ 3,699,473

As of April 27, 2012 employers have submitted approximately 99% of the reports due for 2012. Of the total reports expected, approximately 58% are 100% posted. This reduced rate of report posting results in fewer records being posted than at this time last year. This is the result of the “qualifying/non-qualifying” analysis work reported to the Board in March.

There are 29 missing reports distributed across 17 employers so far in 2012. This excludes the reports due from charter school employers who are involved in the federal investigation.

The Employer Service Center (ESC) continues to work with those employers who have unsubmitted reports and unposted records for 2010 and 2011, utilizing the Report Recovery process. This process is being implemented year round to continue a high report return rate.

Once the employers submit their wage and contribution reports, the ESC reconciles the member accounts by clearing suspended records in the year-end Membership Account and Contribution Reconciliation (MACR). This year's MACR, with more than a 250% increase in workload over this time last year because of the qualifying/non-qualifying population, created the need for decisions as to which suspended records to clear. PERS decided to focus on clearing the suspended records that had an impact on contributions and on those that would allow the employer reports to post at the validity threshold (85%). This had multiple benefits, contributions were brought into the fund and thereby allowed allocation to the member accounts, it allowed as many employer reports to post as possible, and helped ease the prior year earnings assessed to employers.

Not all suspended records were cleared during the 2011 MACR and prior year earnings will be assessed. However, staff has developed a process to waive the prior year earnings charges for 2011 that the employers may receive if the delay was due to PERS. Financial impact to PERS may be up to \$62,000 to be covered as part of administrative expenses. Letters and the waiver process began the week of May 7, 2012.

Staff are finding ways to work more efficiently and are currently formalizing a plan to complete the clean-up effort by the end of 2012. This plan along with enhanced communication and training to engage employers in the clean-up process is our goal for 2012.

#### EMPLOYER OUTREACH PROGRAM

The Spring 2012 Employer Outreach presentation series began April 6 and is currently 65% complete, with the final presentation of the series scheduled for May 24 in Ontario. Thus far attendance for presentations through the Internet and at sites throughout Oregon stands at 80% of 275 total registrants, in keeping with past years. Internet delivery continues to be popular with 62 registrants for the two Internet presentations completed in April and 30-plus registrants for the final Internet presentation on Tuesday, May 15, 2012.

The Spring 2012 presentation series concentrates on a review of employer reporting topics, beginning with new validations introduced with EDX Release 6.0 and the effect of those validations on rules governing member eligibility. Member demographic, wage and service information along with the records and reporting codes used to report that data are also reviewed. The employer reporting theme continues with a review of PERS disability retirement basic concepts, and ends with a review of reporting PERS retirees who return to work part-time as retirees.



Employer EDX education sessions continue to be offered the second Friday of each month at the Tigard computer lab and concurrently through the Internet. Twenty employer representatives have attended the four training sessions offered thus far in 2012, seven at the Tigard headquarters and 13 through the Internet. The basic mission of Employer EDX training is to provide employer representatives the basic skills necessary to accurately report member demographic, wage and service information. In the second half of 2012 MERS staff anticipate beginning work on definition and presentation of advanced reporting topics with the goal of reinforcing the working relationship between PERS and the employer community.

#### ACCOUNTS RECEIVABLE PLAN

Besides assisting employers with overdue reports and electronic payments, PERS' accounts receivable department proactively collects receivable balances that are more than 30 days overdue. As of April 30, 2012, we had outstanding invoices with an aggregate balance of \$905,892.18. This represents a \$42,001.32 reduction in overdue payments as compared to the November 2011 Board report.

The current total number of invoices that are over 90 days delinquent now stands at 301 for a total outstanding balance of \$750,595.69. The outstanding balance in this population has increased \$98,749.21 from the November balance. Of the outstanding balance, \$597,412.01 or 80% is attributable to charter schools:

- EdChoices charter schools (\$134,401.04)
- Six separate charter schools (\$463,010.97)
  - Three schools have no valid contact and/or has made NSF payments (\$3,352.08)
  - One school requires a data fix which will correct misplaced charges (\$26,272.82)
  - One new school is actively working to pay off balance by July 2012 (\$69,725.12)
  - One school is actively working with PERS, making current plus additional payments towards charges (\$229,259.91)

Accounts Receivable and ESC staff are working together to create a 2012 plan of action to reduce the overall number of outstanding invoices over 30 days and to reduce the outstanding balance. One area of emphasis is to develop a stronger relationship and strategy for working with charter schools.

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John A. Kitzhaber, M.D., Governor

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May 18, 2012

TO: Members of the PERS Board  
FROM: Jim Jost, Metrics Engineer  
SUBJECT: Quarterly Report on Member Transactions

Attached is the PERS Quarterly Report of Member Transactions with updated results for the four quarters through March 30, 2012.

This report reflects production volume and pending information for five key agency activities. This information is being provided to assist the Board in understanding the general workload demands and performance of PERS' operations. The report provides a breakout of activity on both a quarterly and a cumulative, calendar year-to-date basis. The report shows the activity from the last four quarters and the year-to-date charts shows cumulative totals for the first quarter of the calendar year 2011 compared to the 2012 cumulative first quarter results.

In addition, the 'Retirements', 'Withdrawals', and 'Estimates' activities reflect the combined statistics of Tier One, Tier Two, and OPSRP Pension Program. Pending counts do not necessarily reflect a backlog of work, but rather the normal end-of-quarter carry-over of items in the processing pipeline.

Supplemental information to assist in understanding the report is as follows:

### 'ESTIMATES' BACKLOG

Tier One and Tier Two estimates continued to be in backlog status. A backlog occurs when the number of pending estimates exceeds twice the normal amount of work-in-process. The magnitude of the backlog (number of items in pending) went down during the previous four quarters. It was reduced from 2888 in Q2 of 2011 to 1694 in Q1 of 2012.

PERS continues to give priority to those members with a retirement already scheduled, or those members with a projected retirement date within 90 days. PERS is currently meeting the needs of this population. Any available resources are being allocated to the remaining estimates based on the estimate request receipt date.

## RETIREMENTS

All retirement transactions are in normal status (i.e. none are in backlog status). And, as we discussed last quarter, there usually is a jump in retirements in the second quarter because of school retirees, and other factors. Calendar year 2011 showed a pattern of a large increase in incoming retirements in the second quarter and then relatively flat during the rest of the year. Even though spikes do occur, all retirements are paid in accordance with statute. Staff continue working hard and regularly pay out a portion of finalized applications in 30 to 45 days after retirement, and pay out all finalized applications within 92 days of the effective retirement date.

Also, these numbers are slightly skewed because some members apply months in advance of their retirements. This causes the applications to remain in pending status longer than normal because they cannot be paid prior to their effective retirement date

## WITHDRAWALS

All retirement transactions are in normal status (i.e. none are in backlog status). In 2011, the Stage 2b deployment (for the new computer system) and additional functionality for qualifying/non qualifying employment increased the length of processing time while staff and employers came up to speed. This caused the “pending” numbers to rise slightly. The entire withdrawal cycle is cyclical. Typically, it increases after member account annual statements are mailed in May. Even though some of these events occurred in 2011, we are still feeling the effects in 2012. The backlog for the Chapter 238 withdrawals remains in normal status.

The next Quarterly Board Report, reflecting the results from the second calendar quarter of 2012, is scheduled to be presented at the July 27, 2012 Board meeting.

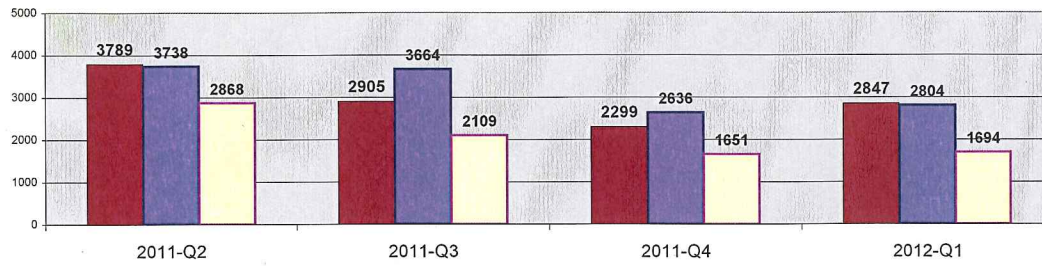
Attachment: Quarterly Report of Member Transactions (Through First Quarter 2012)

# Quarterly Report of Member Transactions

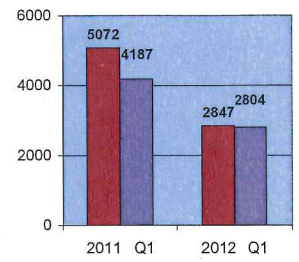
Thru Quarter Q1 2012

Run Date: 5/9/2012

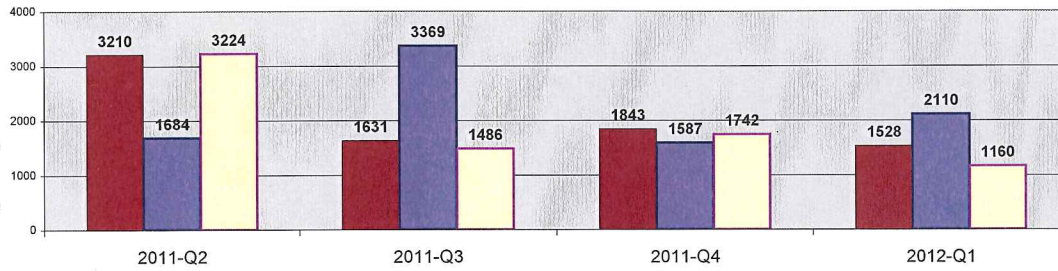
## Estimates



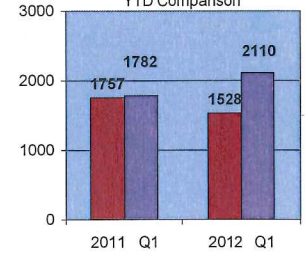
## YTD Comparison



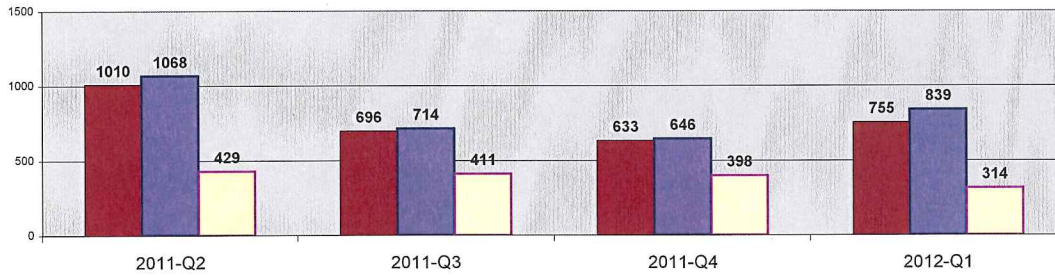
## Retirements



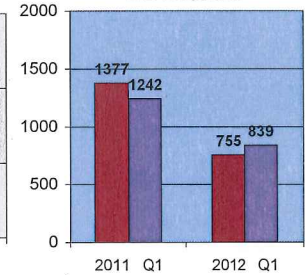
## YTD Comparison



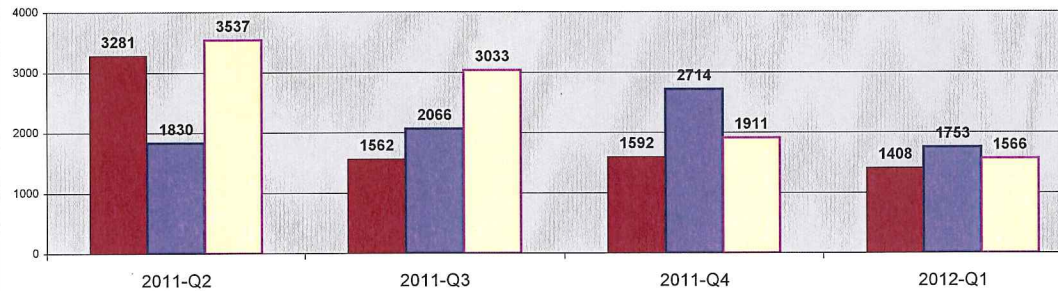
## Withdrawals



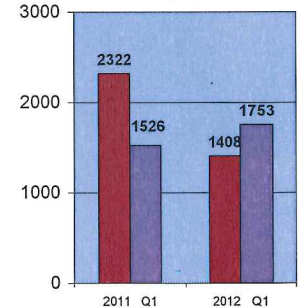
## YTD Comparison



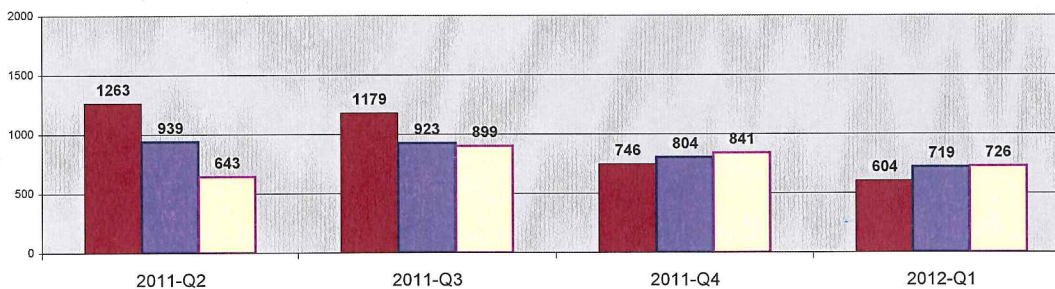
## IAP Retirements



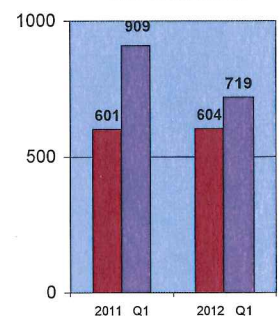
## YTD Comparison



## IAP Withdrawals



## YTD Comparison



█ Incoming     
 █ Completed     
 █ Pending

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# Oregon

John A. Kitzhaber, M.D., Governor

## Public Employees Retirement System

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Mailing Address:  
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TTY (503) 603-7766  
[www.oregon.gov/pers](http://www.oregon.gov/pers)

May 18, 2012

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Deputy Director  
SUBJECT: Overpayment Recovery Project Update

### STATUS UPDATE

Staff completed its review and verification of the project records on benefit recipients and the overpayment amount each received before its target deadline of April 1, 2012. Once trued up, the database was compared with our April 1, 2012 pension roll to further refine the status of each benefit recipient. These more recent estimates show that the remaining workload involves recovering \$164,684,599 in overpayments from 29,098 benefit recipients, spread across the following groups in the stated amounts:

<u>RECIPIENT</u>	<u>NUMBER</u>	<u>TOTAL OWED</u>	<u>AVERAGE</u>
Monthly Retirements	19,014	\$125,645,678	\$6,608.06
Lump Sum Retirements	1,905	\$19,002,499	\$9,975.07
Withdrawals	4,023	\$5,474,239	\$1,360.74
Police & Fire Unit Accounts	1,272	\$490,966	\$385.98
Deceased Members (Received overpayment prior to death)	1,675	\$8,026,905	\$4,792.18
Beneficiaries (A survivor of a deceased person who is or has received benefits)	1,209	\$6,044,312	\$4,999.43

As a reminder, this population includes more than just those persons referred to as “window retirees,” a term that refers to members who retired on or after April 1, 2000, and before April 1, 2004 under the Money Match benefit calculation method. The actual affected population is much broader as it includes anyone who received an erroneous benefit to the extent that benefit was based on crediting 1999 earnings at 20% rather than 11.33%. As you can tell from the Recipient Types above, this population includes affected retired members but also their beneficiaries or alternate payees, as well as people who received a withdrawal, disability benefit, death benefit, or any other payment that was overpaid because it was based on the erroneous 1999 crediting. So, “window retirees” are not the only ones affected by the overpayment recovery.

In late April and early May, staff distributed an initial communication to the vast majority of affected benefit recipients; those generic letters are attached. There is a slight refinement on the first letter to bring to your attention. Previously, those recipients with ongoing monthly benefits were targeted to a default deduction of 2% of their benefit because, on average, that repayment percentage would return the overpayment in six to seven years. Our further analysis revealed, however, that the distribution of recipients in that population is quite diverse. At 2%, some people will repay in just a few years, while others could take over 40 years. So, the letter explains that the actual default deduction will range from 2 to 5%, to assure we recover within a reasonable time frame of 10 years. We had to put up these side-boards to catch those recipients whose recovery would otherwise stretch out for decades.

Even within these general guidelines, there are still some outliers. For those monthly benefit recipients who did not retire with a half-lump sum option (about 16,000), 83% of those recipients will pay off at 2% within 10 years; another 16% will pay off at 3 to 5%; only 1% (about 160 people) fall outside these bounds. For those that took the half-lump sum option (about 2,700 people), their repayments are challenged because their annuity was reduced when they took the partial lump sum. So, their repayment deductions will need to be increased as a percentage of their monthly benefit, if they don't chose to repay in a lump sum. Even so, at a 10% of gross monthly benefit deduction, 96% of these will pay off within 10 years.

#### SUPPLEMENTAL BUDGET REQUEST

Following on the Board's authorization at the March 22, 2012 meeting, staff did submit a supplemental agency request to the Legislative Emergency Board during its May 2012 meeting to procure the budget authority to effectuate recovery. The following elements were included in the supplemental request:

1. Approval for three Limited Duration positions; 1.62 FTE.
2. An increase in the Personal Services Other Fund Limitation of \$916,771.
3. An increase in the Services & Supplies Other Fund Limitation of \$1,154,639.

A copy of the Emergency Board request letter and related Business Case that were submitted are attached as well. At this meeting, we will report on any reaction or recommendations we receive from the Legislative Fiscal Office or DAS Budget & Management in advance of the meeting. The Emergency Board will be meeting on May 23, 2012, with the subcommittee meetings occurring on May 21 and 22.

Attachment 1 – Generic letter to monthly benefit recipients

Attachment 2 – Generic letter to non-monthly benefit recipients

Attachment 3 – Legislative Emergency Board Request



Date

Name

Address

City State Zip Code

**Re: Recovery of PERS overpayment from benefit recipients with an ongoing monthly benefit;  
Please read this important letter**

Dear < >:

You received a benefit overpayment from PERS because 1999 regular account earnings were credited improperly at 20 percent instead of 11.33 percent. Recently, the Oregon Supreme Court resolved several cases enabling PERS to begin the overpayment recovery. This letter explains the timetable and your options under that process.

We anticipate beginning the recovery process in the summer of 2012. We will send you an individualized letter with information regarding the amount of your overpayment and how your repayment options could affect your ongoing benefit. Those letters will be prepared and mailed in stages over approximately a 12-month period.

Because you receive an ongoing monthly benefit from PERS, you will have three repayment options:

- 1) You can pay the entire amount in one lump sum.
- 2) You can take no action and we will default to deducting a set percentage (most likely between 2 to 5 percent) from your ongoing gross monthly benefit to recover the overpayment within a reasonable period (up to 10 years).
- 3) You can contact us to arrange a larger deduction from your ongoing gross monthly benefit to return the overpayment more quickly.

When you receive your individualized letter setting forth your overpayment amount, you must contact us within 30 days if you want to select either option 1 or option 3. If you do not contact us within that time period, we will default to option 2 and deduct the required set percentage of your ongoing gross benefit payment. Once the overpayment has been fully recovered through deductions from your ongoing gross monthly benefit payment, the deductions will stop. Regardless of the option you choose, no interest will be charged on the overpayment.

We are still compiling the staff and resources to handle this recovery effort, so **please wait until you receive your individualized letter to contact us**. The PERS Call Center does not have ready access to the information about your particular overpayment, but our recovery staff will be able to handle all your questions once they are in place. Your individualized letter will have direct contact information for the recovery staff.

Again, as this overpayment recovery involves approximately 29,000 benefit recipients, we will send out the individualized letters in stages over approximately a 12-month period. In the meantime, we have posted a Frequently Asked Questions document regarding the overpayment recovery process as well as repayment examples on the Retiree homepage of the PERS website at: <http://www.oregon.gov/PERS>. We will also update the site with the timeline for mailing the individualized letters once that timeline is established.

We know that this recovery may present some challenges for you, and we will strive to make the process as convenient as we can consistent with a timely recovery.

Sincerely,

PERS Overpayment Recovery Team

Date

Name

Address

City State Zip Code

**Re: Recovery of PERS overpayment from benefit recipients with no ongoing monthly benefit;  
Please read this important letter**

Dear < >:

You received a benefit overpayment from PERS because 1999 regular account earnings were credited improperly at 20 percent instead of 11.33 percent. Recently, the Oregon Supreme Court resolved cases enabling PERS to begin the overpayment recovery. This letter explains the timetable and your options under that process.

We anticipate beginning the recovery process in the summer of 2012. We will send you an individualized letter with information regarding the amount of your overpayment and how your repayment options could affect your ongoing benefit. Those letters will be prepared and mailed in stages over approximately a 12-month period.

You will need to contact us within 30 days of receipt of that letter to either make a lump-sum payment or to set up an acceptable payment plan. If you do not respond within that time and are an Oregon resident, your account will be referred to the Oregon Department of Revenue (DOR), in conformance with the state's debt collection policies and procedures. If you do not respond within that time and are not an Oregon resident, your account will be referred to a private agency for collection.

We are still compiling the staff and resources to handle this recovery effort, so **please wait until you receive your individualized letter to contact us**. The PERS Call Center does not have ready access to the information about your particular overpayment, but our recovery staff will be able to handle all your questions once they are in place. Your individualized letter will have direct contact information for the recovery staff.

Again, as this overpayment recovery involves approximately 29,000 benefit recipients, we will send out the individualized letters in stages over approximately a 12-month period. In the meantime, we have posted a Frequently Asked Questions document regarding the overpayment recovery process as well as repayment examples on the Retiree homepage of the PERS website at: <http://www.oregon.gov/PERS>. We will also update the site with the timeline for mailing the individualized letters once that timeline is established.

We know that this recovery may present some challenges for you, and we will strive to make the process as convenient as we can consistent with a timely recovery.

Sincerely,  
PERS Overpayment Recovery Team



# Oregon

John A. Kitzhaber, M.D., Governor

A.2.f. Attachment 3

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
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April 19, 2012

The Honorable Peter Courtney, Senate President  
The Honorable Bruce Hanna, Co-Speaker of the House  
The Honorable Arnie Roblan, Co-Speaker of the House  
State Emergency Board  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301-4048

Dear Co-Chairpersons:

### **Nature of the Request**

The Public Employees Retirement System (PERS) is requesting that the Emergency Board increase the agency's Other Funds limitation for the 2011-13 biennium by \$2,071,410 and approve position authority for an additional three limited duration positions (1.62 FTE).

