

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING

**Monday
March 28, 2016
1:00 P.M.**

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

ITEM	PRESENTER
A. Administration	
1. January 29, 2016 Board Meeting Minutes	RODEMAN
2. Director's Report	
a. Forward-Looking Calendar	
b. OIC Investment Report	
c. Budget Execution Report	
d. Annual Report of Executive Director's Financial Transactions	STANLEY
B. Administrative Rulemaking	
1. Notice of Withdrawals Rules	VAUGHN
C. Action and Discussion Items	
1. <i>Moro</i> Implementation Project Update	ELLEDGE-RHODES
2. Legislative Update	TAYLOR
3. 2017-2019 Budget Preview	MASANGA
4. Contingency Reserve Policy	DUNN
5. Final 2015 Earnings Crediting and Reserving	KNOLL

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

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

2016 Meetings: May 27 July 29* September 30 November 18* * Audit Committee

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

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

BOARD MEETING MINUTES

January 29, 2016

Board members present:

Chair John Thomas, Stephen Buckley, Lawrence Furnstahl, Krystal Gema and Vice-Chair Pat West

Staff present:

Linda Barnett, Paul Brown, David Crosley, Mary Dunn, Yvette Elledge-Rhodes, Patty Hahn, Brian Harrington, Christa Harrison, Rick Howitt, Kimberly Johnson, Pamella Johnson, Jordan Masanga, Beth Porter, Paul Reeves, Daniel Rivas, Steve Rodeman, April Sabbe, Jason Stanley, Marjorie Taylor, Karen Terry, Stephanie Vaughn, Anne Marie Vu, Dale Wakabayashi, Carol Whelan, Joli Whitney, and Yong Yang

Others present:

Jeff Akers, Marti Artsis, Stacy Cowan, Jennifer Cooperman, Roger Dawes, Henry Groepper, Joe Gymkowsky, Greg Hartman, Celia Heron, David Lacy, Matt Larrabee, Elizabeth McCann, Scott Preppernau, James Sinks, John Skjervem, Del Stevens, James Strong, Lorraine Thomas, Deborah Tremblay, Trudy Vidal, Brendan Watkins, Ben Wire, and Peter Wong

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

ADMINISTRATION

A.1. BOARD GOVERNANCE ASSIGNMENTS

There were no changes to the assignments and the Board members will serve in the capacity as presented.

A.2. MEETING MINUTES OF NOVEMBER 20, 2015

Board member Furnstahl moved and Vice-Chair West seconded approval of the minutes submitted from the November 20, 2015 Board meeting. Buckley added that the item C.2. on page three passed unanimously, which was not indicated in the minutes. Chair Thomas asked if there were any objections to modifying the minutes to reflect this. There were no objections. The motion passed unanimously and the minutes will be updated to reflect this revision.

A.2.a. DIRECTOR'S REPORT

Executive Director Steve Rodeman reviewed the Forward Looking Calendar and highlighted the important items to be considered by the Board in the coming year.

Rodeman introduced John Skjervem of the Oregon State Treasury Investment Division. Skjervem presented the Oregon Investment Council (OIC) Investment Report of the Oregon Public Employees Retirement Fund (OPERF) for the period ending December 31, 2015. He also reviewed current and historical asset allocation and provided Callan's brief forward looking portfolio review of the fund.

Thomas invited the Milliman actuaries, Matt Larrabee and Scott Preppernau, to comment on what the analysis provided by Skjervem would mean to the PERS fund. Larrabee noted that the funded status at the end of 2015 will likely be 71-72 %. This would increase unfunded liability

to \$21-22 billion. In terms of employer contribution rates, this would cause future rates climb to nearly 30% of payroll. It will vary based on the investment results in subsequent years.

Rodeman presented the December 2015 Budget Execution Report. There will be additional funding requests which will go before the legislature in February to schedule funds which are currently unscheduled within the budget. The final report on 2013-15 expenditures will be reflected in the report which will be submitted to the Board in March 2016.