### **Agency Action**

The Other Funds limitation increase and limited duration positions are necessary for PERS to recover overpaid benefits from a large population of benefit recipients, in conformance with recent Oregon Supreme Court decisions. The recovery effort was not contemplated in the agency's 2011-13 legislatively approved budget as these court cases had not yet been resolved. Now that the cases are resolved, PERS is seeking this additional limitation to resume recovering a total of approximately \$164,684,600 in overpaid benefits from almost 29,000 individuals (an average of about \$5,700 per benefit recipient).

These efforts complete the process of correcting the accounts and benefits that were erroneously credited with 20% earnings for calendar year 1999. This legislature and the courts have determined that the PERS Board exceeded its authority when it credited earnings at that rate, and instead should have credited accounts with earnings at the rate of 11.33%.

Once that determination was upheld by the Oregon Supreme Court (in two decisions from 2005, the *Strunk* and *City of Eugene* cases), the agency undertook to correct the accounts and benefits of affected persons. The first Strunk/Eugene project involved adjusting all active and inactive member accounts and the benefit payments for some 45,000 recipients. Many of those recipients, however, had already received overpayments before their benefit was corrected on a going-forward basis.

The PERS Board adopted an Order on Repayment Methods in January 2006 to describe how those overpayments were to be recovered. That order was challenged and the recovery efforts enjoined until the challenges were resolved. Recently, the Oregon Supreme Court decided that PERS' recovery efforts could continue.

The first Strunk/Eugene project completed its benefit adjustment and overpayment determination efforts by June 30, 2009. PERS is seeking additional Other Funds budget limitation and limited duration positions so the recovery efforts that were enjoined during that first project can now be completed.

Note that the original Strunk/Eugene project was budgeted a total of \$9,822,300 during the 2005-07 and 2007-09 biennia. Actual project expenditures were only \$7,479,333 because the recovery efforts were enjoined by the court challenges, and various efficiencies were developed over the course of the project. As such, \$2,342,967 from that first project was not expended and, in essence, remained in the PERS fund.

Now that the court judgments have been entered to lift the injunction and allow PERS' recovery efforts to continue, the agency has considered the most expeditious and efficient way to effectuate the recoveries. Attachment 1 to this letter is a business case that provides a detailed description of the agency's proposed process and the resources necessary to support those efforts.

### Action Requested

PERS requests that the Emergency Board:

1. Increase the agency's approved Other Funds limitation from \$78,010,820 to \$80,082,230 for the 2011-13 biennium. This increase would be allocated as set forth below:

Personal Services		\$916,771
Services & Supplies		
IT Professional Services	\$675,000	
Training & Office Expenses	\$9,639	
Other S&S (Collection expense)	\$470,000	
		<u>\$1,154,639</u>
	Total	\$2,071,410

2. Approve the addition of three (1.62 FTE) limited-duration Accounting Technician 3 positions.

### Legislation Affected

If approved, the additional Other Funds budget limitation would increase the amount of Administrative & Operating Expenses allocated to this agency by House Bill 5039, Section 1 (1) (495, Oregon Laws 2011).

Sincerely,



Paul R. Cleary, Executive Director

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**Budget Development Business Case for  
Strunk/Eugene Recovery Project Request  
To the May 2012 E-Board**

---

  
\_\_\_\_\_  
Destiny Olivas, Project Manager

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Steven Patrick Rodeman, Deputy Director &  
Executive Sponsor

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Kyle J. Knoll, Budget Officer

  
\_\_\_\_\_  
Date

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## 1 Executive Summary

The Oregon Public Employees Retirement System (PERS) is requesting the following additions to its legislatively approved budget for the 2011-13 biennium:

Three Limited Duration Positions; 1.62 FTE

Personal Services Other Fund Limitation Increase of \$916,771

Services & Supplies Other Fund Limitation Increase of \$1,154,639

Capital Outlay Other Fund Limitation \$0

Total Other Fund Limitation \$2,071,410 (sum of Personal Services, Services & Supplies, & Capital Outlay above) to be spent in the 2011-13 biennium.

These limitation increases are necessary for PERS to proceed to recover overpaid benefits from a large population of benefit recipients, in conformance with recent Oregon Supreme Court decisions. The recovery effort was not contemplated in the agency's 2011-13 legislatively approved budget as these court challenges had not yet been resolved.

Now that the challenges are resolved, PERS is seeking a total of \$2,071,410 in additional limitation to resume recovering a total of approximately \$164,684,600 in overpaid benefits.

## 2 Introduction and Background

In 2005, the Oregon Supreme Court decided two cases (*Strunk* and *City of Eugene*) which upheld portions of the 2003 PERS Reform legislation and previous circuit court decisions. Those decisions established that the PERS board erred in crediting earnings to member regular accounts at the rate of 20% for calendar year 1999. Instead, the legislature and court directed that a rate of 11.33% crediting for that year was correct.

As a result, PERS began a project to adjust member accounts and benefit levels to the correct amount. That project, referred to as the Strunk/Eugene Project, was initiated in 2006. Before the erroneous benefits were adjusted, however, some payments had been made to retired members, inactive members, beneficiaries, and alternate payees based on the 20% crediting rate for 1999. The original Strunk/Eugene Project included a component to recover those overpayments as part of the benefit adjustment process. In furtherance of that effort, the PERS Board adopted an Order on Repayment Methods on January 27, 2006. That order was separately challenged in court. On June 20, 2007, a Circuit Court judge held that PERS' order was not valid and enjoined further collection efforts. The Strunk/Eugene project team continued on with adjusting account balances and ongoing benefits, capturing the amounts that were overpaid prior to the adjustments but not collecting on those amounts, to conform to the court's

injunction. That project's activities were completed by the project deadline of June 30, 2009, leaving the overpaid amounts unrecovered.

On October 6, 2011, the Oregon Supreme Court found that the PERS Board's order was valid. Therefore, PERS must now endeavor to recover the remaining overpayments to complete the work from the original Strunk/Eugene project. The renewed effort will require validating the debtor population, confirming invoice amounts, and setting up collection plans with the recipients.

Note that the first Strunk/Eugene project was originally budgeted a total of \$9,822,300 during the 2005-07 and 2007-09 biennia. Actual project total expenditures, however, were only \$7,479,333, so the agency had a net savings of \$2,342,967 in the first project. These savings resulted from reduced operating expenditures because the recovery efforts were enjoined, as well as from efficiencies developed during the course of the project.

### 3 Problem Definition and Desired Business Goals / Objectives

The recovery is in accordance with the PERS Board's fiduciary obligations as defined in ORS 238.715, Recovery of Overpayments, and the supporting administrative rules.

The recovery effort will involve collections on an estimated \$164,684,600 in overpayments from 28,974 benefit recipients, spread across the following groups:

Group Type	Population	Dollar Amount Owed
Monthly Retirements	20,139	\$128,844,272
Lump Sum Retirements	1,919	\$21,327,244
Withdrawals	4,042	\$5,513,034
Police & Fire Unit Accounts	1,204	\$516,819
Deceased (Received overpayment prior to death)	928	\$4,200,427
Beneficiaries (Survivor of a deceased member who has received benefits)	742	\$4,282,803

### 4 Proposal

This recovery effort would follow standard state agency collection practices with modifications in light of the substantial number of benefit recipients. Benefit recipients will have different options to return the overpayment depending on their current relationship with PERS. Generally, these options will depend on whether the recipient continues to receive a PERS benefit payment from which a deduction can reasonably be made to recover the overpayment. Those recipients will be presented with three options:

1. Repay the amount owed in a single, lump sum payment;
2. Do nothing, and PERS will recover the overpayment via a 2% reduction in the recipient's gross monthly benefit; or



3. Contact PERS to request that a greater percentage of their monthly benefit be deducted so the overpayment is recovered in less time.

If the recipient opts to return the overpayment through a deduction to their monthly benefit and the full amount is not recovered by the time those benefits cease (usually as a result of the recipient’s death), PERS will seek to recover the remaining overpayment from available assets, if any, through reasonable recovery efforts.

Those recipients who do not currently receive a benefit payment from PERS or whose payment is insufficient to reasonably support recovery through a deduction will have two options:

1. Repay the amount owed in a single, lump sum payment; or
2. Contact PERS to set up a payment plan to return the overpayment over time.

Those recipients who do not contact PERS will be referred to the Oregon Department of Revenue for collections or, if the recipient is out of state, to a private collection agency as per the state’s accounts receivable policies.

The additional budget limitation that PERS is requesting would fund the following Personal Services or Services & Supplies functions:

**Personal Services**

Three Limited-Duration Accounting Technician 3 \$179,504

Two positions will lead the recovery efforts with the team of temporary employees listed below, as well as respond to escalations and monitor the accounts turned over to the Department of Revenue and private collection agencies. One position will administer payment plans and process payments.

Eight Temporary Staff for Collection Activities – Revenue Agent 1 \$273,139

These positions will handle communications with benefit recipients, including phone calls and correspondence. They will answer benefit adjustment questions and negotiate payment arrangements within defined parameters.

One Temporary Staff Accounting Technician 2 \$34,129

The position will support the Limited Duration Accounting 3 positions by processing correspondence, generate reports, and process payments.

One Temporary Staff for Data Entry Activities \$ 31,692

The position will enter overpayment invoices and benefit payment deductions.

Overtime costs for current Retirement Counselor 2 positions \$398,307

A small number of accounts were not reconciled during the first Strunk/Eugene project as they were very complex calculations and recovery efforts were enjoined, so there was no need to complete them. Now, current staff will use overtime hours to complete the adjustments and determine overpayments.

**Sub-Total for Personal Services \$916,771**

**Services and Supplies**

System Automation Costs \$675,000

IT Professional Services costs to augment current invoicing, payment, and reporting functions.

Training & Office Expenses	\$9,639
Collection Costs (current biennium)	<u>\$470,000</u>
Fees paid to the Oregon Department of Revenue and private collection agencies to pursue further recoveries once PERS completes the billing cycle, if the recipient does not comply.	
<b>Sub-Total for Services &amp; Supplies</b>	<b>\$1,154,639</b>
<b>Total Recovery Costs for 2011-13 Biennium</b>	<b>\$2,071,410</b>

#### 4.1 Assumptions

Based on experience from the first Strunk/Eugene project, approximately 4% of the recipients who continue to receive monthly PERS benefit payments will opt to return the overpayment in a single, lump sum payment rather than allow the payment deduction. The population of members with an on-going monthly benefit is 20,139. If that percentage holds true, 19,333 recipients will need to be set up for benefit deductions.

There are 8,835 benefit recipients who do not receive on-going monthly benefit payments. Only a small percentage of those recipients are expected to return the overpayment in a lump sum, so the vast majority will need to be set up on a payment plan that will require on-going payment posting, monitoring, and possible modification.

##### 4.1.1 Business Needs

PERS' current collection process would be accelerated under this proposal. Predominantly, these benefit recipients have already been notified that they received an overpayment, so the collection process is shortened to a 30 day time line. This budget request is predicated that reduced time line to provide for a lower staffing requirement and completion of the initial phase of the recovery within the current biennium.

##### 4.1.2 Workload

PERS currently maintains a collection staff of one full time dedicated collector, one cashier with shared duties, and one accounting person with shared duties, all supervised by a manager who is also responsible for other aspects of PERS' accounting and banking processes. This staff processes a current collection population of approximately 300 active accounts.

This recovery effort will increase that population to 28,974 accounts over an initial 11 months of collection processing. The additional workload will extend to a minimum of 6 years for payment processing, monitoring, and follow up of those accounts. This extended effort will also include processing accounts deemed uncollectable.

##### 4.1.3 Volumes / Position Duties

For this recovery effort to complete its initiation phase during the remaining 13 months of the 2011-13 biennium, the following staff are requested to augment the agency's current capacity to process collection accounts:

- 10 Collection Staff. Of these positions, eight will be filled through hiring temporary workers, with two Limited Duration positions that will lead these recovery efforts and coordinate the on-going recovery effort in future biennia (recoveries are projected to stretch over at least six to seven years). Due to the nature of the recipient's obligation, the financial impact these efforts are likely to have on many recipients, and the potential complexity of the issues involved, these positions will be filled at the Accounting Technician 3 level.
- 3 Support staff. One Accounting Technician 3 is requested as a Limited Duration position to augment the agency's current collections staff in administering payment plans and processing payments. Two other positions (Accounting Technician 2 and Public Service Rep. 3) will be filled by temporary workers to process correspondence and payments.

## **4.2 Benefits**

This recovery effort benefits the agency on several levels. Beyond the fiduciary responsibility of protecting the agencies assets, this recovery effort will attempt to recover \$164,684,600 in overpaid benefits, returning those monies to the fund. Other benefits include meeting the agency requirement of adherence to Oregon Statute, Oregon Administrative Rules and the Oregon Accounting Manual.

## **4.3 Resource Estimates**

### **4.3.1 – 4.3.5 Excel Worksheets**

## **4.4 Risk Assessment & Mitigation Strategy**

The October 6, 2011, ruling by the Oregon Supreme Court compels the agency to complete this recovery effort. Failure to complete this effort will result in the agency failing to meet its fiduciary obligation to recover overpayments and otherwise fail to conform to Oregon statutes, administrative rules, and state agency guidelines.

An alternate mitigation strategy would be to complete this effort with existing staff over a much longer time period. Due to the demographic age of the population, a sense of urgency is already felt. If PERS were limited to resorting to pursuing this recovery effort using only current staff, this project would take several years to complete, and the effectiveness of that effort would be greatly diminished. In addition, this mitigation strategy would create a backlog of work for the core mission of administration of retirement benefits in a timely manner.

## **4.5 Alternatives Considered**

Several alternatives were considered for this recovery effort, ranging from using the agency's full current collection process to outsourcing the entire effort to a private collection agency. Under each alternative, the cost, complexity, and time required for each of those options far exceeded the proposed solution.

The only other viable solution for this effort was to complete the recovery using one or more private collection firms. This effort would have consisted of the agency delivering

the invoices to outside firms to act as its agent in contacting the members and establishing a recovery plan. While this option would not require additional PERS staff or appreciably impact the agency's core processes, the fees paid to these private collection agencies (usually averaging 20% of the amount recovered) would mean the cost of this alternative would exceed \$31 million, based on a total recovery of \$164,684,600. PERS would also need additional staff resources to support the communication, accounting, and reporting requirements under this option.

## **5 Appendices**

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***Attach appendices and forward Business Case draft to Budget Officer for review and completion of financial analysis, and submittal to the Executive Sponsor and Deputy Director / Chief Operating Officer.***

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# Oregon

John A. Kitzhaber, M.D., Governor

## Public Employees Retirement System

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Mailing Address:  
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Tigard, OR 97281-3700  
(503) 598-7377  
TTY (503) 603-7766  
[www.oregon.gov/pers](http://www.oregon.gov/pers)

May 18, 2012

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Deputy Director  
SUBJECT: Second Notice of Rulemaking for Disability Application Rules:  
OAR 459-015-0020, *Application Required*  
OAR 459-076-0020, *Application Required*

### OVERVIEW

- Action: None. This is the second notice of modifications to the disability application rules.
- Reason: OAR 459-015-0020(7) and 459-076-0020(5) were previously noticed as housekeeping edits to change “date of termination” to “date of separation from service”. Further modifications are warranted to clarify the timely filing of applications for disability benefits when a member has not terminated employment or become an inactive member and returns to work before filing the application.
- Policy Issue: No policy issues have been identified.

### BACKGROUND

At the January 27, 2012 Board meeting, PERS noticed these two rules for housekeeping updates to OAR 459-015-0020(7) and 459-076-0020(5) to correctly use the term “date of separation from service” when PERS may begin paying disability benefits to a disability recipient.

### SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

Since the January 2012 meeting, staff determined that additional edits were needed. The new rule modifications clarify requirements for the timely filing of an application for disability when a member is totally disabled but is not terminated from service or otherwise becomes an inactive member. An employer could, for example, allow a disabled member to take an unpaid leave of absence while recovering from their disability and then return to work after recovery. These modifications clarify the timing for the member to apply for disability benefits.

#### Additional edits to OAR 459-015-0020:

Subsections (6)(a) and (b) were modified to delete the “disabling condition” and insert “total disability”. A definition for “total disability” was adopted last year and this edit is to use the newly defined term. Subsection (6)(a) was also edited to use the “date of separation from service” instead of “date of termination” to correspond with the changes to these definitions during rulemaking last year.

A new subsection (6)(c) has been added to address the timing requirement explained above. Recently, a member filed an application for disability benefits and was initially going to be denied because the member had not been separated by their employer, so staff presumed the member did

not meet the standard of total disability. Further review of the medical information revealed that the member did have a period of total disability lasting 90 days or more (as required to be eligible for a benefit), but the member did not file for that benefit until after returning to work. These rules did not address this situation, so the modifications add a new subsection (6)(c) to clarify the timing. The modifications provide that the member's application must be filed no later than 90 days from either the date the member was medically released for work or the date the member actually returned to work, whichever is earlier. The 90-day period to file the application was selected because it coincides with the 90-day trial service as provided under OAR 459-015-0045(1)(a) for members who are receiving a disability retirement benefit and attempt to return to work although not medically released to return to work.

Additional edits to OAR 459-076-0020:

In subsection (4)(a), paragraphs (A) and (B) were added to address this same timing issue.

Subsection (4)(b) was modified to delete the words "disabling condition" and insert "total disability". A definition for "total disability" was adopted last year and this edit is to use the newly defined term.

Section (8) was modified to add a reference to the definition of "protected health information."

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on February 28, 2012 at 3:00 p.m. at PERS headquarters in Tigard. After the rule was re-noticed and public comment period extended, a second hearing was held on April 25, 2012 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended either hearing. As these new provisions are being added, staff is further extending the public comment period until June 29, 2012.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Impact: The housekeeping edits conform the terms to the recently modified disability rule definitions and the other edits provide clarity for time frames to file applications for disability.

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

RULEMAKING TIMELINE

- |                  |  |
|------------------|--|
| January 13, 2012 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| January 27, 2012 | PERS Board notified that staff began the rulemaking process.                                   |

Second Notice – Disability Application Rules

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February 1, 2012	<i>Oregon Bulletin</i> published the Notice. Notice was mailed to employers, legislators, and interested parties. First public comment period began.
February 28, 2012	First rulemaking hearing held at 3:00 p.m. in Tigard.
March 1, 2012	First public comment period ended at 5:00 p.m.
March 15, 2012	Staff extended the public comment period and re-noticed the rule modifications by filing Notice of Rulemaking with the Secretary of State.
April 1, 2012	<i>Oregon Bulletin</i> published the second notice. Notice was mailed to employers, legislators, and interested parties. Second public comment period began.
April 25, 2012	Second rulemaking hearing held at 2:00 p.m. in Tigard.
April 30, 2012	Second public comment period ended at 5:00 p.m.
May 15, 2012	Staff re-opened the public comment period and re-noticed the rule modifications by filing Notice of Rulemaking with the Secretary of State.
May 18, 2012	Second Notice of rules at Board meeting.
June 1, 2012	<i>Oregon Bulletin</i> publishes the Notice. Notice is mailed to employers, legislators, and interested parties. Third public comment period begins.
June 29, 2012	Third public comment period ends at 5:00 p.m.
July 27, 2012	Staff will propose adopting the permanent 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 July 27, 2012 Board meeting.

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

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

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

1 **459-015-0020**

2 **Application Required**

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

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

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

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

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

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

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

1 for a disability retirement allowance within five calendar years of the date of termination.

2 *[The disabling condition]* **Total disability** must be continuous from the date of

3 *[termination]* **separation from service** to the date the application is filed.

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

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

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

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

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

17 *[(c)]* **(d)** A member cannot apply for disability retirement before their date of  
18 disability.

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

23 (8) When making application for a PERS disability retirement allowance, PERS will  
24 request the applicant authorize any physician, health practitioner, hospital, clinic,

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

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

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

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

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

21 Stat. Auth.: ORS 238.650

22 Stats. Implemented: ORS 238.320 - 238.345

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

1 **459-076-0020**

2 **Application Required**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1            (8) When filing an application for disability benefit, if the applicant wishes to  
2 authorize release and disclosure of protected health information, [as defined in OAR 459-](#)  
3 [076-0001](#), the applicant must complete and sign a consent form which specifically  
4 authorizes the release and disclosure of such information.

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

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

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

15            Stat. Auth.: ORS 238A.450

16            Stats. Implemented: ORS 238A.235

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# Oregon

John A. Kitzhaber, M.D., Governor

## Public Employees Retirement System

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Mailing Address:  
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Tigard, OR 97281-3700  
(503) 598-7377  
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May 18, 2012

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Deputy Director  
SUBJECT: Adoption of OSGP Roth 457 Account rules:  
OAR Division 50

### OVERVIEW

- Action: Adopt new rules and modifications to OSGP Roth 457 Account rules.
- Reason: Establish within the Oregon Savings Growth Plan (OSGP) a Roth 457 account as provided in HB 2113 (2011) to conform to a change in federal law.
- Policy Issue: No policy issues have been identified.

### BACKGROUND

The federal Small Business Jobs Act of 2010 added a qualified Roth contribution program option to governmental 457 plans. The 2011 Oregon Legislative Assembly passed House Bill 2113 (chapter 722, Oregon Laws 2011), which became effective on August 5, 2011. The bill amended the statutes governing the Oregon Savings Growth Plan (OSGP) to allow that plan to offer the Roth account program and conform to the change in federal law. This rulemaking is to make the necessary changes and edits to Division 50 of the OSGP administrative rules to implement the Roth 457 account option as authorized by HB 2113.

### SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

OAR 459-050-0076: Deleted the definition of “Code” from section (1)(a), and replaced the acronym “OSGP” with “the Deferred Compensation Program” in section (1)(b).

OAR 459-050-0090: In section (4)(a), added the word “rollover” and a transition word “however” to make the paragraph read more smoothly.

OAR 459-050-0230: In the opening sentence of both sections (1) and (2), added “unless otherwise required by the Oregon Public Records Law” to avoid any potential conflict with the Oregon Public Records Law.

### PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on April 25, 2012 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended on April 30, 2012 at 5:00 p.m. No public comment was received.

### LEGAL REVIEW

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

### IMPACT

Mandatory: No, the bill does not compel rulemaking, but new rules and rule modifications should be adopted to accommodate the provisions of HB 2113.

Impact: Adds Roth 457 account to Oregon Savings Growth Plan (OSGP).

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

### RULEMAKING TIMELINE

February 15, 2012	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
March 1, 2012	<i>Oregon Bulletin</i> published the Notice. Notice was mailed to employers, legislators, and interested parties. Public comment period began.
March 22, 2012	PERS Board notified that staff began the rulemaking process.
April 25, 2012	Rulemaking hearing held at 2:00 p.m. in Tigard.
April 30, 2012	Public comment period ended at 5:00 p.m.
May 18, 2012	Board may adopt the permanent rules and rule modifications.

### BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt new rules and modifications to OSGP Roth 457 rules, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

### STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Establish within the Oregon Savings Growth Plan (OSGP) a Roth 457 account as provided in HB 2113 (2011) to conform to a change in federal law.

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

- B.2. Attachment 1 – 459-050-0000
- B.2. Attachment 2 – 459-050-0001
- B.2. Attachment 3 – 459-050-0005
- B.2. Attachment 4 – 459-050-0030

Adoption – OSGP Roth 457 Account rules

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- B.2. Attachment 5 – 459-050-0050
- B.2. Attachment 6 – 459-050-0060
- B.2. Attachment 7 – 459-050-0070
- B.2. Attachment 8 – 459-050-0075
- B.2. Attachment 9 – 459-050-0076
- B.2. Attachment 10 – 459-050-0077
- B.2. Attachment 11 – 459-050-0080
- B.2. Attachment 12 – 459-050-0090
- B.2. Attachment 13 – 459-050-0120
- B.2. Attachment 14 – 459-050-0150
- B.2. Attachment 15 – 459-050-0200
- B.2. Attachment 16 – 459-050-0210
- B.2. Attachment 17 – 459-050-0230
- B.2. Attachment 18 – 459-050-0250
- B.2. Attachment 19 – 459-050-0300

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

1 **459-050-0000**

2 **Purpose and Authority**

3 (1) The Deferred Compensation Program is established within PERS for the  
4 administration of deferred compensation plans under ORS 243.401 to 243.507 pursuant to  
5 Section 457 and Section 402A of the Internal Revenue Code. *[ORS 243.401(5) defines a*  
6 *deferred compensation plan as a plan established by the state or a local government that*  
7 *has as its purpose the deferral of compensation payable to eligible employees of the state*  
8 *or local government and the deferral of income taxation on the deferred compensation.]*

9 (2) In accordance with ORS 243.435, the Deferred Compensation Program shall be  
10 administered by the Public Employees Retirement Board (Board), and under the policies  
11 established by the Board. Such policies are limited to all technical and administrative  
12 aspects of the program management, but *[shall]* may not include investment policy for  
13 and the investment of the Deferred Compensation Fund.

14 (3) In accordance with ORS 243.421, Oregon Investment Council (OIC) shall  
15 establish and maintain an investment program and policies for the state deferred  
16 compensation moneys consistent with the requirement of ORS 293.701 to 293.820, and to  
17 the extent practicable the needs of the Deferred Compensation Program.

18 (4) Because the duties and powers of the Board and the OIC with respect to the  
19 Deferred Compensation Program are complementary, there is a need for coordination and  
20 cooperation between the two agencies.

21 Stat. Auth: ORS 243.470

22 Stats. Implemented: ORS 243.401 - ORS 243.507

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**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 *[a]* Account, Designated Roth Account, or a combination of both,  
14 awarded to an alternate payee by a court order, and includes the creation of *[a]* separate  
15 account(s) in the 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) *[below]* of  
19 this rule, may authorize the release of information, and direct the Deferred  
20 Compensation Program to send information to a named person at a specified address.

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

1            (b) Pertaining to the alternate payee’s account(s) and distribution(s) if *[a]* separate  
2 account(s) *[has]* 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 *[Program]* Plan as defined in ORS 243.401(5) that is made  
13 up of pre-tax 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 *[and the*  
6 *deferral of income taxation on the deferred compensation]*.

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

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

14 ~~[(16)]~~(18) “Disclosure Statement” means the statement, required by ORS 243.450,  
15 that describes the probable income and probable safety of money deferred.

16 ~~[(17)]~~(19) “Domestic Relations Order” means a judgment, decree or court order  
17 made pursuant to a state’s domestic relations law that creates or recognizes the existence  
18 of an alternate payee’s right, or assigns to an alternate payee the right, to receive all or a  
19 portion of a participant’s ~~[d]D~~erred ~~[c]C~~ompensation ~~[a]A~~ccount, Designated Roth  
20 Account, or a combination of both, or benefit payments.

21 ~~[(18)]~~(20) “Draft Court Order” means an Order as described in section (8) ~~[above]~~  
22 of this rule which contains proposed language for the division of a Deferred  
23 Compensation Account, Designated Roth Account, or a combination of both, and has

1 been prepared but not approved or signed by the court or has not been filed with the court  
2 clerk.

3 ~~[(19)]~~(21) “Eligible Employee” shall have the same meaning as ORS 243.401(6) for  
4 an employee of the state, or as provided in the plan description of a local government  
5 deferred compensation plan, and shall exclude persons who are inmates of any prison or  
6 detention facility operated by the state or local government, and persons who are  
7 employed by contract with a private sector business.

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

12 ~~[(20)]~~(23) “Estimate” means a projection of distributions prepared by staff. An  
13 estimate is not a guarantee or promise of actual distributions that eventually may become  
14 due and payable.

15 ~~[(21)]~~(24) “Final Court Order” means a court order or judgment that has been signed  
16 by a judge and shows the stamp of the court clerk or trial court administrator, indicating  
17 the order is a certified copy of the original record on file with the court.

18 ~~[(22)]~~(25) “Fund” shall have the same meaning as provided in ORS 243.401(7).

19 ~~[(23)]~~(26) “Local Government” shall have the same meaning as provided in ORS  
20 243.401(8).

21 ~~[(24)]~~(27) “Local Government Deferred Compensation Contract” means a written  
22 contract between a local government and an eligible employee of that local government

1 that provides for deferral of income for service currently rendered, as defined in the  
2 established policy of the local government.

3 ~~[(25)]~~(28) “Local Government Deferred Compensation Plan” shall have the same  
4 meaning as provided in ORS 243.401(9).

5 ~~[(26)]~~(29) “Manager” shall have the same meaning as provided in section (13) of  
6 this rule.

7 ~~[(27)]~~(30) “OIC” means the Oregon Investment Council created by ORS 293.706.

8 ~~[(28)]~~(31) “Participant” means a person defined in either ORS 243.401(10) or  
9 243.401(13) participating in one or more deferred compensation plans under ORS  
10 243.401 to 243.507, either through current or past deferrals or compensation.

11 ~~[(29)]~~(32) “Participant’s Release” means a written statement signed by a deferred  
12 compensation plan participant and received by the Deferred Compensation Program. A  
13 participant’s release may pertain to any of the matters set forth in subsections ~~[(29)]~~(a)  
14 through ~~[(29)]~~(c) ~~[below]~~ of this section, may authorize the release of information, and  
15 direct the Deferred Compensation Program to send information to a named person at a  
16 specified address.

17 (a) Pertaining to the participant’s ~~[d]~~Deferred ~~[c]~~Compensation ~~[a]~~Account and

18 Designated Roth Account;

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

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

22 ~~[(30)]~~(33) “Participating Local Government” shall have the same meaning as  
23 provided in ORS 243.401(11).

1 ~~[(31)]~~(34) “Payroll Disbursing Officer” means:

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

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

6 ~~[(32)]~~(35) “PERS” shall have the same meaning as provided in ORS 243.401(14).

7 ~~[(33)]~~ *“Plan and Agreement” means a contract between the eligible employee and*  
8 *the plan sponsor which defines the circumstance, responsibilities and liabilities of both*  
9 *parties relating to the participation of the employee in the Deferred Compensation*  
10 *Program.]*

11 ~~[(34)]~~(36) “Plan Sponsor” means a public employer that establishes an eligible  
12 deferred compensation plan as defined in Section 457 of the Internal Revenue Code and  
13 which enters into an agreement with PERS to participate in the Deferred Compensation  
14 Program.

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

17 ~~[(36)]~~(38) “Public Employees Retirement Board” shall have the same meaning as  
18 provided in ORS 243.401(1).

19 ~~[(37)]~~(39) “Public Employer” means the state or a local government as defined in  
20 ORS 243.401(8).

21 ~~[(38)]~~(40) “Qualified Domestic Relations Order” or “QDRO” means a domestic  
22 relations order that has been reviewed and determined to be qualified by the Deferred  
23 Compensation Program Manager.

1        ~~[(39)]~~(41) “Solicitation of Offers from Vendors” means a notice to potential vendors  
 2 of investment services prepared by the OIC informing the potential vendor of the needs  
 3 of the Deferred Compensation Investment Program and notice that the OIC will accept  
 4 offers from qualified vendors to sign a contract with the State of Oregon providing for the  
 5 vendors’ acceptance of deposits under the terms and conditions of the contract.

6        ~~[(40)]~~(42) “Staff” means any employee of the Public Employees Retirement System,  
 7 who has been appointed in accordance with ORS 238.645.

8        ~~[(41)]~~(43) “State Agency” means every state officer, board, commission, department  
 9 or other activity of state government.

10       ~~[(42)]~~(44) “State Deferred Compensation Plan” shall have the same meaning as  
 11 provided in ORS 243.401(12).

12       ~~[(43)]~~(45) “Vendor” means an entity offering investment or other service related to  
 13 investment of deferred compensation pursuant to a contract with the State of Oregon.~~[""]~~

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

15       Stat. Auth: ORS 243.470

16       Stats. Implemented: ORS 243.401 - ORS 243.507

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

1 **459-050-0005**

2 **Policy and Goals of Deferred Compensation Program**

3 The Deferred Compensation Program shall be administered to provide the maximum  
4 opportunity for eligible employees to participate in a deferred compensation plan which  
5 allows participants to defer a portion of their compensation[, and thus their federal and  
6 state income tax, on the amount deferred,] until a time when the participant seeks to  
7 withdraw the funds as a supplement to the participant’s other retirement and pension  
8 benefits. To this end, the Program shall:

9 (1) Establish and administer an effective and efficient program of administration,  
10 either directly, or by contract, that provides for billing service, participant enrollment  
11 services, participant accounts, data processing, record keeping and other related services,  
12 and which gives due consideration not only to the services provided but also the cost to  
13 the participants;

14 (2) Provide eligible employees, [prior to] before their participation in a deferred  
15 compensation plan under the Program, with a written disclosure statement that contains,  
16 for that plan, all of the relevant information, including the probable income and probable  
17 safety of the moneys deferred;

18 (3) Offer general education to participants on how to make personally-based  
19 investment choices based on their preferences of the investment options available through  
20 the investment program;

21 (4) Permit eligible employees who participate in a deferred compensation plan to  
22 make changes, when permitted by law and the deferred compensation investment

1 program, to withdraw the deferred compensation and any earnings on deposit, and, when  
2 eligible under a plan, to select and transfer those funds to other accounts or annuity  
3 instruments;

4 (5) Identify the expressed desires of the diverse group of eligible employees who are  
5 deferring compensation until retirement, consistent with the statutory requirements of the  
6 Program and communicate those investment needs to the OIC; and

7 (6) Provide cooperation with and assistance to the OIC and staff of the State  
8 Treasurer in structuring, monitoring, and revising an investment program that reasonably  
9 meets the needs of eligible employees.

10 Stat. Auth: ORS 243.470

11 Stats. Implemented: ORS 243.401 - ORS 243.507



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

1 **459-050-0030**

2 **Deferred Compensation Administrator**

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.

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

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

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

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

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

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

17 “Statements about the relative risk and returns of investment options do not represent  
18 predictions of how the investments will perform in the future, but rather provide only a  
19 general description of the current investment and how it has performed in the past. The  
20 disclosure statement and other information provided by the state is not intended to  
21 provide individualized investment counseling, but only general information. Employees  
22 who participate in the Deferred Compensation Program will be entitled only to the funds  
23 that are lawfully credited to their *[d]*Deferred *[c]*Compensation and Designated Roth

1 [a]Accounts when those funds are distributed. Participants assume the risk that, at time  
2 of such distribution, the deferred compensation investments related to their [d]Deferred  
3 [c]Compensation and Designated Roth [a]Accounts may have decreased in value or  
4 become valueless.”

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

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

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

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

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

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

1 (a) The effectiveness of and any substantial problems with the administration of the  
2 Program, including but not limited to the method of accepting deposits from [the](#) payroll  
3 disbursing officer, preparing disclosure forms, making investments and deposits of funds  
4 as consistent with the request of participants as possible, maintaining accounts and  
5 records of deposits and the costs and fees associated with the administration of individual  
6 plans, communications with and education of participants, participant elections of  
7 investment options and changes in their elections, participants' elections of payment  
8 method upon withdrawal from service or retirement, and problems with participants'  
9 creditors;

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

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

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

15 Stat. Auth: ORS 243.470

16 Stats. Implemented: ORS 243.401 - ORS 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~~[(19)]~~, 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) ~~[below]~~ of this section, an eligible employee may enroll to participate in the  
10 Deferred Compensation Program by entering into a written agreement as specified herein  
11 with the 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 ~~[an]~~ 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) ~~[set out below]~~ of this section must be satisfied.

18 (b) In order for an eligible employee to be enrolled, the following forms provided by  
19 the Deferred Compensation Program must be properly completed and filed with the  
20 Deferred Compensation Program:

21 (A) An [Plan and Agreement] Enrollment Form, as defined in OAR 459-050-  
22 0001~~[(33)]~~, and which is also an eligible employee’s written acknowledgement that

1 the employee understands the terms of the Enrollment Form and is an eligible  
2 employee's election of investment option preferences; and

3 *[(B) An Acknowledgement Form and Designation of Investment Options, which is an*  
4 *eligible employee's written acknowledgement that the employee understands the terms of*  
5 *the Plan and Agreement and is an eligible employee's election of investment option*  
6 *preferences; and]*

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

8 (c) If the forms are incomplete, do not comply with plan provisions in any manner  
9 whatsoever, or the Plan is unable to process the application, then staff will notify the  
10 eligible employee within 30 calendar days from the date the enrollment forms are  
11 received with the reasons the Deferred Compensation Program cannot accept the  
12 enrollment as submitted.

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

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

1            (5) Disclosure statement. *[Prior to]* **Before** the deferral of any part of an eligible  
2 employee’s salary, the employee shall be provided information about the investment  
3 options including, but not limited to, the probable income and safety of the moneys  
4 deferred. Statements about the relative risk and returns of investment options do not  
5 represent predictions of how the investments will perform in the future, but rather provide  
6 only a general description of the current investment and how it has performed in the past.  
7 The Deferred Compensation Program does not provide investment advice, fund analysis  
8 or 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 *[Plan]* **Program**. The amount of  
12 the salary reduction *[shall]* **may** not be less than the minimum per month established by  
13 the plan sponsor and *[shall]* **may** not exceed the maximum applicable allowable  
14 contribution to a Deferred Compensation Plan as defined in section 457(b)(2) of the  
15 Internal Revenue Code.

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

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

22            Stat. Auth: ORS 243.470

23            Stats. Implemented: ORS 243.401 - ORS 243.507

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**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);

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

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

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

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

6            (B) If a designated trust fails to satisfy the requirements in OAR 459-050-  
7 0300(1)(c)(B), payment to the trust shall be made as provided in OAR 459-050-0300(11).

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

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

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

1 (6) Effective date of designation of beneficiary. A designation of beneficiary is not  
2 effective until a properly completed designation on a form supplied by the Deferred  
3 Compensation Program is filed with the Deferred Compensation Program. In the event a  
4 designation of beneficiary is incomplete staff will provide notification within 30 days  
5 explaining why the form is incomplete.

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

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

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

20 (a) If the program is unable to locate the designated beneficiaries or the executor,  
21 personal representative, or administrator of the estate by December 31 of the calendar  
22 year following the participant's death, the amount in the deceased's account on that date

1 shall be credited to the Deferred Compensation Fund. The amount credited may be used  
2 for the payment of administrative expenses of the Deferred Compensation Program.

3 (b) If the designated beneficiaries or the executor, personal representative, or  
4 administrator of the estate is later located or other future successful claim is filed,  
5 payment will be made in an amount not to exceed the balance in the deceased's account  
6 credited to the Deferred Compensation Fund in subsection ~~[(9)]~~(a) of this section.

7 Stat. Auth: ORS 243.470

8 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 purposes of this  
7 rule, “normal retirement age” shall be the normal retirement age established in the plan  
8 sponsor’s retirement plan.

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

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

14 (2) 50-Plus Catch-Up Program. Pursuant to the conditions of this rule, eligible  
15 employees who are 50 years of age and older may elect to contribute an additional  
16 amount under section 414(v) of the Internal Revenue Code in excess of the maximum  
17 regular contribution allowed.

18 (a) Conditions for enrollment: An eligible employee must be 50 years of age or older  
19 on December 31 of the calendar year in which the eligible employee begins to participate  
20 in the 50-Plus Catch-Up Program.

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

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

6 (b) Application for enrollment. An eligible employee choosing to participate must  
7 enroll by entering into a written agreement with the plan sponsor. The written agreement  
8 must specify the amount of the additional annual deferral, including whether any  
9 portion of the additional deferral should be a Designated Roth Contribution, and  
10 that the additional deferral will be divided equally by the available months for the  
11 calendar year, and that the amount is in addition to the eligible employee's regular  
12 maximum deferral.

13 (A) An eligible employee may enter into a written agreement to participate in the 50-  
14 Plus Catch-Up Program on or before the first day of employment or anytime while  
15 employed.

16 (B) A properly completed 50-Plus Catch-Up Program enrollment form provided by  
17 the Deferred Compensation Program must be filed with and approved by the Deferred  
18 Compensation Program.

19 (C) If the form is incomplete or does not comply with 50-Plus Catch-Up Program  
20 conditions of enrollment, then the Deferred Compensation Program will notify the  
21 eligible employee within 30 calendar days from the date the enrollment form is received  
22 of the reasons the enrollment cannot be accepted.

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

5 (d) Additional deferral amounts. The additional deferral may be an amount elected  
6 by an eligible employee, but *[shall]* **may** not exceed the maximum additional deferral  
7 amount allowed under section 414(v) of the Internal Revenue Code, 26 USC 414(v). An  
8 eligible employee may change the amount of additional contributions deferred within the  
9 maximum additional deferral amount allowed. Changes may be made at any time on  
10 forms or by other approved methods prescribed by the Deferred Compensation Program.  
11 Additional contributions may be deferred for any calendar month by salary reduction  
12 only if an agreement providing for the deferral has been entered into before the first day  
13 of the month in which the compensation is paid or made available.

14 (e) Cancellation of Participation in the 50-Plus Catch-Up Program. An eligible  
15 employee may cancel participation in the 50-Plus Catch-Up Program at any time on  
16 forms or by other approved methods prescribed by the Deferred Compensation Program.  
17 The cancellation will be effective for any calendar month only if an agreement providing  
18 for the cancellation has been entered into before the first day of the month in which the  
19 compensation is paid or made available. An eligible employee who has cancelled  
20 participation may later re-apply to begin participation in the 50-Plus Catch-Up Program.

21 (3) 3-Year Catch-Up Program. An eligible employee may elect to contribute an  
22 additional amount under section 457 of the Internal Revenue Code, in excess of the  
23 maximum regular contribution allowed, for one or more of the three consecutive calendar

1 years of employment *[prior to]* before attaining normal retirement age, if in previous  
2 years the eligible employee did not contribute the maximum regular contribution amount.

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

6 (A) Contributions over the maximum allowable regular contribution limit are  
7 permitted only to the extent of the unused portions of the maximum allowable regular  
8 contribution for previous calendar years during which the eligible employee contributed  
9 less than the maximum allowable regular contribution or did not make contributions to  
10 the Deferred Compensation Program.

11 (B) Calendar years during which contributions were made under the 50-Plus Catch-  
12 Up Program *[shall]* may not be included in the calculation to determine the maximum  
13 allowable contribution under the 3-Year Catch-Up Program.

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

16 (D) An eligible employee must designate a proposed retirement date upon  
17 application. The designated proposed retirement date shall be used for the purpose of  
18 determining the catch-up period only. The catch-up period so determined *[shall]* may not  
19 include the year of the designated proposed retirement date. An eligible employee who  
20 retires during the catch-up period may contribute the maximum allowable amount for the  
21 year of *[his]* the employee's retirement.

22 (E) Pursuant to section 457(b) of the Internal Revenue Code, an eligible employee  
23 who is 70-1/2 years of age or older may not participate in the 3-Year Catch-Up Program.



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

5            (b) Application for enrollment. An eligible employee may participate in the 3-Year  
6 Catch-Up Program by entering into a written agreement with the plan sponsor. The  
7 written agreement must specify the eligible employee’s designated proposed retirement  
8 date, the month in which to begin the 3-Year Catch-Up Program contributions and the  
9 number of years the eligible employee plans to participate in the 3-Year Catch-Up  
10 Program.

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

13           (B) A properly completed 3-Year Catch-Up Program enrollment form provided by  
14 the Deferred Compensation Program must be filed with and approved by the Deferred  
15 Compensation Program. Wage or salary information must be submitted for previous  
16 calendar years during which an eligible employee either did not participate in the  
17 Deferred Compensation Program or did not contribute the maximum regular contribution  
18 amount. An eligible employee must submit:

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

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

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

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

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

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

19 (B) An eligible employee may change the amount of additional contributions  
20 deferred within the minimum and maximum additional deferral amounts allowed.  
21 Changes may be made at any time on forms or by other approved methods prescribed by  
22 the Deferred Compensation Program and will be effective for any calendar month only if

1    an agreement providing for the deferral has been entered into before the first day of the  
2    month in which the compensation is paid or made available.

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

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

10          Stat. Auth.: ORS 243.470

11          Stats. Implemented: ORS 243.401 - 243.507

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**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 [Plan]  
15 Program in the two-year period before the date of distribution; and

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

1 employment and as defined in OAR 459-050-0150. A participant must apply for an  
2 unforeseeable emergency withdrawal using forms provided by, or other methods  
3 approved by, the Deferred Compensation Program as provided for in OAR 459-050-  
4 0150(4).

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

11 (4) Trustee-to-~~[t]~~Trustee ~~[t]~~Transfers. A ~~[t]~~Trustee-to-~~[t]~~Trustee ~~[t]~~Transfer for the  
12 purpose of purchasing permissive service credit as described in Code Section 415(n)  
13 or a Trustee-to-Trustee Transfer that meets the requirements of 26 CFR  
14 1.457.10(b)(4) may be made while a participant is still employed, except no Designated  
15 Roth Account balance may be transferred for the purpose of purchasing permissive  
16 service credit as described in Code Section 415(n).