ADMINISTRATIVE RULEMAKING

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

B.1. NOTICE OF DISABILITY ELIGIBILITY DETERMINATIONS RULES

Vaughn presented the notice of rulemaking for the Disability Eligibility Determinations Rules, OAR 459-015-0010, -0050; and -076-0010. These rules are being amended to clarify the criteria for disability eligibility determinations. A rulemaking hearing will be held at PERS Headquarters February 23, 2016. The public comment period ends March 1, 2016. No Board action was required.

B.2. ADOPTION OF DISABILITY DEFINITIONS RULES

Vaughn presented the revised rules to clarify definitions in our Disability rules: OAR 459-015-0001; and -076-0001 for adoption. A rulemaking hearing was held December 15, 2015. The public comment period ended on December 29, 2015. One public comment was received and no one attended the public hearing. The changes clarify the definition of physician in our disability rules.

Greg Hartman attended to address the public comments submitted by Nelson R. Hall who was unable to attend the meeting. Hartman urged the Board to consider the potential costs to members when considering changes to these rules.

Thomas asked Rodeman to review the extent of the proposed changes. Rodeman explained that the intent is to more clearly define the credentials required to be considered a physician. Vaughn added that staff will seek to incorporate other medical professionals into the definition. Staff withdrew its recommendation to adopt these amendments at this meeting and will take this item back into the rulemaking process.

West added that he believes that PERS has one of the lower disability rates in line with other systems. He would like to understand why we are seeking this change, where do we line up with our peers and what types of doctors are acceptable to use currently. Vaughn clarified that he was seeking the percentage of those who apply for disability vs. those who receive it. He said he would be interested in seeing the information both ways. Rodeman noted that our definition of disability may not be an apples-to-apples comparison of other systems, but that we would do our best to obtain the information. Buckley asked if, under the current rules, a member could qualify for a disability benefit using a chiropractor's opinion. Vaughn said that, under the current rules, they could not. She added that there is a separate rule that outlines requirements for certain conditions, but a chiropractor alone would not be a sufficient opinion. Continuing disabilities are reviewed annually; however, specialist reports may not be required every year. Reports from others may be submitted in the off years.

B.3. ADOPTION OF MEDICAL RECORDS REIMBURSEMENT RULE

Vaughn presented the revised Medical Records Reimbursement rule, OAR 459-005-0605. A rulemaking hearing was held December 15, 2015. The public comment period ended December 29, 2015. No public attended the hearing or submitted comments.

Furnstahl moved to adopt modifications to the Medical Records Reimbursement rule as presented. Board member Gema seconded. The motion passed unanimously.

B.4 ADOPTION OF OAR PUBLIC NOTICE RULE

Vaughn presented the revised OAR Public Notice rule, OAR 459-001-0000. This rule is being amended to conform to the agency practice of emailing rulemaking notices unless the recipient has specifically requested a postal mailing. A rulemaking hearing was held December 15, 2015. The public comment period ended December 29, 2015. No public attended the hearing or submitted comments.

West moved to adopt modifications to the OAR Public Notice rule as presented. Furnstahl seconded. The motion passed unanimously.

ACTION AND DISCUSSION ITEMS

C.1. STRATEGIC PLAN UPDATE

Strategic and Operational Planning Manager Paul Brown presented. The Executive Leadership Team recently added two components to the Information Technology strategy: establishing Information Governance and strengthening our Cybersecurity Program. The revised 2015-2020 Strategic Plan is available on the PERS website at: http://www.oregon.gov/pers/mem/docs/publications/stra_guide.pdf

Brown highlighted initiatives from the Strategic Plan which have been implemented over the past year.

Strategic Planning and Organizational Development Strategist Karen Terry introduced the team which worked on updating core values and operating principles and reviewed the process undertaken to make those updates. Terry also reviewed the first of the core values: Service-Focus. Core Values Team members Carol Whelan, Patty Hahn, Paul Reeves, Christa Harrison, Kimberly Johnson, and April Sabbe reviewed the last two core values of accountability and integrity, and the four operating principles: professional; accurate; judicious, and information security.