17 (5) Funds available for in-service distribution. ~~[Only f]~~Funds contributed to ~~[a]~~ the  
18 ~~[d]~~Deferred ~~[c]~~Compensation ~~[plan]~~ Program, ~~[as defined in IRC 457,]~~ and earnings on  
19 those contributions may be distributed in a de minimis distribution or unforeseeable  
20 emergency withdrawal. Any funds directly transferred or rolled over to the Deferred  
21 Compensation Program from any plan other than an IRC 457 deferred compensation plan  
22 ~~[shall]~~ may not be distributed for a de minimis distribution or an unforeseeable  
23 emergency withdrawal.

1           (6) Prohibitions on elective deferrals after an in-service distribution. A participant  
2 who receives a de minimis distribution, an unforeseeable emergency withdrawal, or a  
3 military distribution may not make elective deferrals and employee contributions to the  
4 Deferred Compensation Program for a period of [6] six consecutive months from the date  
5 of distribution.

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

7           Stat. Auth: ORS 243.470

8           Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0076**

2 **In-Plan Roth Conversion**

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

4 **(a) “Distributee” means:**

5 **(A) A Deferred Compensation Plan participant who has a severance of**  
6 **employment;**

7 **(B) A Deferred Compensation Plan participant who is approved for a de**  
8 **minimis distribution under OAR 459-050-0075(1);**

9 **(C) The surviving spouse of a deceased participant; or**

10 **(D) The spouse or former spouse who is the alternate payee under a domestic**  
11 **relations order that satisfies the requirements of ORS 243.507.**

12 **(E) The non-spouse beneficiary of a deceased participant who is a designated**  
13 **beneficiary under Code Section 402(c)(11).**

14 **(b) “In-Plan Roth Conversion” means the payment of an eligible rollover**  
15 **distribution by the Deferred Compensation Program directly from the Deferred**  
16 **Compensation Account to the Designated Roth Account as instructed by the**  
17 **Distributee and in compliance with Code Section 402A(c)(4) and meets the**  
18 **otherwise applicable rollover requirements of Code Section 457(e)(16).**

19 **(2) Limitations.**

20 **(a) If a Distributee elects an In-Plan Roth Conversion, the Distributee may not**  
21 **roll the money back to the Deferred Compensation Account at a later date.**

1            (b) Once completed, all balances from any Roth In-Plan Conversion shall be  
2 accounted for individually and separately within the Designated Roth Account.

3            (3) 402(f) Notice and Election Procedure.

4            (a) The Deferred Compensation Program staff shall provide each Distributee  
5 with a written explanation of the direct rollover rules for any eligible distribution, as  
6 required by Code Section 402(f).

7            (b) An In-Plan Roth Conversion election shall be in writing and must be signed  
8 by the Distributee or by his or her authorized representative pursuant to a valid  
9 power of attorney. The election must be on forms furnished by the Deferred  
10 Compensation Program.

11            Stat. Auth.: ORS 243.470

12            Stats. Implemented: ORS 243.462

**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 ~~[c]~~C~~ompensation~~ ~~[a]~~A~~ccount~~” means the account described in OAR  
7 459-050-0001~~[(9)]~~, but does not include any amount in the Self-Directed Brokerage  
8 Option.

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

11 ~~[(c)]~~(d) “Loan balance” means the outstanding principal and accrued interest due on  
12 the loan.

13 ~~[(d)]~~(e) “Participant Loan” means a loan that ~~[only]~~ affects the ~~[d]~~D~~eferred~~  
14 ~~[c]~~C~~ompensation~~ ~~[a]~~A~~ccount~~, Designated Roth Account, or a combination of both, of  
15 a participant.

16 ~~[(e)]~~(f) “Promissory note” means the agreement of loan terms between the Program  
17 and a participant.

18 ~~[(f)]~~(g) “Third Party Administrator (TPA)” means the entity providing record  
19 keeping and administrative services to the Program.

20 (2) Eligibility for loan. Participants who are currently employed by a Plan Sponsor  
21 that has agreed to participate in a Participant Loan program are eligible for a Participant

1 Loan. Retired participants, participants separated from employment, designated  
2 beneficiaries, and alternate payees are not eligible.

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

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

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

9 (4) Loan Types:

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

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

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

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

4 (7) Loan Limitations:

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

6 (A) \$50,000; or

7 (B) One-half of the combined value of the participant's ~~[d]~~Deferred  
8 ~~[c]~~Compensation ~~[a]~~Account and the Designated Roth Account on the date the loan is  
9 made.

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

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

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

14 (8) Source of Loan: The loan amount will be deducted from a participant's  
15 ~~[d]~~Deferred ~~[c]~~Compensation ~~[a]~~Account, Designated Roth Account, or a  
16 combination of both.

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

19 ~~[(a)](b)~~ Loan amounts will be deducted pro-rata from existing investments in a  
20 participant's ~~[deferred compensation]~~ account(s).

21 ~~[(b)](c)~~ A participant may not transfer a loan to or from another retirement or  
22 deferred compensation plan.

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

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

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

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

17 (d) Partial payment of a scheduled payment and partial prepayment or advance  
18 payment of future payments *[shall]* may not be permitted.

19 (e) Loan payments will be allocated in a participant’s *[deferred compensation]*  
20 account(s) in the same manner as the participant’s current contribution allocation. If, for  
21 any reason, the allocation is not known, the payment will be allocated to the Short-Term  
22 Fixed Income Option.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (11) Tax Reporting.

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

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



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

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

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

15 (12) Default.

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

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

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

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

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    **459-050-0080**

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; or

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

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

21 (2) Manner of distribution. Subject to the provisions of sections (3) through (5) set  
22 out below, a participant, surviving beneficiary, or alternate payee may elect a manner of  
23 distribution, designate one or more beneficiaries, and change beneficiaries at any time.

1 The total amount distributed may not exceed the total account value. The following  
2 manners of distribution are available:

3 (a) Total distribution of the account value in a lump sum. A lump-sum distribution is  
4 not eligible for direct deposit;

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

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

15 (d) Periodic specified dollar amount distribution. This distribution may be paid  
16 annually, semiannually, quarterly or monthly, and may be paid in specific dollar amounts  
17 in \$5 increments. Any funds remaining after each periodic payment shall continue to  
18 receive earnings or losses based on the performance of investment option(s) in which the  
19 funds are held. The amount of each periodic distribution will remain the same throughout  
20 the withdrawal period. However, the withdrawal period may vary depending on the  
21 earnings or losses experienced;

22 (e) Required minimum distribution, which will provide an annual distribution of the  
23 minimum amount required in IRC section 401(a)(9), 26 U.S.C. 401(a)(9). This manner of

1 distribution is available only to those who defer distribution to age 70-1/2 years of age  
2 (no later than April of the year following the year reaching 70-1/2 years of age) or a  
3 participant who continues to work and severs employment after 70-1/2 years of age.

4 Funds not distributed shall continue to receive earnings or losses based on the  
5 performance of investment option(s) in which funds are held; or

6       (f) Mandatory single lump-sum distribution of an account balance of less than  
7 \$1,000. This distribution shall be made to any participant or alternate payee with an  
8 account balance of less than \$1,000 within one year of the participant's severance of  
9 employment.

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

14       (a) An application for distribution or to change the manner of distribution will be  
15 considered filed in a timely manner if it is received in writing or other method approved  
16 by the Deferred Compensation Program at least 30 days before the requested  
17 commencement date. The commencement date may be no earlier than the second  
18 calendar month following the month of severance of employment.

19       (b) An application for distribution or to change the manner of distribution may be  
20 made by a participant, surviving beneficiary, or alternate payee or the authorized  
21 representative of a participant, surviving beneficiary or alternate payee. A valid document  
22 appointing an authorized representative such as a power of attorney, guardianship or  
23 conservatorship appointment, must be submitted to the Deferred Compensation Program.

1 The Deferred Compensation Program retains the discretion to determine whether the  
2 document is valid for purposes of this rule.

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

13 (d) When direct deposit is permitted under the Deferred Compensation *[Plan]*  
14 Program, a request for periodic distributions to be transmitted to a financial institution  
15 for direct deposit must be made using a Deferred Compensation Program Automatic  
16 Deposit Agreement.

17 (e) Distribution of deferred compensation funds will occur no later than five days  
18 following the date funds necessary for a specified payment were liquidated. Liquidation  
19 of funds will be done on a pro-rata basis determined by the investment allocation of an  
20 account at the time the funds are liquidated or from the Stable Value account, at the  
21 participant's election. The election must be filed before the participant begins receiving  
22 distributions. If the participant elects distribution from the Stable Value account and there  
23 are insufficient funds in that account on the date of each distribution (whether monthly,

1     quarterly, semi-annually, or annually), the distribution will be done on the pro-rata basis  
2     described above regardless of the participant’s election.

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

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

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

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

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

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

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



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

2 Stat. Auth: ORS 243.470

3 Stats. Implemented: ORS 243.401 - 243.507, OL 2007 Ch. 54

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

1 **459-050-0090**

2 **Direct Rollover and Trustee-to-Trustee Transfer**

3 The purpose of this rule is to establish the criteria and processes for *[d]***D**irect  
4 *[r]***R**ollovers between the Deferred Compensation Program and an *[e]***E**ligible  
5 *[r]***R**etirement *[p]***P**lan and *[t]***T**rustee-to-*[t]***T**rustee *[t]***T**ransfers between the Deferred  
6 Compensation Program and either a defined benefit governmental plan or a deferred  
7 compensation plan described in Code Section 457(b) that is maintained by a state,  
8 political subdivision of a state, or any agency or instrumentality of a state or political  
9 subdivision of a state.

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

11 (a) “Code” means the Internal Revenue Code of 1986, as amended.

12 (b) “Direct Rollover” means:

13 (A) The payment of an eligible rollover distribution by the Deferred Compensation  
14 *[Plan]* **P**rogram to an *[e]***E**ligible *[r]***R**etirement *[p]***P**lan specified by the *[d]***D**istributee;  
15 or

16 (B) The payment of an eligible rollover distribution by an *[e]***E**ligible *[r]***R**etirement  
17 *[p]***P**lan to the Deferred Compensation Program.

18 (c) “Distributee” means an individual who has requested a distribution under one of  
19 the following criteria:

20 (A) A Deferred Compensation *[Plan]* **P**rogram participant who has a severance of  
21 employment;

1 (B) A Deferred Compensation *[Plan]* **Program** participant who is approved for a de  
2 minimis distribution under OAR 459-050-0075(1);

3 (C) The surviving spouse of a deceased participant;

4 (D) The spouse or former spouse who is the alternate payee under a domestic  
5 relations order that satisfies the requirements of ORS 243.507 and OAR 459-050-0200 to  
6 459-050-0250; or

7 (E) The non-spouse beneficiary of a deceased participant who is a designated  
8 beneficiary under Code Section 402(c)(11).

9 (F) A plan participant who has requested a *[t]***T**rustee-to-*[t]***T**rustee *[t]***T**ransfer for  
10 the purpose of purchasing permissive service credit as described in Code Section 415(n).

11 (d) “Distributing Plan” means an *[e]***E**ligible *[r]***R**etirement *[p]***P**lan that is  
12 designated to distribute a direct rollover **or send a Trustee-to-Trustee Transfer** to  
13 another eligible plan (recipient plan).

14 (e) “Eligible Retirement Plan” means any one of the following *[that accepts the*  
15 *distributee’s eligible rollover distribution]*:

16 (A) An individual retirement account or annuity described in Code Section 408(a) or  
17 (b), including a Roth IRA as described in Code Section 408(A);

18 (B) An annuity plan described in Code Section 403(a);

19 (C) An annuity contract described in Code Section 403(b);

20 (D) A qualified trust described in Code Section 401(a);

21 (E) An eligible deferred compensation plan described in Code Section 457(b), **which**  
22 **may include a qualified Roth contribution program defined in Code Section 402A,**

1 and that is maintained by a state, political subdivision of a state, or any agency or  
2 instrumentality of a state or political subdivision of a state; or

3 (F) A plan described in Code Section 401(k).

4 (f) “Eligible Rollover Distribution” means any distribution of all or any portion of *[a*  
5 *distributee’s Deferred Compensation account]* a person’s account in an Eligible

6 Retirement Plan. An *[e]*Eligible *[r]*Rollover *[d]*Distribution *[shall]* may not include:

7 (A) A distribution that is one of a series of substantially equal periodic payments  
8 made no less frequently than annually for the life (or life expectancy) of the

9 *[d]*Distributee or the joint lives (or life expectancies) of the *[d]*Distributee and the

10 *[d]*Distributee’s designated beneficiary, or for a specified period of *[ten]* 10 years or  
11 more;

12 (B) A distribution that is a required or minimum distribution under Code Section  
13 401(a)(9);

14 (C) An amount that is distributed due to an unforeseen emergency under OAR 459-  
15 050-0075(2).

16 (g) “Recipient Plan” means an *[e]*Eligible *[r]*Retirement *[p]*Plan that is designated  
17 by a *[d]*Distributee to receive a *[d]*Direct *[r]*Rollover or Trustee-to-Trustee Transfer.

18 (h) “Trustee-to-Trustee Transfer” means a transfer either:

19 (A) By the Deferred Compensation Program to:

20 (i) A governmental defined benefit plan (within the meaning of Code Section  
21 414(d)) for the purchase of permissive service credit as described in Code Section 415(n);

22 or

1           (ii) A deferred compensation plan described in Code Section 457(b) that is  
2 maintained by a state, political subdivision of a state, or any agency or instrumentality of  
3 a state or political subdivision of a state.

4           (B) To the Deferred Compensation Program from a deferred compensation plan  
5 described in Code Section 457(b) that is maintained by a state, political subdivision of a  
6 state, or any agency or instrumentality of a state or political subdivision of a state.

7           (2) Direct rollover to an *[e]*Eligible *[r]*Retirement *[p]*Plan. The *[d]*Direct  
8 *[r]*Rollover of an *[e]*Eligible *[r]*Rollover *[d]*Distribution by the Deferred Compensation  
9 Program to an *[e]*Eligible *[r]*Retirement *[p]*Plan shall be interpreted and administered in  
10 accordance with Code Section 457(d)(1)(C), 402A(c)(3) and all applicable regulations. A  
11 *[d]*Distributee may elect to have an *[e]*Eligible *[r]*Rollover *[d]*Distribution paid by the  
12 Deferred Compensation Program directly to an *[e]*Eligible *[r]*Retirement *[p]*Plan  
13 specified by the *[d]*Distributee.

14           (a) The Deferred Compensation Program staff shall provide each *[d]*Distributee with  
15 a written explanation of the direct rollover rules for an eligible distribution, as required  
16 by the Code.

17           (b) A *[d]*Distributee’s right to elect a *[d]*Direct *[r]*Rollover is subject to the  
18 following limitations:

19           (A) A *[d]*Distributee may elect to have an *[e]*Eligible *[r]*Rollover *[d]*Distribution  
20 paid as a *[d]*Direct *[r]*Rollover to only one *[e]*Eligible *[r]*Retirement *[p]*Plan.

21           (B) A *[d]*Distributee may elect to have part of an *[e]*Eligible *[r]*Rollover  
22 *[d]*Distribution be paid directly to the *[d]*Distributee, and to have part of the distribution

1 paid as a [d]Direct [r]Rollover only if the [d]Distributee elects to have at least \$500  
2 transferred to the [e]Eligible [r]Retirement [p]Plan.

3 **(C) A Distributee of the Designated Roth Account may elect to have a Direct**  
4 **Rollover only to a Roth IRA as described in Code Section 408A or another qualified**  
5 **Roth contribution program as described in Code Section 402A.**

6 (c) A [d]Direct [r]Rollover election shall be in writing and must be signed by the  
7 [d]Distributee or by his or her authorized representative pursuant to a valid power of  
8 attorney. The [d]Direct [r]Rollover election may be on forms furnished by the Deferred  
9 Compensation Program, or on forms submitted by the [r]Recipient [p]Plan which must  
10 include:

- 11 (A) The [d]Distributee’s full name;
- 12 (B) The [d]Distributee’s social security number;
- 13 (C) The [d]Distributee’s account number with the [r]Recipient [p]Plan, if available;
- 14 (D) The name and complete mailing address of the [r]Recipient [p]Plan; and
- 15 (E) If the [d]Distributee is a non-spouse beneficiary of the member, the title of the  
16 recipient IRA account.

17 (d) The [d]Distributee is responsible for determining that the [r]Recipient [p]Plan’s  
18 administrator will accept the [d]Direct [r]Rollover for the benefit of the [d]Distributee.  
19 Any taxes or penalties that are the result of the [d]Distributee’s failure to ascertain that  
20 the recipient plan will accept the direct rollover shall be the sole liability of the  
21 [d]Distributee.

22 (3) Trustee-to-[t]Trustee [t]Transfer to another deferred compensation plan or  
23 governmental defined benefit plan.

1 (a) A *[t]*Trustee-to-*[t]*Trustee *[t]*Transfer request shall be in writing and must be  
2 signed by the *[d]*Distributee or by his or her authorized representative pursuant to a valid  
3 power of attorney. The *[t]*Trustee-to-*[t]*Trustee *[t]*Transfer request may be on forms  
4 furnished by the Deferred Compensation Program, or on forms submitted by the  
5 *[r]*Recipient *[p]*Plan which must include:

- 6 (A) The *[d]*Distributee’s full name;
- 7 (B) The *[d]*Distributee’s social security number;
- 8 (C) The *[d]*Distributee’s account number with the *[r]*Recipient *[p]*Plan, if available;
- 9 (D) The name and complete mailing address of the *[r]*Recipient *[p]*Plan; and
- 10 (E) If the transfer is for the purpose of purchasing service credit under a  
11 governmental defined benefit plan, the exact amount to be transferred.

12 (b) The *[d]*Distributee is responsible for determining that the *[r]*Recipient *[p]*Plan’s  
13 administrator will accept the *[t]*Trustee-to-*[t]*Trustee *[t]*Transfer for the benefit of the  
14 participant. Any taxes or penalties that are the result of the *[d]*Distributee’s failure to  
15 ascertain that the *[r]*Recipient *[p]*Plan will accept the *[t]*Trustee-to-*[t]*Trustee  
16 *[t]*Transfer shall be the sole liability of the *[d]*Distributee.

17 (4) Direct *[r]*Rollover from an *[e]*Eligible *[r]*Retirement *[p]*Plan. The Deferred  
18 Compensation Program may accept rollover contributions from participants and direct  
19 rollovers of distributions from an eligible retirement plan on behalf of a participant. This  
20 section shall be interpreted and administered in accordance with Code Section 402(c) and  
21 all applicable regulations.

22 (a) The Deferred Compensation Program *[shall only]* may accept both pre-tax and  
23 after-tax *[assets]* rollover money. However, the only *[A]* after-tax *[employee]*



1 *[contributions]* money eligible for rollover into the Deferred Compensation Program  
2 is money from another qualified Roth contribution program as described in Code  
3 Section 402A. *[are not] eligible for rollover into the Deferred Compensation Program.]*

4 (b) A *[d]*Direct *[r]*Rollover from an *[e]*Eligible *[r]*Retirement *[p]*Plan must be an  
5 *[e]*Eligible *[r]*Rollover *[d]*Distribution. It is the participant's responsibility to determine  
6 that the assets qualify for rollover treatment. Any taxes or penalties that are the result of  
7 the participant's failure to ascertain that the distributing plan assets qualify for a direct  
8 rollover to a deferred compensation plan described in Code Section 457(b), shall be the  
9 sole liability of the participant.

10 (c) Subject to the requirements of subsections (4)(c)(A) and (B) below, *[e]*Eligible  
11 *[r]*Rollover *[d]*Distribution(s) shall be credited to the participant's Deferred  
12 Compensation *[a]*Account or Designated Roth Account established pursuant to the  
13 *[Plan and Agreement]* Enrollment Form on file with the Deferred Compensation  
14 Program and shall be subject to all the terms and provisions of the *[Plan and Agreement]*  
15 Enrollment Form. Account assets received from the *[d]*Distributing *[p]*Plan will be  
16 invested by the Deferred Compensation *[Plan]* Program record keeper in accordance  
17 with the terms and conditions of the Deferred Compensation Program according to the  
18 asset allocation the participant has established for monthly contributions unless instructed  
19 otherwise in writing on forms provided by the Deferred Compensation Program.

20 (A) Assets from an *[e]*Eligible *[r]*Retirement *[p]*Plan other than a *[D]*deferred  
21 *[C]*compensation *[P]*plan described in Code Section 457(b) will be segregated into a  
22 separate account established by the Deferred Compensation Program for tax purposes  
23 only, but not for investment purposes. For investment purposes, the participant's assets

1 are treated as a single account. If a participant changes the allocation of existing assets  
2 among investment options within the plan, the transfer or reallocation shall apply to and  
3 will occur in all accounts automatically.

4 (B) Assets directly rolled over to the Deferred Compensation Program may be  
5 subject to the 10 percent penalty on early withdrawal to the extent that the funds directly  
6 rolled over are attributable to rollovers from a qualified plan, a 403(b) annuity, or an  
7 individual retirement account.

8 (5) ~~Trustee-to-Trustee~~ Transfer from another deferred compensation plan. The  
9 Deferred Compensation Program may accept ~~Trustee-to-Trustee~~ Transfers from  
10 other eligible deferred compensation plans described in Code Section 457(b), which may  
11 include a qualified Roth contribution program defined in Code Section 402A. Assets  
12 transferred from an eligible deferred compensation plan will be aggregated with the  
13 participant's accumulated Deferred Compensation ~~Plan~~ Program account(s).

14 Stat. Auth: ORS 243.470

15 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0120**

2 **Self-Directed Brokerage Option**

3 (1) For purposes of this rule:

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

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

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

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

12 (a) The participant’s combined [d]Deferred [c]Compensation and Designated  
13 Roth [a]Accounts balance must be at least \$20,000 on the date of the trade.

14 (b) The amount of the trade may not exceed 50 percent of the participant’s  
15 combined [d]Deferred [c]Compensation and Designated Roth [a]Accounts balance on  
16 the date of the trade.

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

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

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

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

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

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

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

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

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

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

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

22 (7) Any action taken by the Deferred Compensation Manager under section (6) of  
23 this rule must be presented to the Board at its next scheduled meeting. The Board may

1 take action as authorized by ORS 243.401 to 243.507. If the Board does not act, the  
2 action(s) taken by the Deferred Compensation Manager shall expire on the first business  
3 day following the date of the meeting.

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

6 Stat. Auth.: ORS 243.470

7 Stats. Implemented: ORS 243.401 - 243.507

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**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 ~~[c]~~C~~ompensation~~ ~~[a]~~A~~ccount~~” means the account described in OAR  
8 459-050-0001~~[(9)]~~, but does not include any amount in the Self-Directed Brokerage  
9 Option.

10 **(b) “Designated Roth Account” means the account described in OAR 459-050-**  
11 **0001, but does not include any amount in the Self-Directed Brokerage Option.**

12 ~~[(b)]~~~~(c)~~ “Emergency withdrawal” means a payment to the participant from the  
13 participant’s ~~[d]~~D~~eferred~~ ~~[c]~~C~~ompensation~~ ~~[a]~~A~~ccount~~, **Designated Roth Account, or a**  
14 **combination of both,** in an amount directly related to and reasonably necessary to satisfy  
15 a financial obligation attributable to an unforeseeable emergency.

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

21 (2) Eligibility for emergency withdrawals. Only a participant who established a  
22 deferred compensation account as an eligible employee and has not terminated from

1 employment with their plan sponsor may apply to receive an unforeseeable emergency  
 2 withdrawal. An alternate payee of a participant *[shall]* **may** not be eligible to receive an  
 3 emergency withdrawal.

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

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

11 ~~(4)~~**(5)** Circumstances that do not constitute an unforeseeable emergency. An  
 12 emergency withdrawal *[shall]* **may** not be approved for any reason other than an  
 13 unforeseeable emergency. Circumstances that do not constitute an unforeseeable  
 14 emergency include, but are not limited to:

- 15 (a) Participant or dependent school expenses;
- 16 (b) The purchase of a home or costs associated with a voluntary relocation of  
 17 housing;
- 18 (c) The reduction of personal credit liabilities not associated with an unforeseeable  
 19 emergency;
- 20 (d) Expenses associated with a legal separation or the dissolution of a marriage;
- 21 (e) Expenses associated with medical procedures that are elective or not medically  
 22 required;
- 23 (f) Expenses associated with establishing or managing a personal business;



1            (g) Recreational expenses;

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

3            (i) Usual and customary tax obligations.

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

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

13            (b) Liquidation of the participant's assets, to the extent the liquidation of such assets  
14 would not itself cause severe unforeseeable emergency; or

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

16            ~~[(6)]~~(7) Application for an emergency withdrawal. A participant must submit a  
17 completed emergency withdrawal application and financial information and related  
18 documentation sufficient to satisfy the provisions of this rule. The emergency withdrawal  
19 application may be returned if incomplete or if insufficient financial information or  
20 related documentation is submitted.

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

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

4            ~~[(7)]~~(8) Cancellation of future contributions. Contributions by a participant to the  
5 Deferred Compensation Program shall immediately be cancelled upon receipt of an  
6 application for an emergency withdrawal from the participant.

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

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

14           ~~[(8)]~~(9) Approval or denial notification. The Deferred Compensation Manager or an  
15 authorized designee shall approve or deny a request for an emergency withdrawal within  
16 three working days after receipt of an accepted application. The participant will be  
17 notified by mail within ~~[ten]~~ 10 days after a decision is made.

18           ~~[(9)]~~(10) Release of payment upon approval of an emergency withdrawal. The  
19 Deferred Compensation Manager or an authorized designee shall determine the method  
20 of payment. The Deferred Compensation Program shall immediately notify the TPA to  
21 release the requested funds.

1 ~~[(10)]~~(11) A participant may appeal a denial of an emergency withdrawal to the  
2 Unforeseeable Emergency Withdrawal Appeals Committee as provided in OAR 459-050-  
3 0040. The appeal shall be in writing and must include:

4 (a) A request for review by the Unforeseeable Emergency Withdrawal Appeals  
5 Committee;

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

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

9 ~~[(11)]~~(12) Number of emergency withdrawal requests. The number of times a  
10 participant may apply for an emergency withdrawal is unlimited and is unaffected by  
11 previous applications.

12 Stat. Auth: ORS 243.470

13 Stats. Implemented: ORS 243.401 - 243.507

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

1 **459-050-0200**

2 **Court Orders**

3 The purpose of this rule is to describe the procedures for the administration of a  
4 court order and the requirements for a court order to be approved as a Qualified Domestic  
5 Relations Order.

6 (1) Legal requirements. A final court order or judgment must clearly specify the  
7 amount awarded to an alternate payee from the participant’s Deferred Compensation  
8 *[a]* Account, Designated Roth Account, or a combination of both, and the language  
9 must be administrable under ORS Chapter 243.507 and OAR chapter 459, *[d]* Division  
10 *[o]* 50. Subject to the requirements of the Internal Revenue Code and Oregon law,  
11 including these administrative rules, the Deferred Compensation Program will segregate  
12 an alternate payee’s award from a participant’s account once it has determined that the  
13 court order meets the requirements of a Qualified Domestic Relations Order (QDRO).

14 (2) Requirements of a QDRO. The Deferred Compensation Program may approve a  
15 court order as a Qualified Domestic Relations Order (QDRO), if the following conditions  
16 are satisfied:

17 (a) The Deferred Compensation Program office has received the QDRO;

18 (b) The QDRO includes a specific percentage or dollar amount to be awarded to the  
19 alternate payee from the participant’s account; and

20 (c) The QDRO directs the Deferred Compensation Program to segregate the  
21 participant’s account or otherwise assign the amount of the award from the participant’s

1 account, and deposit the award amount in a separate account in the name of the alternate  
2 payee as of a date specified in the order.

3 (3) Final court order. A final court order is required. The Deferred Compensation  
4 Program *[shall]* may not divide a participant’s *[Deferred Compensation]* account(s) or  
5 make a payment to or on behalf of an alternate payee upon receipt of a draft court order.  
6 The Deferred Compensation Program will divide the account(s) so long as the other  
7 requirements under the Internal Revenue Code and Oregon law including these rules have  
8 been met, upon subsequent receipt of *[the following:]*

9 *[(a) C]* a certified copy of a final court order that specifies the action(s) required by  
10 the Deferred Compensation Program concerning the alternate payee’s award.

11 (a) All certified copies must be subsequently reviewed and approved by staff as  
12 administrable pursuant to ORS 243.507, and OAR chapter 459, division 050, before the  
13 Deferred Compensation Program shall disburse funds from an account to which a QDRO  
14 applies or an order is currently under review for determination of QDRO status.

15 (b) Staff shall provide a written explanation to the participant and the alternate  
16 payee(s) as soon as practicable setting out the Deferred Compensation Program’s  
17 determination whether a final court order can be administered by the Deferred  
18 Compensation Program as a QDRO.

19 (c) Case-specific award information shall be provided to attorneys or other  
20 representatives of a participant or an alternate payee only if a participant release or an  
21 alternate payee release has been received by the Deferred Compensation Program, as  
22 described in OAR 459-050-0001.

1 (4) The Deferred Compensation Program may, in its discretion, accept or reject any  
2 court order, or any portion thereof. The Deferred Compensation Program shall provide a  
3 written explanation of any rejection as soon as practicable to the participant and the  
4 alternate payee, as well as to their attorneys if a release, as defined in OAR 459-050-  
5 0001, has been filed with the Deferred Compensation Program.

6 (5) The Deferred Compensation Program may require a court-approved modification  
7 to enable the Deferred Compensation Program to comply with the order and the parties'  
8 intent, and so that the Deferred Compensation Program may administer the court order  
9 according to applicable Oregon and federal law. For example, if the Deferred  
10 Compensation Program determines that a court order is unclear or silent with regard to  
11 the alternate payee's right to all or a portion of the participant's Deferred Compensation  
12 account, the Deferred Compensation Program *[shall]* **may** not approve the court order  
13 until a court order is received that clearly states what comprises the alternate payee's  
14 award.

15 (6) The court order must not require the Deferred Compensation Program to:

16 (a) Provide any type or form of distribution or any option not otherwise provided  
17 under the plan; and

18 (b) Monitor any designations of beneficiary(s) for compliance with the designation  
19 of beneficiary requirements in the court order.

20 (7) An original or certified copy of a final court order must be received by the  
21 Deferred Compensation Program, by mail or delivered in person, before the Deferred  
22 Compensation Program shall commence paying benefits to or on behalf of an alternate  
23 payee. **The** Deferred Compensation Program in its discretion may accept a legible

1 photocopy of a final court order, either by mail or delivered in person, as long as the  
2 Deferred Compensation Program can confirm it was filed with the court. If the Deferred  
3 Compensation Program cannot confirm that the order was filed with the court, the  
4 Deferred Compensation Program shall, within a reasonable time thereafter, notify the  
5 party who submitted the order that an original or certified copy of the final court order is  
6 required.

7       (8) In the absence of a final court order, a restraining order, injunction, or stay must  
8 be filed with the Deferred Compensation Program in order to prevent the distribution of  
9 any funds to a participant. Except as may otherwise be allowed by law, a subsequent  
10 court order shall be required in order to allow future distributions.

11       (9) If a final court order states that another court order shall follow, a certified copy  
12 of the subsequent court order must be received and approved by staff before any payment  
13 shall be made pursuant to the court order.

14       (10) Discontinuation of domestic action. A confirmation signed and notarized by  
15 both the participant and the alternate payee is received by the Deferred Compensation  
16 Program, stating that all divorce or other domestic actions have been dismissed or  
17 abandoned, and that no final decree or court order shall be forth-coming. If no restraining  
18 order, injunction, or stay is on file with the Deferred Compensation Program, there shall  
19 be no further obligation or responsibility on the Deferred Compensation Program to  
20 correspond or communicate with any person other than the participant and no distribution  
21 may be made to anyone other than the participant or the participant's beneficiary(s).

22       (11) Draft court orders. If the Deferred Compensation Program does not receive a  
23 final court order within 12 months after the date the Deferred Compensation Program



1 received the draft court order, the Deferred Compensation Program shall consider that no  
2 award was made to an alternate payee from the participant’s Deferred Compensation  
3 account. There shall be no further obligation or responsibility on the part of the Deferred  
4 Compensation Program to correspond or communicate with any person other than the  
5 participant and no payment shall be distributed to anyone other than the participant or the  
6 participant’s beneficiary(s).

7 (12) Review of draft court orders. Upon request, the Deferred Compensation  
8 Program may review draft court orders that contain language pertaining to the division of  
9 a participant’s deferred compensation account. Staff shall provide a written response as  
10 soon as practicable to the submitting party and shall send a copy of the response to the  
11 other persons named in the draft court order if mailing addresses are provided.

12 (13) The Deferred Compensation Program is not responsible for the safekeeping or  
13 return of any court orders, whether draft or final, that are received. The Deferred  
14 Compensation Program staff may not modify, return, or sign and return, any documents  
15 that are received by the Deferred Compensation Program.

16 (14) Prospective award. If the Deferred Compensation Program has already  
17 generated distribution checks to the participant for the first of the month following the  
18 date the final court order was received and the court order meets the requirements of this  
19 rule, Oregon law, and the Internal Revenue Code, the Deferred Compensation Program  
20 shall:

21 (a) Pay distribution to the participant, notwithstanding the court order. The  
22 distribution payment shall be deemed by the Deferred Compensation Program as received  
23 by the participant.

1 (b) Establish an alternate payee’s award on a prospective basis only and *[shall]* may  
2 not pay retroactive distributions of any kind. Payment of future distributions to an  
3 alternate payee shall be made as soon as administratively feasible.

4 (15) If a final court order is received after a participant has received a distribution of  
5 his or her full account balance, the Deferred Compensation Program *[shall]* may not  
6 invoice the participant for any funds that may have been awarded to the alternate payee.

7 Stat. Auth: ORS 243.470

8 Stats. Implemented: ORS 243.401 - ORS 243.507

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

1   **459-050-0210**

2   **Segregation of a Participant Account**

3       The purpose of this rule is to describe the process and criteria the Deferred  
4   Compensation Program shall use to segregate an alternate payee’s award from a  
5   participant’s *[Deferred Compensation]* account(s), and how the alternate payee’s account  
6   is maintained once established.

7       (1) Qualified Domestic Relations Order. Once the Manager or a designated  
8   employee has determined that a domestic relations order or another court order is a  
9   Qualified Domestic Relations Order as defined under the Internal Revenue Code and  
10   Oregon law and in accordance with OAR 459-050-0200, the plan participant’s *[Deferred*  
11   *Compensation]* account(s) in the Deferred Compensation Program shall be divided  
12   and *[a]* separate account(s) established in the name of the alternate payee as required  
13   under the Qualified Domestic Relations Order (QDRO).

14       (2) Effective date of segregation. The QDRO may specify a date between January 1  
15   and December 31, on which to calculate the award and segregate the alternate payee’s  
16   award from the participant’s *[deferred compensation]* account(s) in the Deferred  
17   Compensation Program.

18       *[(a)]* If a date is not specified in a QDRO, the Deferred Compensation Program shall  
19   use the date that the QDRO was signed by the court on which to calculate and segregate  
20   the alternate payee’s award from a participant’s *[deferred compensation]* account(s).

21       (3) Segregation of Participant Account. If a QDRO directs or otherwise requires the  
22   Deferred Compensation Program to segregate the participant’s account based on a certain

1 percentage awarded to the alternate payee, the percentage shall be converted into a dollar  
2 amount. The converted dollar amount or the dollar amount stated in the QDRO that is  
3 awarded to the alternate payee shall be deposited into a separate account in the name of  
4 the alternate payee.

5 (4) Investment of funds. Except as otherwise limited by Oregon statute or  
6 administrative rule, the alternate payee shall have the same rights and privileges as a  
7 participant concerning the investment of funds under the deferred compensation plan.

8 (5) Fees. The alternate payee’s segregated account shall bear all fees and expenses  
9 related to the alternate payee’s segregated account as though the alternate payee were a  
10 participant.

11 (6) Designation of beneficiary(s). Subject to the terms and conditions of the Deferred  
12 Compensation Plan, the alternate payee shall designate a beneficiary(s) as provided for in  
13 OAR 459-050-0060. The designated beneficiary(s) shall receive the alternate payee’s  
14 account if:

15 (a) The alternate payee dies before distributions from the account began or were  
16 required to begin; or

17 (b) The alternate payee dies and was receiving a distribution that allowed the  
18 alternate payee to designate a designation of beneficiary(s) in which case the  
19 beneficiary(s) shall receive the balance of the account.

20 (7) The participant or alternate payee is responsible for the filing and maintenance of  
21 all designations of beneficiary(s) as may be required pursuant to a court order. Benefits  
22 shall be paid only to the designated beneficiary(s) on file with the Deferred  
23 Compensation Program.

1 (8) Except as may otherwise be required under applicable Oregon law, a divorce  
2 *[shall]* **may** not revoke a beneficiary designation on file with the Deferred Compensation  
3 Program that names the former spouse as the participant's or alternate payee's  
4 beneficiary. After a divorce, a participant or an alternate payee is responsible for filing  
5 any beneficiary designation changes with the Deferred Compensation Program if a  
6 change of beneficiary is desired.

7 (9) Mailing address. An alternate payee shall notify the Deferred Compensation  
8 Program of their current mailing address by sending it in writing to the Deferred  
9 Compensation Program office whenever a change in mailing address occurs. Such  
10 notification is deemed filed when it is received by the Deferred Compensation Program  
11 and is effective upon filing.

12 Stat. Auth: ORS 243.470

13 Stats. Implemented: ORS 243.401 - ORS 243.507

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

1   **459-050-0230**

2   **Release of Information**

3       (1) **Written release.** Unless otherwise required by the Oregon Public Records  
4 Law in ORS Chapter 192, [T]the Deferred Compensation Program must receive a  
5 signed *[written]* participant's release, as defined in OAR 459-050-0001, from the  
6 participant or the alternate payee before the Deferred Compensation Program may  
7 provide information pertaining to the participant's or alternate payee's *[Deferred*  
8 *Compensation]* account(s), beneficiary designations, distributions, or award information  
9 contained in any draft or final court order on record to any person other than the parties to  
10 the court order. A written authorization to release information is valid indefinitely, unless  
11 a specific end date is provided in the written statement.

12       (2) **Subpoena.** Unless otherwise required by the Oregon Public Records Law in  
13 ORS Chapter 192, [A]a subpoena for information available from the Deferred  
14 Compensation Program must be made out to the State of Oregon, Deferred Compensation  
15 Program. The Deferred Compensation Program reserves the right to object to any  
16 subpoena on the grounds that the subpoena fails to provide a reasonable time for  
17 preparation and travel, is otherwise unreasonable or oppressive, or that service was  
18 improper, in addition to any other basis legally available. To facilitate prompt processing,  
19 copies of subpoenas should be served at the Deferred Compensation Program office.  
20 Faxed subpoenas are not acceptable.

21       Stat. Auth: ORS 243.470

22       Stats. Implemented: ORS 243.401 - ORS 243.507

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

1    **459-050-0250**

2    **Fee for Administration of a Court Order**

3           (1) Fee charged to participant and alternate payee. If the Deferred Compensation  
4    Program is required by a court order to segregate a participant's account and create a  
5    separate account for an alternate payee(s), the Deferred Compensation Program shall  
6    charge the participant and the alternate payee actual and reasonable administrative  
7    expenses and related costs incurred by the Deferred Compensation Program in obtaining  
8    data and making calculations.

9           (2) Fee calculation. The Deferred Compensation Program, when collecting  
10   administrative expenses and related costs, shall allocate those expenses and costs between  
11   the participant and the alternate payee on a pro-rata basis, based on the fraction of the  
12   account received by the participant or alternate payee. The Deferred Compensation  
13   Program may not charge the participant and alternate payee more than a combined total  
14   of \$300.00 for administrative expenses and related costs incurred in obtaining data or  
15   making calculations.

16          (3) Collection of fee. The fee shall be deducted out of the participant's and alternate  
17   payee's [*Deferred Compensation*] account(s) after the accounts have been separated per  
18   court order.

19          (4) The fee that shall be charged for dividing the participant's account [*shall*] may  
20   not be contingent on the number of days it takes for the Deferred Compensation Program  
21   to complete its review of any type of court order that is received by the Deferred  
22   Compensation Program.



*DRAFT*

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1 Stat. Auth: ORS 243.470

2 Stats. Implemented: ORS 243.401 - ORS 243.507

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

1 **459-050-0300**

2 **Required Minimum Distribution Requirements**

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

4 (a) “Designated Beneficiary” means:

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

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

11 (C) If the beneficiary is not a person or a trust satisfying these requirements, the  
12 participant, alternate payee, or surviving beneficiary will be deemed to have no  
13 designated beneficiary only for purposes of required minimum distributions under IRC  
14 409(a)(9), and distribution shall be made in accordance with section (11) of this rule.

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

21 (c) “Required Beginning Date” means April 1 of the calendar year following the  
22 later of:

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

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

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

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

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

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

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

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

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

20           (3) Applicable law. Distributions under the Deferred Compensation Program shall be  
21 made in accordance with Internal Revenue Code (IRC) Section 401(a)(9), Treasury  
22 regulations, Internal Revenue Service rulings and other interpretations issued, including  
23 Proposed Treasury Regulation Section 1.401(a)(9)-2. IRC Section 401(a)(9) overrides the

1 provisions of this rule and any other statute or rule pertaining to the required minimum  
2 distribution requirements and any manners of distributions, if they are found to be  
3 inconsistent with IRC Section 401(a)(9).

4 (a) If a participant, alternate payee, or surviving beneficiary has not begun  
5 distribution or elected a minimum distribution by the beginning date or commencement  
6 date required in this rule and IRC Section 401(a)(9), the Deferred Compensation Program  
7 shall begin distribution of the minimum amount required as provided under OAR 459-  
8 050-0080(2)(e) or, if required, the entire account. Distribution under this subsection is  
9 subject to the provisions of OAR 459-050-0120(5).

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

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

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

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

21 **(c) The participant’s entire account(s) balance in the Deferred Compensation**  
22 **Program shall be distributed first from the Deferred Compensation Account unless**  
23 **the participant indicates otherwise.**

1 (5) Minimum distribution requirements for alternate payees. The minimum  
2 distribution requirements applicable to an alternate payee are determined by whether a  
3 Qualified Domestic Relations Order (QDRO) allocates a separate account to the alternate  
4 payee or provides that a portion of a participant’s benefit is to be paid to the alternate  
5 payee.

6 (a) If a separate account is established in the name of the alternate payee under OAR  
7 459-050-0210, required minimum distributions to the alternate payee must begin no later  
8 than the participant’s required beginning date. The alternate payee’s entire account  
9 balance shall be distributed over the alternate payee’s life expectancy or over a period not  
10 extending beyond the alternate payee’s life expectancy.

11 (b) If no separate account is established in the name of the alternate payee and the  
12 alternate payee is paid a portion of a participant’s benefit, the alternate payee’s portion of  
13 the benefit shall be aggregated with the amount distributed to the participant and will be  
14 treated, for purposes of meeting the minimum distribution requirement, as if it had been  
15 distributed to the participant.

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

1 (7)(a) Distributions treated as having begun. Distributions from an individual  
2 account are not treated as having begun to a participant in accordance with section  
3 401(a)(9)(A)(ii) until the participant’s required minimum distribution beginning date,  
4 without regard to whether distributions from an individual account have been made  
5 before the required beginning date.

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

10 (8) Required commencement date for a surviving designated beneficiary. If a  
11 participant dies before distributions are required to begin or are treated as having begun,  
12 the entire account balance must be distributed by December 31 of the calendar year  
13 containing the fifth anniversary of the participant’s death, unless the beneficiary makes  
14 the following distribution election in the manner prescribed by the Deferred  
15 Compensation Plan:

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

18 (b) Distribution of payments over the designated beneficiary’s lifetime or over a  
19 period not exceeding the designated beneficiary’s life expectancy.

20 (A) The beneficiary’s life expectancy is calculated using the age of the beneficiary in  
21 the year following the year of the participant’s death, reduced by one for each subsequent  
22 year.

1 (B) If the participant has more than one designated beneficiary as of December 31 of  
2 the calendar year following the year of the participant’s death and the account has not  
3 been divided into separate accounts for each beneficiary, the beneficiary with the shortest  
4 life expectancy is treated as the designated beneficiary.

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

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

11 (b) December 31 of the calendar year in which the participant would have attained  
12 70-1/2 years of age.

13 (c) The distribution period during the surviving spouse’s life is the spouse’s single  
14 life expectancy.