Thomas thanked staff for their presentation.

C.2. MORO IMPLEMENTATION PROJECT UPDATE

Chief Operations Officer Yvette Elledge-Rhodes presented an update on the status of the *Moro* project. In February, this project will process an additional 16,138 adjustments. These adjustments will be for the more complex accounts. Of these adjustments, approximately 3,100 will receive invoices of \$50 or more. The adjustments in this population resulted in 13 different customized letters specific to the member's situation.

Next steps in the project will be to move forward with system programming to calculate and apply a blended rate cost of living adjustment (COLA). The member population in this category is approximately 7,400. The project is currently on schedule to resolve all *Moro* impacted accounts by the end of 2017.

C.3. LEGISLATIVE UPDATE

Senior Policy Director Marjorie Taylor presented a preview of the 2016 legislative session. She highlighted the agency's policy option packages and proposed legislation which may impact agency operations. Milliman provided an analysis of several legislative proposals and concepts which was included in the meeting materials. Taylor also reviewed possible 2017 legislative concepts which were reviewed by the Legislative Advisory Committee in December. The focus in 2017 will likely be house-keeping type proposals.

C.4. 2015 PRELIMINARY EARNINGS CREDITING AND RESERVING

Assistant Chief Administration Officer Mary Dunn presented preliminary earnings allocations for 2015. In addition, she presented a separate memo about policy issues related to the Contingency Reserve. This matter will be discussed at the March Board meeting and staff will make a policy recommendation at that time.

Gema moved to adopt the preliminary crediting of earnings as presented for calendar year 2015, subject to final adoption at the March 28, 2016 PERS Board Meeting. Furnstahl seconded. The motion passed unanimously.

PUBLIC COMMENTS

Joe Jankowski updated the Board on his Equal to or Better Than Standard (ETOB) concerns with the Portland Police and Fire plan. Rodeman explained what happens next in the process to address Mr. Jankowski's request.

Thomas adjourned the Board meeting at 2:35 PM.

Respectfully submitted,



Steven Patrick Rodeman
Executive Director

PERS Board Meeting Forward-Looking Calendar

Friday, May 27, 2016

Adoption of Disability Definitions Rules
Adoption of Disability Eligibility Determinations Rules
Adoption of Withdrawals Rules
Board Scorecard Report on Agency Performance Measures
Review of Actuarial Methods and Assumptions
2017-19 Agency Budget Development
2017 Retiree Health Insurance Plan Renewals and Rates
OSGP Advisory Committee Appointments

Friday, July 29, 2016

2017-19 Agency Request Budget Adoption
2015 System-wide Valuation Results
Audit Committee Meeting

August 2016

Joint meeting with Oregon Investment Council

Friday, September 30, 2016

Customer Service Survey Results
2017-19 Employer Rate Adoption

Friday, November 18, 2016

Approval to File 2017 Final Legislative Concepts
Board Scorecard Report on Agency Performance Measures
Financial Modeling
Audit Committee Meeting