15 (10)(a) Required commencement date for a surviving spouse’s beneficiary. If the  
16 surviving spouse dies after the participant’s death but before distributions to the spouse  
17 have begun, any death benefits payable to the surviving spouse’s beneficiary will be  
18 applied as if the surviving spouse were the participant. The date of death of the surviving  
19 spouse will be substituted for the date of death of the participant.

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



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

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

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

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

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

16            Stat. Auth: ORS 243.470

17            Stats. Implemented: ORS 243.401 - 243.507

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# Oregon

John A. Kitzhaber, M.D., Governor

## Public Employees Retirement System

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May 18, 2012

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Deputy Director  
SUBJECT: Adoption of Annual Earnings Crediting Rule:  
OAR 459-007-0005, *Annual Earnings Crediting*

### OVERVIEW

- Action: Adopt modifications to Annual Earnings Crediting rule.
- Reason: Address allocation of administrative expenses based on court rulings.
- Policy Issue: No policy issues have been identified.

### BACKGROUND

In a recent court case, *Murray v. Public Employees Retirement Bd.*, 235 Or App 262, 230 P3d 993 (2010), the Court of Appeals held that the PERS Board “erred in concluding that the Variable Account was required in 2001 and 2002 to pay a pro rata share of PERS administrative expenses from principal rather than from interest.”

The *Murray* decision requires the Board to change the way administrative expenses of the Variable Annuity Program are paid in years in which the annual variable earnings are insufficient to cover its expenses. When annual variable earnings are insufficient to cover all or a portion of the variable administrative expense, the expense had been charged to each participant on a pro rata basis. Following the *Murray* decision, any shortfall must be paid from a different source.

The amendments to OAR 459-007-0005 reflect the changes required by the *Murray* case. The proposed modifications clarify that the Variable Annuity Program administrative expenses will be paid by deducting from earnings on other accounts within the Public Employees Retirement Fund (PERF), if earnings are available. If such earnings are insufficient, those expenses will be paid by deductions from the employers’ accounts, as provided in ORS 238.610.

### SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

In section (5), the phrase “earnings attributable to the Regular Account” was replaced with “other accounts within the Public Employees Retirement Fund (PERF)”. The modification was made to address a question staff received as to what exactly “earnings attributable to the Regular Account” is intended to reference. The substance has not been changed: if earnings from the Variable account are insufficient to pay the pro rata share of its administrative expenses, those expenses shall be paid from earnings on other accounts within the PERF.

### PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on April 25, 2012 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended on April 30, 2012 at 5:00 p.m. No public comment was received.

### LEGAL REVIEW

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

### IMPACT

**Mandatory:** Yes, the Court of Appeals decision requires the Board to change the way administrative expenses of the Variable Account Program are paid in years in which the earnings in that account are insufficient to cover its expenses.

**Impact:** Clarify allocation of administrative expenses resulting from the *Murray* case.

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

### RULEMAKING TIMELINE

February 15, 2012	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
March 1, 2012	<i>Oregon Bulletin</i> published the Notice. Notice was mailed to employers, legislators, and interested parties. Public comment period began.
March 22, 2012	PERS Board notified that staff began the rulemaking process.
April 25, 2012	Rulemaking hearing held at 2:00 p.m. in Tigard.
April 30, 2012	Public comment period ended at 5:00 p.m.
May 18, 2012	Board may adopt the permanent rule modifications.

### BOARD OPTIONS

The Board may:

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

### STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Address allocation of administrative expenses based on a court ruling.

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

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

1 **459-007-0005**

2 **Annual Earnings Crediting**

3 (1) For purposes of this rule, “remaining earnings” means earnings available for  
4 distribution to a particular account or reserve after deduction of amounts required or  
5 authorized by law for other purposes.

6 (2) Except as otherwise specified in this division, earnings on all accounts and  
7 reserves in the Fund shall be credited as of December 31 of each calendar year in the  
8 manner specified in this rule.

9 (3) Health insurance accounts. All earnings attributable to the Standard Retiree  
10 Health Insurance Account (SRHIA), Retiree Health Insurance Premium Account  
11 (RHIPA) or Retirement Health Insurance Account (RHIA) shall be credited to the  
12 account from which they were derived, less administrative expenses incurred by each  
13 account, as provided in ORS 238.410, 238.415 and 238.420, respectively.

14 (4) Employer lump sum payments. All earnings or losses attributable to the  
15 employer lump sum payment accounts established under ORS 238.229 shall be credited  
16 to the accounts from which they were derived.

17 (5) Member variable accounts. Earnings on the Variable Annuity Account shall first  
18 be used to pay a pro rata share of administrative expenses in accordance with ORS  
19 238.260(6). If the annual earnings from the Variable Annuity Account are  
20 insufficient to pay for the pro rata share of administrative expenses, those  
21 administrative expenses shall be paid from earnings on other accounts within the  
22 Public Employees Retirement Fund (PERF), if available. If earnings from those

1 accounts within the PERF are insufficient to pay for the administrative expenses,  
2 those expenses shall be paid from employer accounts as required by ORS 238.610.

3 *[If the Variable Annuity Account experiences a loss, the loss shall be increased to pay a*  
4 *pro rata share of administrative expenses.]* All remaining earnings or losses attributable  
5 to the Variable Annuity Account shall be credited to the participants of that account, as  
6 provided under 238.260(6) and (7)(b).

7 (6) Individual Account Program accounts. Earnings on the Individual Account  
8 Program accounts shall first be used to pay a pro rata share of administrative expenses in  
9 accordance with ORS 238A.350(1). If the Individual Account Program experiences a  
10 loss, the loss shall be increased to pay a pro rata share of administrative expenses. All  
11 remaining earnings or losses attributable to the Individual Account Program shall be  
12 credited to the participant accounts of that program, as provided under 238A.350.

13 (7) Administrative expenses. Earnings attributable to Tier One regular accounts, the  
14 Tier One Rate Guarantee Reserve, Tier Two member regular accounts, judge member  
15 regular accounts, the OPSRP Pension Program reserve, employer contribution accounts,  
16 the Contingency Reserve, the Benefits-in-Force Reserve and the Capital Preservation  
17 Reserve shall first be used to pay the system's remaining administrative expenses under  
18 ORS 238.610.

19 (8) Contingency Reserve.

20 (a) In any year in which total earnings on the Fund equal or exceed the assumed rate,  
21 an amount not exceeding seven and one-half percent of remaining earnings attributable to  
22 Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two regular  
23 accounts, Judge member regular accounts, the OPSRP Pension Program reserve, the  
24 Benefits-in-Force Reserve, employer contribution accounts, the Capital Preservation

1 Reserve and the Contingency Reserve shall be credited to the Contingency Reserve to the  
2 level at which the Board determines it is adequately funded for the purposes specified in  
3 ORS 238.670(1).

4 (b) The portion of the Contingency Reserve allowed under ORS 238.670(1)(a) for  
5 use in preventing a deficit in the fund due to employer insolvency may only be credited  
6 using earnings attributable to employer contribution accounts.

7 (9) Tier One Member Rate Guarantee Reserve. All remaining earnings attributable to  
8 Tier One regular accounts, the Tier One Member Rate Guarantee Reserve, Judge member  
9 regular accounts, the Benefits-in-Force Reserve, and the Contingency Reserve may be  
10 credited to the Tier One Member Rate Guarantee Reserve established under ORS  
11 238.255(1).

12 (10) Capital Preservation Reserve. Remaining earnings attributable to the Tier Two  
13 member regular accounts, Judge member regular accounts, OPSRP Pension Program  
14 reserve, employer contribution accounts, the Benefits-in-Force Reserve, the Contingency  
15 Reserve and the Capital Preservation Reserve may be credited from those sources to one  
16 or more reserve accounts that may be established under ORS 238.670(3) to offset gains  
17 and losses of invested capital.

18 (11) Tier One regular accounts. All remaining earnings attributable to Tier One  
19 regular accounts and the Tier One Rate Guarantee Reserve shall be credited to Tier One  
20 member regular accounts at the assumed rate in any year in which the conditions set out  
21 in ORS 238.255 have not been met. Crediting under this subsection shall be funded first  
22 by all remaining earnings attributable to Tier One regular accounts and the Tier One Rate  
23 Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

1            (12) Judge member regular accounts. All remaining earnings attributable to Judge  
2 member regular accounts shall be credited to all active and inactive Judge member  
3 regular accounts at the Judge member rate. Crediting under this subsection shall be  
4 funded first by all remaining earnings attributable to the Judge member regular accounts  
5 and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee  
6 Reserve.

7            (13) Tier Two member regular accounts. All remaining earnings or losses  
8 attributable to Tier Two member regular accounts shall be credited to all active and  
9 inactive Tier Two member regular accounts under ORS 238.250.

10           (14) OPSRP Pension Program Reserve. Remaining earnings attributable to the  
11 OPSRP Pension Program Reserve, the Contingency Reserve, and the Capital Preservation  
12 Reserve may be used to credit the OPSRP Pension Program reserve.

13           (15) Benefits-in-Force Reserve. Remaining earnings attributable to the Benefits-in-  
14 Force Reserve, the Contingency Reserve, the Capital Preservation Reserve and employer  
15 contribution accounts, in that order, shall be used, to the extent available, to credit the  
16 Benefits-in-Force Reserve with earnings up to the assumed rate for that calendar year in  
17 accordance with ORS 238.670(2).

18           (16) Employer contribution accounts. All remaining earnings attributable to  
19 employer contribution accounts shall be credited to employer contribution accounts.

20           (17) Remaining earnings. Any remaining earnings shall be credited to accounts and  
21 reserves in the Fund at the Board's discretion.

22           Stat. Auth.: ORS 238.650, 238A.450

23           Stats. Implemented: ORS 238, 238A.350





# Oregon

John A. Kitzhaber, M.D., Governor

## Public Employees Retirement System

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May 18, 2012

TO: Members of the PERS Board  
FROM: Paul R. Cleary, Executive Director  
SUBJECT: Retiree Health Insurance Rate Stabilization Reserve Analysis

As part of the ongoing evaluation of the PERS Retiree Health Insurance Program (PHIP), we engaged the services of Milliman to review and determine if the PHIP has a prudent and financially sound rate stabilization reserve as established under the “minimum premium plan” funding arrangement with ODS. Milliman has just completed this evaluation and is finalizing the detailed report.

Robert Schmidt and Tyler Burnett, Consulting Actuaries for Milliman, will attend the May 18 Board meeting to present the results of this evaluation, along with recommended reserve levels for 2012 and beyond, and options for transitioning to the recommended reserve levels. The Board presentation will be transmitted to the Board and posted as soon as it is finalized. The detailed Milliman report will also be provided at the Board meeting.

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# Oregon Public Employees Retirement System

## Oregon PERS Health Insurance Program

### Analysis of Rate Stabilization Reserve and Incurred But Not Reported Reserve

Robert Schmidt, FSA, MAAA  
Tyler Burnett, FSA, MAAA

May 18, 2012



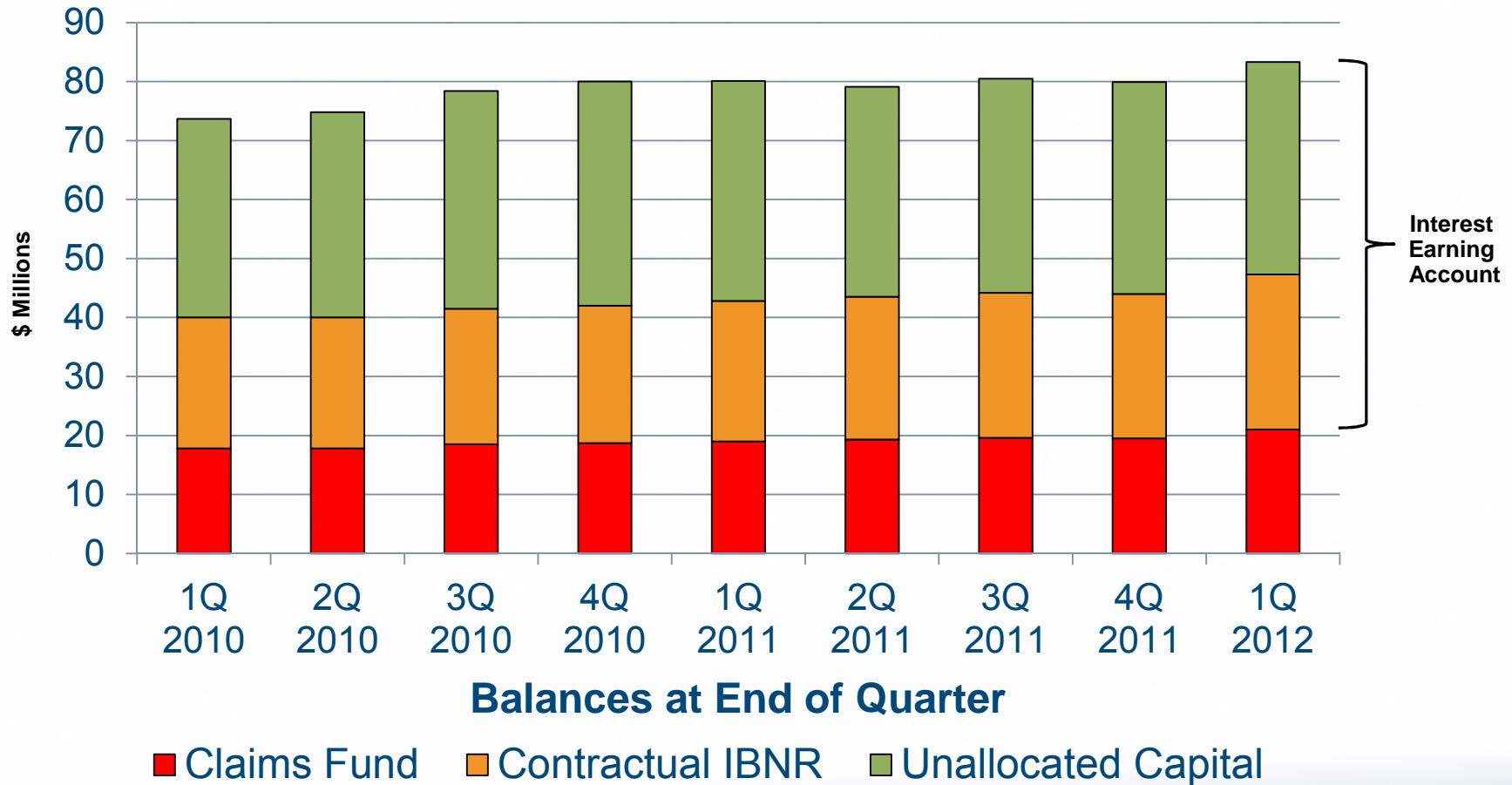
# Summary of Project

- Milliman was engaged to review PERS Health Insurance Program (PHIP) reserves held by ODS
- Review documentation and financial information
- Assess metrics for appropriate incurred but not reported (IBNR) reserve
- Make recommendation for surplus rate stabilization reserve (RSR)
- Explore transition options to move to recommended RSR level

# ODS Reserve Accounts

- Claims Fund
  - Account that handles monthly premium and pays claims
  - Contractually must be at least 1.5 times the monthly Maximum Claim Liability
  - Surplus is transferred to interest earning account each month
  - Deficit is transferred from interest earning account each month
- Interest Earning Account
  - IBNR
    - Reserve for claims incurred but not yet paid
    - Recalculated each month
    - IBNR equals 14% of annualized premium
  - Excess above IBNR is unallocated capital
  - Interest earning account cannot fall below IBNR

# ODS Account Balance Summary



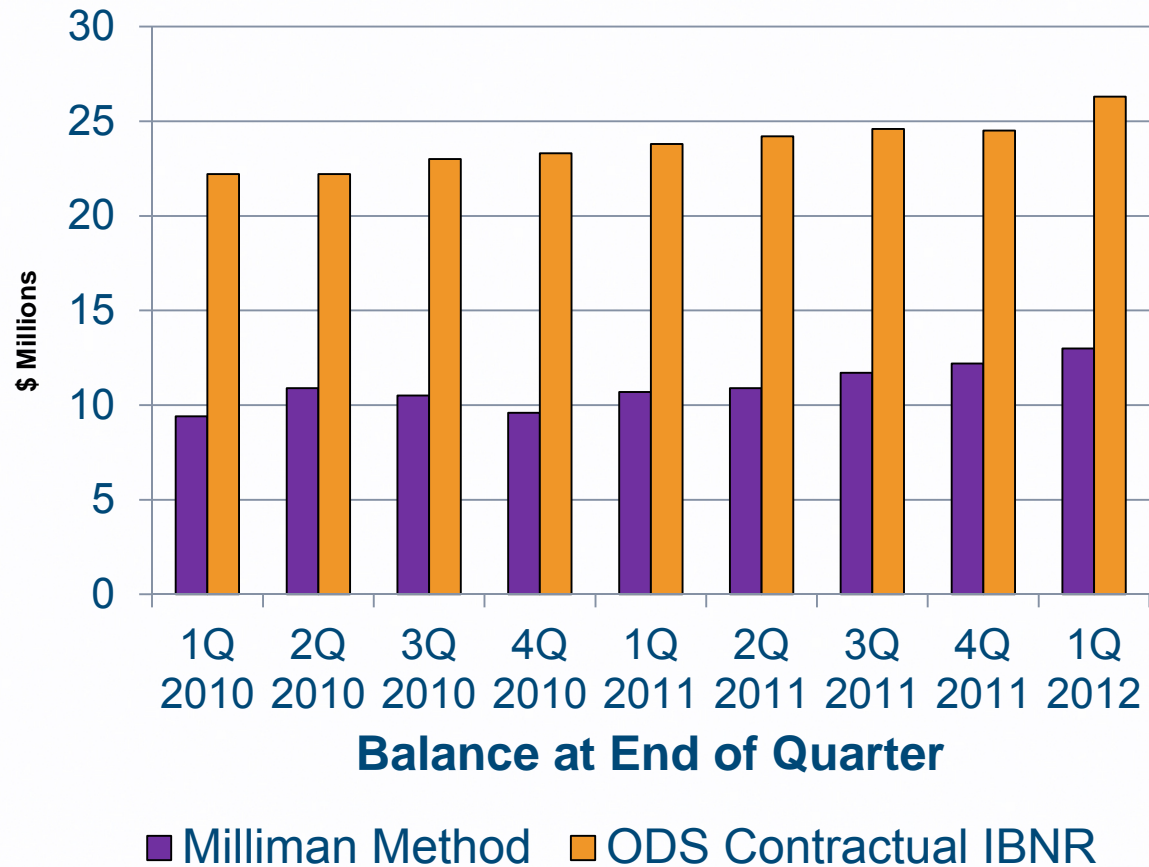
This work product was prepared solely for the Oregon PERS for the purposes described herein and may not be appropriate to use for other purposes. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends that third parties be aided by their own actuary or other qualified professional when reviewing the Milliman work product.

# IBNR Reserve Review

- ODS Method
  - Standardized 14% of annualized premium under contract
  - Structured as a conservative estimator
- Milliman Method
  - Historical time periods
    - Based on actual claim lag patterns
  - More recent time periods
    - Robust time series (RTS) model
    - Margin of conservatism added
      - 75% degree of confidence that the IBNR reserve is adequate

# Comparison of ODS and Milliman IBNR

- ODS IBNR has been approximately double Milliman's
- Milliman recommends that actuarial estimation techniques be used for quarterly IBNR

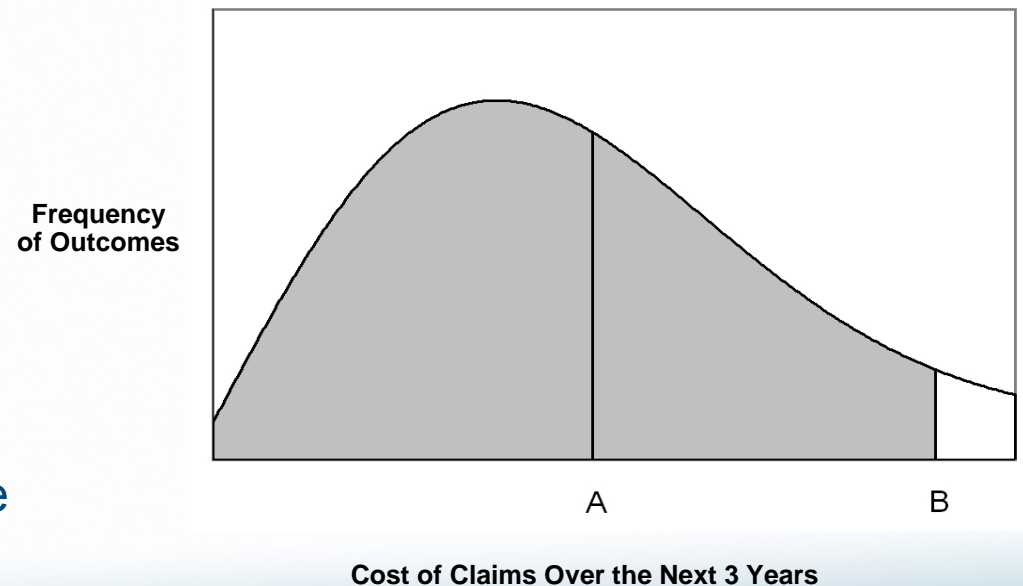


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# Rate Stabilization Reserve (RSR) Methodology

- Build a model to simulate claims
  - Based on characteristics of PHIP plans with ODS
  - Produce a claim probability distribution for total ODS claims
    - Based on thousands of simulations of potential 3-year outcomes
- Average 3-year claims = “A”
  - Claims < A is favorable
  - Claims > A yields deficit
- RSR threshold = “B”
  - 5% of 3-year aggregate claim outcomes fall to the right of B
  - Therefore, the RSR represents a 95% confidence level reserve

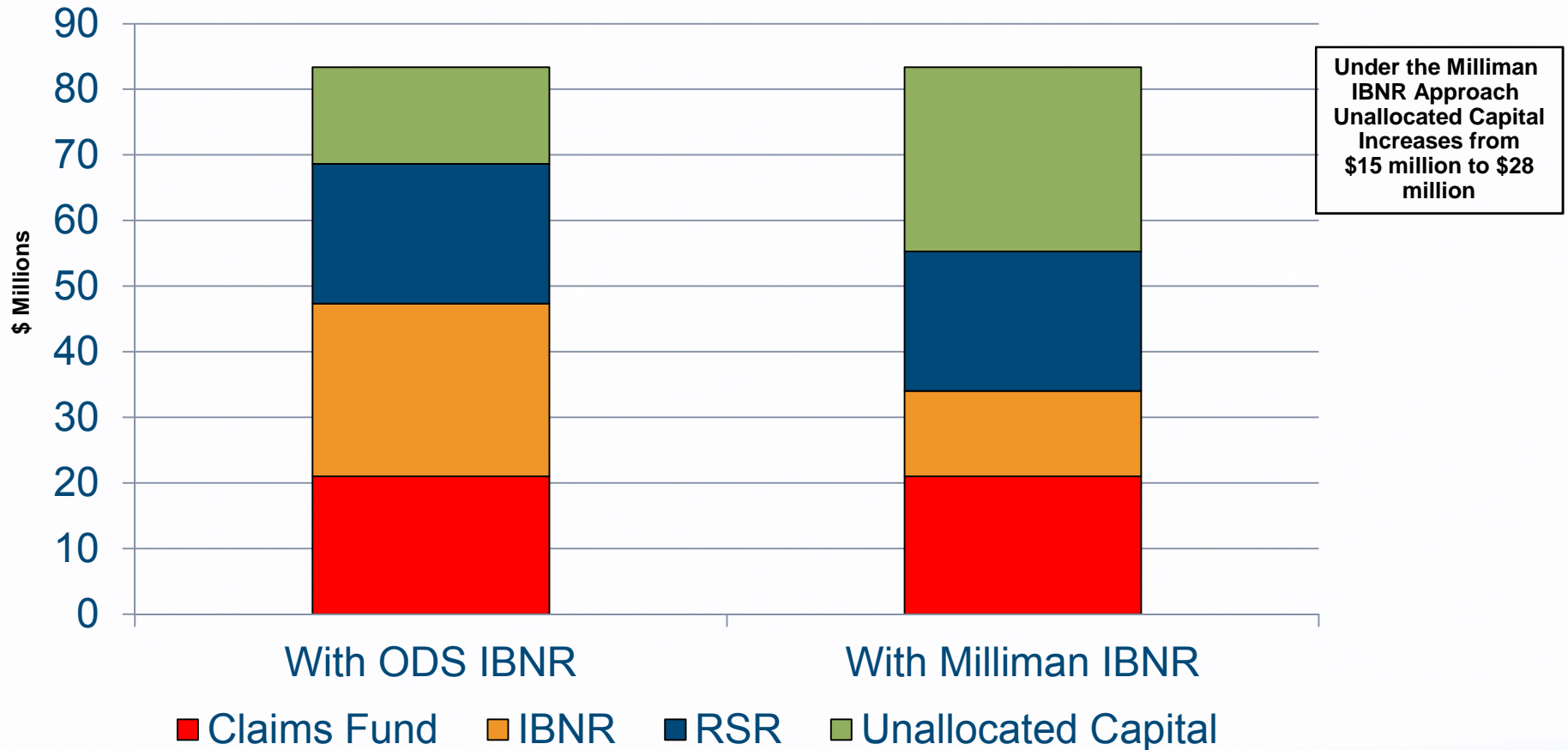


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# Recommended RSR

- Recommended RSR equals 1.24 months of ODS premium
  - Premium = CMS revenues + premium paid + ERRP & RSR subsidies
  - \$21.3 million RSR as of March 31, 2012
  - \$22.4 million RSR as of January 1, 2013
  - Will change as costs increase and group size changes
- RSR is a starting point for consideration
  - Does not consider large scale items that are difficult to predict
    - Rapid population change, epidemics, etc.
  - Needs to be re-evaluated as plan characteristics change
    - Plan mix (Medicare, pharmacy, under-65, dental)
    - Group size
    - Other environmental factors (Health Care Reform, etc.)

# March 31, 2012 ODS Fund Balances with RSR



# Options to Transition to Desired RSR

Alternative	Pros	Cons
1. Continue to accumulate/hold excess capital	<ul style="list-style-type: none"> <li>Greater level of security</li> <li>Address health care reform uncertainty</li> </ul>	<ul style="list-style-type: none"> <li>Public debate/scrutiny</li> <li>Could impact affordability</li> <li>Intergenerational inequity if refunds don't go to those that funded the surplus</li> </ul>
2. Substantial short-term rate relief (1 to 2 years)	<ul style="list-style-type: none"> <li>Short-term affordability</li> <li>May reduce negative scrutiny</li> <li>May enhance intergenerational equity</li> </ul>	<ul style="list-style-type: none"> <li>May lead to more rate volatility</li> <li>Could trigger ODS margin loads</li> <li>Near term need for supplemental funding</li> <li>Less cushion for health care reform uncertainty</li> </ul>
3. Gradual rate relief (3 to 5 years)	<ul style="list-style-type: none"> <li>Some positive effect on affordability</li> <li>Promotes goal of stability</li> <li>Address health care reform uncertainty</li> </ul>	<ul style="list-style-type: none"> <li>Could ultimately trigger ODS margin loads</li> <li>Potential intergenerational inequity</li> </ul>

*Regardless of which option is chosen, it will be necessary to address who owns the reserve and how should it be managed to maintain equity. Consistency, transparency and an objective arbitrator become important in an era of increased concern over health care costs and disagreement or debate. It will be desirable to create a policy for sharing surplus that have an element of fairness with respect to intergenerational equity.*

# Questions?

# Caveats

## Data Reliance

This presentation is based on the information contained in the May 17, 2012 report issued by Milliman.

In the preparation of our analysis, we relied on reports provided by OPERS, ODS, Kevin McCartin and Butler Partners & Associates LLC. We have not audited or verified these reports or the underlying data and other information. If the underlying data or information is inaccurate or incomplete, the results of our analysis may likewise be inaccurate or incomplete.

We performed a limited review of the reports for reasonableness and consistency and have not found material defects in the reports. If there are material defects in the reports, it is possible that they would be uncovered by a detailed, systematic review and comparison of the data to search for data values that are questionable or for relationships that are materially inconsistent. Such a review was beyond the scope of our assignment.

## Limitations

This work product was prepared for Oregon PERS for the purpose described herein and may not be appropriate to use for other purposes. Milliman does not intend to benefit and assumes no duty of liability to other parties who receive this work product. Any third party recipient of this work product who desires professional guidance should not rely upon Milliman's work product, but should engage qualified professionals for advice appropriate to its own specific needs. Any release of this report to a third party shall be in its entirety. Differences between our projections and actual amounts depend on the extent to which future experience conforms to the assumptions made for this analysis. It is certain that actual experience will not conform exactly to the assumptions used in this analysis. Actual amounts will differ from projected amounts to the extent that actual experience deviates from expected experience.

We are Members of the American Academy of Actuaries and are qualified to perform assignments of this type. This information is based on our research and consulting experience and should not be considered legal advice since Milliman is not licensed to practice law.



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May 18, 2012

TO: Members of the PERS Board  
FROM: Paul R. Cleary, Executive Director  
SUBJECT: PERS Health Insurance Program (PHIP) 2013 Contract Renewals

The multi-month PHIP contract solicitation and rate review and negotiation process has just been completed. Molly Butler, the PHIP general consultant, and Zue Matchett, PHIP Manager, will present the proposed 2013 PHIP contract renewals, conditions, and proposals at the May 18 Board meeting.

Because the May Board meeting had to be moved forward by one week to avoid a state furlough closure day and the ensuing Memorial Day weekend, the Board memo for the contract renewals is still being finalized. It will be transmitted to the Board and posted as soon as it is available.

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May 18, 2012

TO: Members of the PERS Board

FROM: Zue Matchett, Retiree Insurance Program Manager

SUBJECT: Health Insurance Plan Renewals and Rates

### BACKGROUND

Contrary to much advertised trends in the insurance marketplace, the 2013 PERS Health Insurance Program (PHIP) contract renewal includes mostly small to no premium increases for participants enrolled in both the Medicare and non-Medicare programs. These results were achieved through collaborative efforts on the part of PHIP vendors as well as judicious use of all available funding and various plan reserves.

The PHIP is fortunate to partner with insurers that have been able to maximize funding available from the Centers for Medicare and Medicaid Services (CMS) by accurately reporting data associated with their insured populations as well as meeting key targets in quality ratings. As has historically been the case, the PHIP insurers also continue to manage the highest need participants to maximize benefits and care delivered while minimizing expenditures. Finally, the PHIP's mission of maintaining a stable and affordable program for PERS retirees continues to provide dividends in better-than-average contract renewals.

As customary, the contract renewal process began in February. After carriers had an opportunity to present their renewals and preliminary rate offers, a meeting was held with PHIP staff, PERS Board Liaison Pat West, PERS Executive Director, PERS Chief Financial Officer, PHIP retiree advisors, and consultants. An additional meeting and several communiqués later, the proposed 2013 premium rate changes were finalized and detailed by plan provider and type of coverage for both Medicare and non-Medicare enrollees.

Plan modifications in 2013 will be minimal and generally result from legislation, both federal and state. One of the hallmarks of the PHIP has been its ability to minimize benefit disparities between plans. In addition, as has been discussed in previous years, maintaining a quality prescription drug program in light of escalating costs presents its challenges.

Since 2006 and the inception of the Medicare Part D prescription program, the PHIP has maintained a very open, minimally managed formulary for the prescription drug plan. As an employer group plan the PHIP continued to cover some medications that were not part of the standard Medicare Part D formulary. This decision was made because some of the medications had been covered under the PHIP for years and the intent was to avoid member disruption. In 2013, two of the main medications (benzodiazepines and barbiturates) covered for medical purposes when treating epilepsy, cancer, or chronic mental health disorders will begin to be allowed by Medicare and incorporated into the Medicare Part D plan. The only impact this will have to PHIP members is that more of their medication costs will be covered by CMS.

The PHIP contracts with four health plans for a variety of coverages allowing participants the greatest possible choice while maintaining stability of the overall program. Contracts that are in place are as follows:

**1) The ODS Companies**

- a. Traditional Medicare Supplement
- b. Medicare Advantage PPO Plan
- c. Non-Medicare PPO Plan
- d. Stand alone Prescription Drug Plan (PDP) that covers
  - ODS Medicare and non-Medicare participants
  - Providence Health Plan Medicare and non-Medicare participants
  - PacificSource Community Health Plans (formerly Clear One Health Plans) Medicare and non-Medicare participants
- e. Dental Plan

**2) Providence Health Plans**

- a. Medicare Advantage Medicare Extra HMO Plan
- b. Medicare Advantage Medicare Choice POS Plan
- c. Non-Medicare PPO Plan

**3) Kaiser Permanente Health Plans**

- a. Medicare Advantage Senior Advantage HMO Plan with prescription drug coverage
- b. Non-Medicare HMO Plan with prescription drug coverage
- c. Dental Plan

**4) PacificSource Community Health Plans**

- a. Medicare Advantage HMO Plan
- b. Non-Medicare PPO Plan

In addition, although not part of this discussion, the PHIP contracts with UNUM for Long Term Care coverage offered to PERS retirees under age 84 and qualified through the UNUM application process. UNUM announced this year that they will no longer market Long Term Care “Group” policies such as the PHIP plan. The PHIP plan will not be impacted by this change as new enrollments will continue to be accepted by UNUM and all in-force policies will remain active.

It is important to keep in mind that the PHIP is a voluntary insurance plan where eligible members pay most, if not all, of their own premiums for the plan of their choice. In addition to health plan premium, PERS retirees also cover the cost of program administration, including the Long Term Care program.

The PHIP's unique vendor relationships, and the resulting programs that they participate in, continue to benefit PHIP participants and provide the stability that is the program's hallmark. Over the past several years, PHIP staff and consultants have required continually improving collaboration between the health plans. With each year, the level of collaboration and services to members have improved, as evidenced in the increased participation in wellness fairs.

PHIP staff and consultants receive quarterly updates from each carrier regarding activities and results achieved from these programs in the previous quarter. Each vendor has taken responsibility for hosting one of the quarterly reviews. At these reviews, new initiatives are developed and taken to the PHIP workgroup for additional development. The PHIP workgroup consists of representatives from various disciplines within each vendor organization who can bring perspectives from their individual departments to the table with the goal to enhance PHIP participant experiences and health status.

Consolidation of Clear One Health Plans into the PacificSource family has been completed. The new name of the program offered to the PHIP is PacificSource Community Health Plans. The "official" name change is in the process of being announced to the public.

With 95% of the PHIP enrollment consisting of Medicare eligible members, the long-term stability of the program has been critical. Members have options available in the commercial marketplace that, on occasion, may be less costly, but often the coverage is not as comprehensive or as stable as the PHIP.

Stability has been possible as a result of the PERS Board's approach, maintaining dependable health plan vendors and the long-term relationships that have benefited PHIP enrollees. This is achieved through a thoughtful approach facilitating a balance between cost and benefit. PHIP staff and the program administrator, in conjunction with plan consultants, continually update the fall retiree plan change presentations to clearly communicate the overall plan value.

In 2008, aware of market positioning and recognizing a need, PHIP staff and the third party administrator began providing a series of educational workshops each spring. The workshops target PERS members not yet retired, and retired members who are not enrolled in the PHIP but are within 18 months of turning age 65 (general Medicare eligibility). The educational sessions are well received as they address the "ins and outs" of Medicare, timelines to consider, and the value of the PHIP versus benefit plans in the commercial market. Attendance is good and member feedback continues to be positive.

Following are demographics and statistics for the Oregon PERS Retiree Insurance Program updated as of January 2012 as detailed in the April 2012 PERS: By the Numbers:

	Plan Membership	% Change vs. 2010	Receiving RHIA or RHIPA Subsidy	Average Age
Medical Plans	54,710	2.3%		75
Medicare	52,144	1.8%	40,851	76
Non-Medicare	2,566	12.0%	1,126	58
Dental Plans	31,508	5.1%		

Additional statistics can be found in Exhibit I.

PROPOSED HEALTH PLAN CONTRACTS, CONDITIONS AND CHANGES FOR 2012

The PHIP will continue to contract with Kaiser Permanente Health Plans, The ODS Companies, Providence Health Plans and PacificSource Community Health Plans (formerly Clear One Health Plans) for medical and prescription insurance coverage for PHIP Medicare and non-Medicare members.

The PHIP will continue to contract with Kaiser Permanente Health Plans and The ODS Companies for dental insurance coverage for PHIP retired Medicare and non-Medicare members.

The PHIP will continue to contract with ODS for a Stand Alone Prescription Drug Program (PDP) covering participants enrolled in ODS, Providence Health Plans, and the PacificSource Community Health Plans.

Kaiser Permanente will continue to insure and administer Medicare and non-Medicare medical benefits. In addition, Kaiser Permanente will provide PHIP Medicare and non-Medicare members a prescription drug programs that mirror the ODS administered plan, thereby providing uniformity, continuity, and stability for PHIP members.

The PHIP health plan premium rates will be implemented as shown on Exhibit II, along with associated rates that include spouses and/or dependents, statutory subsidies (RHIA and RHIPA) and PHIP administrative expenses.

PROPOSAL REVIEW AND RECOMMENDATIONS

In spite of inflationary trends, the PHIP is pleased to once again provide PERS retirees a positive renewal with all participating vendors; rates are either changing minimally or not at all for most lines of coverage. In a population as large as the PHIP, however, a one percent rate differential can mean millions of dollars. PHIP staff and the consultants strive to keep that fact in the forefront when negotiating contract renewals.

As has been the case in years past, a variety of approaches were employed in an effort to minimize rate increases. It is proposed that some lines of coverage receive subsidies while others

may require temporary surcharges to support longer-term coverage and rate stability. The vast majority of the subsidy funding is proposed to be paid out of either PERS rate stabilization reserves held at ODS or from federal Early Retiree Reinsurance Program (ERRP) program funds. Some smaller subsidy funding may be accumulated over time at various individual carriers via temporary plan specific rate surcharges that are then used to help stabilize rates in subsequent years.

For Medicare members covered by the ODS administered prescription drug program, a \$13.06 per member per month (PMPM) subsidy is suggested. The current CY 2012 rate already includes a subsidy in the same amount. In addition, it is proposed that a Silver & Fit program be added to the ODS Medicare Supplement and Medicare Advantage PPO plans. While the majority of the cost to add this program will be covered by premiums, minor subsidies of \$0.65 (Supplement) and \$0.32 (MAPPO) PMPM will be used from ODS held reserves.

The ODS administered early retiree non-Medicare prescription drug program rates will be reduced by \$35.86 PMPM. It is anticipated that this subsidy will be drawn from funds released by the federal Health and Human Services agency as part of the federal Patient Protection and Affordable Care Act (PPACA). The program name is the Early Retiree Reinsurance Program (ERRP); it makes funds available to participants with high cost claims. These funds are required to be used to help stabilize rates for “early” (non-Medicare) retirees.

PERS staff and consultants are pleased to present a stable package of health insurance plans allowing enrolled retirees to enjoy a variety of competitively priced benefit options. Many of these retirees will not see any change to their health insurance premiums through the PHIP, which is good news for those on a fixed budget. We are pleased to bring these proposals to you, and thereby conclude another year of hard work by our consultants, health plans, retiree advisors, and PHIP staff.

PHIP staff, our third party administrator’s staff, and consultants have already started the process of updating the PHIP Member Handbook and Benefit Guide and plan change materials for finalization and distribution if the PERS Board approves the proposals presented here. In mid-September, PHIP staff and the third-party administrator’s staff will begin holding “retiree plan change meetings” throughout the state, and will most likely have the opportunity to meet with 5,000 or more PERS retirees and their dependents during the six weeks of meetings which are scheduled from mid-September through October.

Please do not hesitate to contact me if you have questions or need additional information. I can be reached at 503-378-8906 or email at [zue.matchett@state.or.us](mailto:zue.matchett@state.or.us)

## STAFF RECOMMENDATIONS

Health Insurance Plan renewals

5/18/12

Page 6 of 6

Staff recommends the PERS Board approve the proposed PHIP contract renewals, conditions, and rates for 2013 as presented.

Exhibit I – PERS Retiree Health Insurance Program Statistics

Exhibit II – PERS Retiree Health Insurance Program Proposed 2013 Renewal Rates

**EXHIBIT I**

<b>Health Insurance Plans</b>			
Program Enrollment (January 2012)	Totals	Medicare	Non- Medicare
Covered Lives	54,710	52,144	2566
Retirees (or Surviving Spouses)	44,197	42,635	1,562
Spouses / Dependents	10,513	9,509	1,004
Average Age of Enrolled Retirees	75	76	58

<b>Health Plan Membership Enrollment</b>			
PacificSource Community Health Plans	1,357	1,339	18
Kaiser Permanente (Portland to Salem)	9,566	8,904	662
Kaiser (California & Hawaii)	93	75	18
ODS Advantage (Oregon)	6,338	6,088	250
ODS Supplement (All 50 States)	24,872	24,107	765
Providence Medicare Extra	11,407	10,636	771
Providence Medicare Choice	1,077	995	82
ODS Dental Plan	27,530	26,345	1,185
Kaiser Dental Plan	3,978	3,722	256

<b>Statutory Health Insurance Premium Subsidies</b>	
Retirees Receiving RHIA	40,851
Retirees Receiving RHIPA	1,126
RHIA Monthly Payment – \$60 PM	2,451,060
RHIPA Monthly Payment – \$259(avg) PM	\$ 319,007
Total Monthly Premium Paid to Health Plans:	\$15,167,347

## PERS REQUESTED RENEWAL RATES

### 2013 vs. 2012 All Carrier Rates

Including All Carrier Administrative Fees  
Effective January 1, 2013

### SUMMARY

Medical and Prescription Rates to Members before Statutory Subsidies	Enrollment as of February 2012	2012	2013	Percentage Change 2013 vs. 2012
<b>ODS MEDICAL / RX</b> <i>(Includes Fixed Costs)</i>				
Retiree w/Medicare - Supplement Plan	24,084	\$225.46	\$225.46	0.0%
Retiree w/Medicare - MA PPO Plan	6,171	\$237.85	\$237.85	0.0%
Retiree w/o Medicare - PPO Plan	1,012	\$823.55	\$933.42	13.3%
<b>PROVIDENCE HEALTH PLANS / RX</b>				
Retiree w/Medicare - MA HMO (Extra) Plan	10,624	\$219.77	\$224.93	2.3%
Retiree w/Medicare - MA POS (Choice) Plan	1,019	\$199.77	\$209.15	4.7%
Retiree w/o Medicare - PPO Plan	857	\$716.90	\$770.93	7.5%
<b>PACIFICSOURCE COMMUNITY HEALTH PLANS</b>				
Retiree w/Medicare - MA HMO Plan	1,342	\$219.74	\$219.34	-0.2%
Retiree w/o Medicare - POS Plan	18	\$915.49	\$1,013.99	10.8%
<b>KAISER PERMANENTE NW HEALTH PLANS / RX*</b>				
Retiree w/Medicare - MA HMO Plan	8,912	\$211.46	\$211.46	0.0%
Retiree w/o Medicare - HMO Plan	663	\$674.71	\$709.33	5.1%
<b>DENTAL</b>				
Kaiser Dental	3,988	\$51.32	\$50.55	-1.5%
ODS Dental	27,639	\$59.67	\$56.96	-4.5%

\* Kaiser numbers include Oregon participants only





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May 18, 2012

TO: Members of the PERS Board  
FROM: Steven Patrick Rodeman, Deputy Director  
SUBJECT: 2013-15 Budget Development Update

No sooner does a legislative session end than the planning for the next budget cycle begins. Late last summer, we revisited our agency Mission Statement and developed Core Values and Core Operating Principles that support it. That work was reported at the PERS Board's January 27, 2012 meeting. With those foundation stones in place, staff next began to develop the organizational structure that will best support the agency's efforts to fulfill that mission. We engaged a local consultant, Mass Ingenuity, to help us with that restructuring.

The first phase of that engagement was to develop the agency's Fundamentals Map (a copy of which is attached). The Fundamentals Map is a single-page illustration of the routine work (Core Processes) that must be managed for the agency to achieve its mission, representing a process-oriented view of the agency's Key Goals. This Fundamentals Map will be used to assess how well the fundamentals are being managed by using Outcome and Process Measures to track progress towards meeting our strategic goals.

The next phase will involve implementing Quarterly Target Reviews that will tangibly demonstrate progress towards improvement through our performance measures. The QTRs will engage agency staff on identifying the areas for incremental improvement (which will be assigned to Problem Solving Teams) and reveal organizational barriers where restructuring efforts need to better align process owners with their associated measures and outcomes. Mass Ingenuity is working with several Oregon agencies at various stages of establishing this strategic management system, and our work is directly aligned with the overall direction of building an outcome-based budget with a longer-term focus on core business functions.