Returns for periods ending JAN-2016

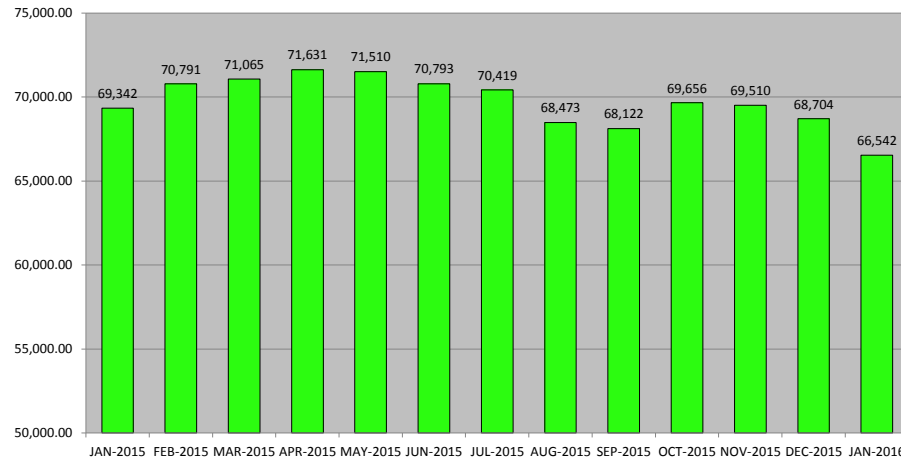
Oregon Public Employees Retirement Fund

OPERF	Regular Account			Historical Performance (Annual Percentage)									
	Policy ¹	Target ¹	\$ Thousands ²	Actual	Year-To-Date ³	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS	7 YEARS	10 YEARS	
Public Equity	32.5-42.5%	37.5%	\$ 24,909,642	37.8%	(6.66)	(6.86)	(0.84)	4.54	7.33	5.05	12.10	3.77	
Private Equity	13.5-21.5%	17.5%	\$ 13,731,625	20.8%	0.00	7.79	11.77	13.23	13.52	13.02	10.83	10.56	
Total Equity	50.0-60.0%	55.0%	\$ 38,641,267	58.6%									
Opportunity Portfolio	0-3%	0%	\$ 1,292,012	2.0%	0.06	3.37	6.23	7.95	10.61	8.64	13.58		
Total Fixed	15-25%	20.0%	\$ 15,313,725	23.2%	0.18	(0.27)	1.65	1.72	3.36	4.09	7.80	5.53	
Real Estate	9.5-15.5%	12.5%	\$ 8,121,761	12.3%	(1.17)	7.17	11.29	11.64	11.90	12.58	7.33	6.78	
Alternative Investments	0-12.5%	12.5%	\$ 2,558,434	3.9%	(0.05)	(5.14)	0.02	1.92	1.30				
Cash w/Overlay	0-3%	0%	\$ 8,091	0.0%	0.14	0.51	0.54	0.59	0.75	0.69	0.92	1.80	
TOTAL OPERF Regular Account		100.0%	\$ 65,935,291	100.0%	(2.70)	(0.40)	3.94	6.51	8.18	7.38	10.36	5.65	
OPERF Policy Benchmark					(2.37)	(0.45)	4.36	6.72	8.83	7.67	10.05	5.97	
Value Added					(0.34)	0.05	(0.43)	(0.21)	(0.66)	(0.28)	0.31	(0.32)	
TOTAL OPERF Variable Account			\$ 606,236		(6.14)	(6.42)	(0.16)	4.30	6.98	4.85	11.76	2.71	

Asset Class Benchmarks:

Russell 3000	(5.64)	(2.48)	4.97	10.55	12.11	10.40	15.52	6.38
OREGON MSCI ACWI EX US IMI NET	(6.92)	(11.05)	(5.61)	(1.71)	1.96	(0.34)	8.36	1.94
MSCI ACWI IMI NET	(6.27)	(6.87)	(0.56)	3.95	6.58	4.45	11.54	3.77
RUSSELL 3000+300 BPS QTR LAG	0.00	2.49	11.47	15.87	20.16	16.64	13.62	10.50
OREGON CUSTOM FI BENCHMARK	0.58	(0.39)	1.48	1.38	2.72	3.53	4.71	4.63
NCREIF Property Index QTR LAG	0.00	13.48	12.36	11.91	11.68	12.55	5.85	8.02
91 Day Treasury Bill	0.00	0.05	0.04	0.05	0.07	0.07	0.10	1.23

Total OPEF NAV
(includes Variable Fund asset)
One year ending JAN-2016
(\$ in Millions)



¹OIC Policy revised June 2015.

²Includes impact of cash overlay management.

³For mandates beginning after January 1 (or with lagged performance), YTD numbers are "N/A". Performance is reflected in Total OPERF. YTD is not annualized.