### BASELINE BUDGETING FOR 2013-15

In preparing for the 2013-15 budget cycle, the normal approach is to return agencies to their Current Service Level (CSL) budget, which usually represents the agency's base budget for core operations, less any special policy option packages that were approved in the previous budget cycle. When PERS' operating budget for 2011-13 was approved by the Oregon Legislature at \$77,260,820 with 363 staff positions, that budget included 29 "Limited Duration" positions and their associated Personal Services costs. For us, however, those Limited Duration positions were not tied to a project or short-term operation that spanned only this biennium, but were instead carried over from previous biennia. For PERS, our Limited Duration positions by and large are used to provide the mission-critical processes described in our Fundamentals Map. Our assessment is that 27 of those 29 positions need to be continued as Permanent positions into the 2013-15 biennium and beyond for us to maintain the agency's current service delivery levels. Our first challenge will be to request legislative approval to recognize our CSL budget plus those 27 positions as the starting point for PERS' 2013-15 Agency Request Budget (ARB).

## STRATEGIC INITIATIVES

In addition to assuring that these mission-critical positions are carried forward, we have also considered whether to include some key strategic initiatives in the 2013-15 ARB. That consideration was based on addressing areas identified through an Enterprise Risk Assessment exercise that focused on areas deemed high risk, but where improvements could be made to mitigate those risks. Supporting business cases identified the most cost-effective manner to leverage additional investments to improve performance and reduce our risk exposure. The three focus areas were:

- (1) Data Integrity, Availability, and Security;
- (2) Individual Account Program (IAP) Administration; and
- (3) PERS Health Insurance Program (PHIP) Administration.

Risk assessments were completed with key stakeholders to identify risks to achieving the Agency's mission, the likelihood and potential impact of those risks, and risk mitigation strategies. Based on that developmental effort, four initiatives are still under consideration for inclusion in our 2013-15 ARB:

- Data Reconciliation: Continue to ensure that the data used to determine benefits is accurately captured, and effectively and efficiently maintained.
- Data Reporting: Address our increasing need for an enterprise data reporting function to maximize support of operational activities such as productivity reports, forecasting, and strategic planning, as well as stakeholders' needs for prompt, accurate, and comprehensive analysis and assessments of system dynamics.
- Individual Account Program (IAP) Third Party Administration: Enhance the program's value and improve member service by addressing risks and limitations in the current Third Party Administrator structure.
- PERS Health Insurance Program (PHIP) Integration: Address the program's deficiencies identified during a recent external fiscal audit and internal audit consulting engagement by integrating operations and properly resourcing the program.

Should any of these areas result in a Policy Option Package that we believe should be considered further for the 2013-15 ARB, we will provide supporting rationales that include problem definitions, business goals and objectives that are not being met, and options for achieving those goals and objectives that include supporting costs, and a proposal justifying the recommended initiative. This information will be provided to the Board at the July 27 Board meeting as part of the review and approval to submit the ARB.

## 2013-15 BUDGET DEVELOPMENT PROCESS

As part of Oregon's statewide initiative to implement a ten-year strategic planning and outcome-based budgeting approach, the Executive Branch is changing the development process for the ARB. PERS is required to submit initial funding requests to an "Improving Government" Program Funding Team in early June 2012. The team is comprised of various state agency leaders who will consider each request in the context of an enterprise-level view.

A copy of the funding request template is attached. PERS is required to submit requests in three areas:

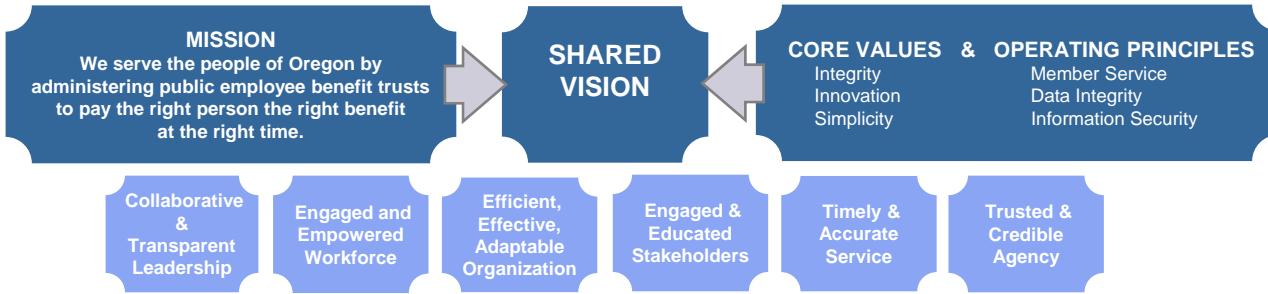
- Tier One and Tier Two Plans: This program area within the agency’s Non-Limited Budget pays Tier One and Tier Two member benefits and includes the funds paid under the PERS Health Insurance Program (PHIP). Our principle message will be the nature of these funds as trusts held for the benefit of our members and, consequently, these funds are not available to support other enterprise initiatives. We also want the Program Funding Team to understand that the legacy benefits paid through this program, while substantial and growing with new retirements, have, nonetheless, been constrained by the PERS Reforms and the closing of these plans to new participants.
- Oregon Public Service Retirement Plan (OPSRP): This program also falls under PERS’ Non-Limited Budget and includes member contributions into the Individual Account Program (IAP). The key message here will be to understand the dynamics of the IAP as a risk-sharing component of a member’s overall benefit, as well as the growing proportion of future pension liabilities that are contained in this budget area (again, at a reduced benefit level compared to the Tier One and Tier Two Plans).
- Operations: This program area is comprised of the agency’s Limited Budget, reflecting operational costs associated with administering all of the agency’s benefit plans. The key message here will be the need to leverage our technology investment in the new ORION system by continuing to support the evolution of the agency’s work force to a knowledge-based team focused on member and employer service and process improvements. Our Fundamentals Map and the resulting agency restructure will demonstrate how these funds can be better expended so service levels to a growing population of members, employers, and benefit recipients can be achieved.

After the Improving Government Program Funding Team reviews our “Round 1” current service level program descriptions and justifications, we will receive an evaluation by the end of June 2012. We will then re-evaluate the ARB and whether to include policy option packages for any of the strategic initiatives discussed above within our 2013-15 ARB. Once that recommended package is compiled, staff will return to the July 27, 2012 PERS Board meeting for approval of an ARB to submit back to the Improving Government Program Funding Team by August 31, 2012. Follow-up meetings with the Funding Team will be conducted during September and early October, with final Funding Team recommendations due to the Governor’s Office by October 15, 2012. The Governor’s Recommended Budget will then be released by December 1, 2012, in advance of the legislative session that begins in January 2013.

Attachment 1 – PERS’ Fundamentals Map

Attachment 2 – Program Funding Proposal Template

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OPERATING PROCESSES

SUPPORTING PROCESSES

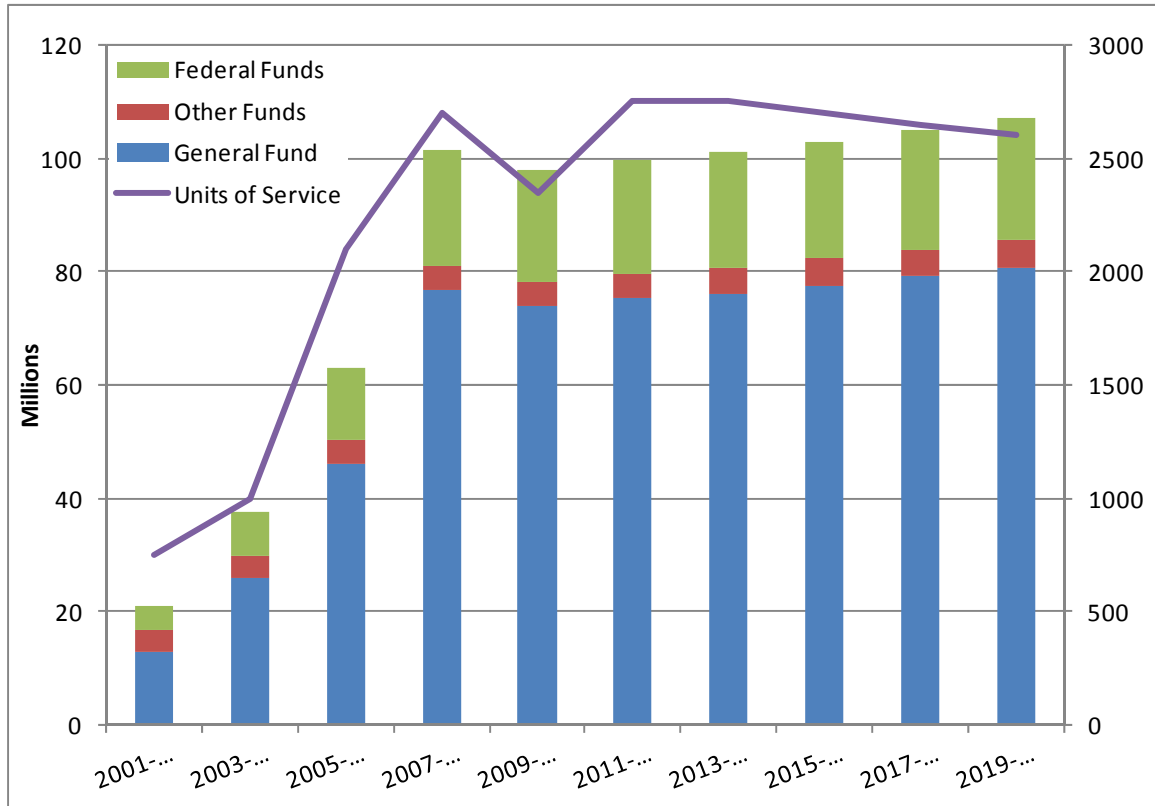
Collecting Member Data	Collecting Contributions	Assessing Benefit Eligibility	Processing Benefit Applications	Calculating Benefits	Paying Benefits	Communicating Internally & Externally	Managing Compliance & Risk	Leveraging Technology	Managing Organizational Finances & Resources	Managing & Developing the Workforce	S
<ol style="list-style-type: none"> <li>1. Receiving member data</li> <li>2. Analyzing member data</li> <li>3. Reconciling member data</li> <li>4. Correcting member data</li> <li>5. Maintaining member data</li> <li>6. Auditing member data</li> <li>7. Archiving and imaging member data</li> </ol>	<ol style="list-style-type: none"> <li>1. Creating and maintaining employers</li> <li>2. Establishing an employer rate</li> <li>3. Generating an employer invoice</li> <li>4. Receiving employer contributions</li> <li>5. Posting contributions to invoices</li> <li>6. Crediting contributions to the general ledger</li> <li>7. Reconciling contributions submitted to State Treasury</li> <li>8. Collecting on delinquent employer invoices</li> <li>9. Receiving member purchases</li> <li>10. Collecting supplemental benefit member contributions</li> </ol>	<ol style="list-style-type: none"> <li>1. Reviewing beneficiary designations for pre-and post-retirement death benefits</li> <li>2. Requesting and reviewing divorce decrees</li> <li>3. Determining eligibility for disability</li> <li>4. Completing estimate requests</li> <li>5. Completing data verification requests</li> <li>6. Reviewing account for pre-benefit eligibility</li> <li>7. Determining eligibility for PERS Health Insurance Program</li> </ol>	<ol style="list-style-type: none"> <li>1. Receiving benefit application</li> <li>2. Reviewing benefit application</li> <li>3. Entering application data</li> <li>4. Corresponding with applicant and Employer</li> <li>5. Processing "just in time" eligibility review</li> <li>6. Initiating the benefit calculation process</li> </ol>	<ol style="list-style-type: none"> <li>1. Reviewing account</li> <li>2. Calculating initial benefit (service, death, divorce, disability, withdrawals)</li> <li>3. Recalculating benefit after an estimated benefit or when an adjusted or retroactive benefit is due</li> <li>4. Validating benefit calculations</li> <li>5. Initiating the payment benefits process</li> </ol>	<ol style="list-style-type: none"> <li>1. Ensuring cash is available to fund benefit payments.</li> <li>2. Creating and transmitting payment files</li> <li>3. Processing manual checks</li> <li>4. Validating payment files</li> <li>5. Processing returns/cancels</li> <li>6. Maintaining payee information</li> <li>7. Maintaining deductions</li> <li>8. Ensuring tax reporting</li> </ol>	<ol style="list-style-type: none"> <li>1. Developing communications strategy</li> <li>2. Generating and responding to correspondence</li> <li>3. Generating and responding to phone calls</li> <li>4. Creating and making presentations</li> <li>5. Creating and maintaining publications and forms</li> <li>6. Maintaining electronic &amp; social media</li> <li>7. Communicating with Legislators and interest groups</li> <li>8. Responding to media and public records requests</li> <li>9. Communicating with agency staff</li> </ol>	<ol style="list-style-type: none"> <li>1. Providing policy advice to employees</li> <li>2. Resolving disputes</li> <li>3. Managing legal services</li> <li>4. Maintaining tax qualified status</li> <li>5. Managing strategic relationships</li> <li>6. Conducting enterprise risk management efforts</li> <li>7. Managing audit services</li> </ol>	<ol style="list-style-type: none"> <li>1. Developing IT strategy and roadmap to meet agency technology needs</li> <li>2. Ensuring system availability and performance</li> <li>3. Delivering HelpDesk/desktop support</li> <li>4. Maintaining applications and systems</li> <li>5. Enhancing applications and systems</li> <li>6. Implementing new applications and systems</li> <li>7. Ensuring system security</li> </ol>	<ol style="list-style-type: none"> <li>1. Administering accounting and payroll services</li> <li>2. Managing funds and investments</li> <li>3. Administering budget and finance operations</li> <li>4. Developing and managing contracts and agreements</li> <li>5. Maintaining and managing facilities and equipment</li> <li>6. Managing actuarial services</li> </ol>	<ol style="list-style-type: none"> <li>1. Assessing employee needs</li> <li>2. Recruiting/onboarding</li> <li>3. Developing employees</li> <li>4. Managing performance</li> <li>5. Classifying and compensating</li> <li>6. Bargaining and administering CBA's, HRSD policies, and employment laws</li> <li>7. Responding to employee claims</li> <li>8. Managing personnel records</li> <li>9. Retaining employees</li> <li>10. Separating employees</li> <li>11. Planning succession</li> <li>12. Managing cultural competency</li> <li>13. Leveraging contractors</li> </ol>	<ol style="list-style-type: none"> <li>1. Nurturing mission, core operating principles</li> <li>2. Develop maintain agency's</li> <li>3. Ensuring develop</li> <li>4. Prioritiz managei complet and brea</li> <li>5. Conduct target re agency making</li> <li>6. Facilitat impleme legal an mandate</li> </ol>
<ul style="list-style-type: none"> <li>• % reports received vs. expected</li> <li>• % of returned bulk mail</li> <li>• % of employer reports received are complete and accurate</li> <li>• % of member data forms processed within 30 days</li> <li>• % of employer reports received within three business days of reporting cycle</li> </ul>	<ul style="list-style-type: none"> <li>• % of IAP contributions posted that are due</li> <li>• Clear and concise employer statements</li> <li>• % of total employers utilizing the Automated Clearing House</li> <li>• # of invoices outstanding more than 30 days</li> <li>• % of member purchases posted within 14 days of receipt</li> </ul>	<ul style="list-style-type: none"> <li>• % of disability and divorce determinations completed within 180 and 90 days respectively</li> <li>• % of appeals that are upheld compared to total # of eligibility, disability, and divorce appeals filed</li> <li>• % of estimates completed within 30 days of receipt</li> <li>• % of data verification requests completed within 180 days from receipt</li> </ul>	<ul style="list-style-type: none"> <li>• % of applications completed by the eligibility team within 30 days of the effective retirement</li> <li>• % of estimated payments per month</li> <li>• % of applications returned or rejected back to the applicant of applications with two or more requests made to an applicant or employer for information</li> <li>• % of non-canceled applications completed and ready for calculation within 30 days of the effective date</li> <li>• % of non-canceled applications completed and ready for calculation within five business days of all required documents received</li> <li>• % of non-canceled applications completed and ready for calculation within 60 days of the effective date</li> </ul>	<ul style="list-style-type: none"> <li>• # of calculations completed per FTE</li> <li>• % of sample calculations that are within plus or minus \$5</li> <li>• % of calculations completed within 15 calendar days from completed application date</li> </ul>	<ul style="list-style-type: none"> <li>• # of manual checks processed</li> <li>• % of electronic payments over total payments</li> <li>• Average # of days to resolve returned payments</li> <li>• # of exceptions not cleared prior to pension lock</li> <li>• % of tax reports completed by Federal and State deadline</li> </ul>	<ul style="list-style-type: none"> <li>• # of emails to PERS Board email box with complaints</li> <li>• % who rate forms as easily understandable</li> <li>• % of media coverage events with neutral or positive mentions</li> <li>• % rating satisfaction as good or excellent</li> <li>• Average length of wait before caller reaches live person</li> <li>• % of correspondence responded to with 10 days of receipt</li> <li>• % of public records requests responded to with a cost estimate within 14 days of receipt</li> </ul>	<ul style="list-style-type: none"> <li>• % of operating budget expended for attorney and administrative hearing fees and risk management premiums</li> <li>• # of Member and Employer appeals and contested case matters, employment disputes, litigation disputes, notices of dispute and risk management claims</li> <li>• % of staff determinations that are reversed on appeal</li> <li>• % of high risk audit findings resolved within committed time period</li> </ul>	<ul style="list-style-type: none"> <li>• # of business days in a month ORION systems are not available within the standard service window</li> <li>• % of time systems are available during the service window</li> <li>• % of survey respondents indicating satisfaction with our technology</li> <li>• # domains in the Information Security Business Risk Assessment report that meet agency goal</li> <li>• # of batch incidents/abends in a month</li> <li>• % of Change Requests scheduled for a release that are actually deployed</li> <li>• # of instances where system status change is not mitigated within four hours</li> <li>• % of HelpDesk Tickets resolved within the Service Level Agreement</li> </ul>	<ul style="list-style-type: none"> <li>• % of months with no interest cost incurred due to borrowing</li> <li>• % of accounts receivable dollars collected (based on total dollars of accounts receivable)</li> <li>• % of actuarial services milestones met (e.g., experience studies, valuations, CAFR data, employer rates updated in jClarety, economic impact report)</li> <li>• % of invoices with payments released for payment within 20 business days of receipt by Accounts Payable</li> </ul>	<ul style="list-style-type: none"> <li>• % of employees' annual development plans created</li> <li>• % of employees receiving corrective action for violations</li> <li>• % of employees completing trial service</li> <li>• % of data fields entered correctly into the personnel database (PPDB)</li> <li>• % of employees evaluated overall performance rating "meets expectations"</li> <li>• % of performance evaluations completed by due date</li> </ul>	<ul style="list-style-type: none"> <li>• % of outco process m new or cur reported fo</li> <li>• % of empl mission relat</li> <li>• Net # of m improve pe quarterly ta (QTR)</li> <li>• # of breakt schedule</li> <li>• # of proble initiatives</li> </ul>
Yvette	Yvette & Jon	Yvette & Brian	Josh & Heather	Brian	Brian & Jon	Yvette & Joe	Joe & Steve	Jeff	Jon	Helen	
Clear, Concise Communication (Yvette/Joe)	Employee Engagement (Steve)	Operating Effectiveness - % Green Process Measures (Steve)	Member to Staff Ratio (Steve)	Total Benefit Admin Costs (Steve)	Performance to Budget (Jon)	Member Service Satisfaction (Yvette/Brian)	Effective Employer Partnerships (Yvette)	Timely Benefit Payments (Brian/Yvette)	Informed Retirement Decisions (Yvette)	Accurate Benefit Calculations (Brian)	

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**Agency Name:** Program Unit Name

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Primary Outcome Area: Outcome name  
 Secondary Outcome Area: Outcome name  
 Program Contact: Name, Phone number



**Executive Summary**

In one or two sentences, describe what the program does and why it is important.

**Program Funding Request**

Summarize the proposal you are submitting to the Program Funding Team. Include the amount of resources you are requesting for this program and the performance you will achieve if this proposal is funded. Include the proposal costs and performance for the 2013-15 biennium and estimated costs and performance through the 2019-21 biennium. *(This section will remain blank during Round 1).*

**Program Description**

Provide a description of the program, the clients that it serves and the frequency at which those clients receive service. Describe the purpose of the program and how it achieves that purpose.

Describe how the program is delivered and what partners are necessary to guarantee success of the program. Describe the major cost drivers that affect this program, and whether there are opportunities to improve performance through alternative delivery methods.

### **Program Justification and Link to 10-Year Outcome**

Describe linkage between program performance and the 10-year outcome. At a minimum there must be a logical connection between the performance of this program and the 10-year goals. At best, the program can provide research or nationally recognized best practices to justify the argument that investment in this program will help Oregon achieve its 10-year outcome goals. If there are 10-year performance indicators that are directly impacted by the performance of this program, identify those indicators and how they move with changes in program performance.

Provide similar information for any secondary or tertiary outcomes connected to this program.

### **Program Performance**

In this section provide tables or charts that show the performance of the program over time. Preferably, the performance should have 5 years of history and at least the projected performance during 2013-15 if the program offering is accepted by the program funding team. Optimally, the program would be able to provide information for all 4 of the following performance indicators over time:

- Number of people served/items produced
- Quality of the services provided
- Timeliness of services provided
- Cost per service unit

For whichever performance metrics are used, describe the metric, what it measures, and why the metric is important for understanding the program performance. Where trends or data anomalies exist, describe those for the review team.

### **Enabling Legislation/Program Authorization**

Describe if the program is mandated by the US Constitution, Oregon Constitution or Federal Law. Cite the enabling legislation that mandates the program. If the program is authorized, but not mandated by federal or if the program is mandated by Oregon law, cite the enabling legislation.

### **Funding Streams**

Describe the various funding streams that support the program. Include a description of leveraged funds and the nature of how Oregon qualifies to receive the additional resources (competitive grant, federal matching program, private donation, performance bonuses, etc).

If the program has a dedicated funding stream, describe the dedicated source and the nature of the dedication (constitutional or statutory) providing legal citations to the dedication.



**Significant Proposed Program Changes from 2011-13**

Describe how the 2013-15 funding proposal advanced by the agency compares to the program authorized for the agency in 2011-13. Describe if the funding proposal maintains the program at Current Service Level, or increase/decreases it. If the proposal alters the program from the Current Service Level, describe the nature of the change and why the agency is proposing to make changes. *(This section will remain blank during Round 1).*