Oregon

Kate Brown, Governor

Public Employees Retirement System

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March 28, 2016

TO: Members of the PERS Board
FROM: Linda M. Barnett, Budget Officer
SUBJECT: March 2016 Board Report

2015-17 OPERATIONS BUDGET

Operating expenditures for January 2016 and preliminary expenditures for February 2016 were \$4,032,796 and \$3,867,233, respectively. Final expenditures for February will close in the Statewide Financial Management System (SFMS) on March 18, 2016, and will be included in the May 2016 report to the Board.

To date, through the first eight months (or 33.3%) of the 2015-17 biennium, the Agency has expended a total of \$28,608,990, or 30.48% of PERS' legislatively approved operations budget of \$93,871,154. As of February 2016, PERS was awaiting approval from the Legislative Fiscal Office to request the rescheduling of \$2,890,599 to do the following:

- \$1,084,399 Pkg. 102 – to complete Phase III of a project to transfer administration of the Individual Account Program from a third party administrator to PERS. On January 15, 2016, \$430,000 was rescheduled to allow the program to operate through the 3rd quarter of the 2015-17 biennium while legislative decisions were to be made about the project's supplemental budget request.
- \$1,581,200 Pkg. 105 – to further develop the agency's Disaster Recovery and Business Continuity technology infrastructure in support of the Oregon Retirement Information Online Network (ORION).
- \$225,000 Pkg. 840 – to implement SB 370; this established a new benefit that allows an ex-spouse of an Oregon Public Service Retirement Plan (OPSRP) member to receive a death benefit if the member, who is vested, dies pre-retirement.

The current projected negative variance is (\$1,182,135) due to the method in which the agency's operating budget expenditure limitation was developed. The legislatively adopted budget did not include anticipated cost-of-living adjustment (COLA) or merit increases because the collective bargaining agreements were not ratified at that time. PERS anticipates an increase in expenditure limitation of \$2.9 million with the passing of SB5701 in the February 2016 Session to adjust agencies' budgets to cover COLA and merit increases.

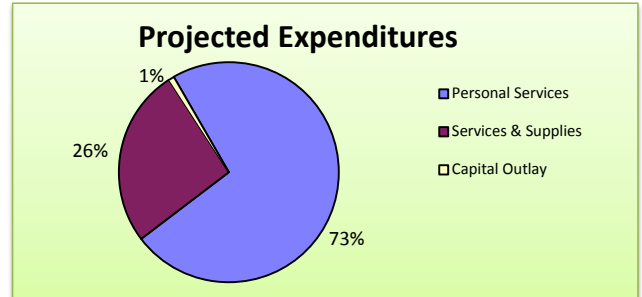
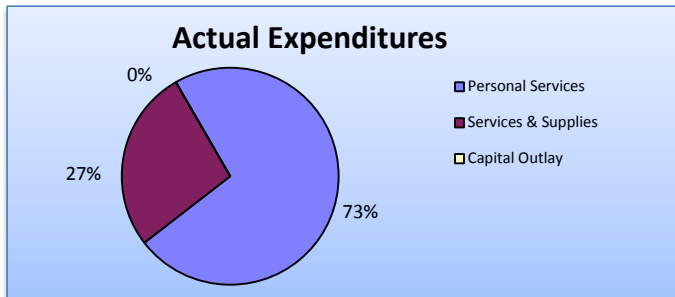
A.2.c. Attachment 1 – 2015-17 Agency-wide Budget Execution Summary Analysis

**2015-17 Agency-wide Budget Execution
Summary Budget Analysis
Preliminary For the Month of: February 2016**

Limited - Operating Budget

2015-17 Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expenditures	2015-17 LAB	Variance
Personal Services	20,838,707	46,384,462	67,223,169	66,020,903	(1,202,266)
Services & Supplies	7,760,413	16,648,221	24,408,634	24,363,845	(44,789)
Capital Outlay	9,870	521,017	530,887	595,807	64,920
Unscheduled	0	2,890,599	2,890,599	2,890,599	0
Total	28,608,990	66,444,299	95,053,289	93,871,154	(1,182,135)



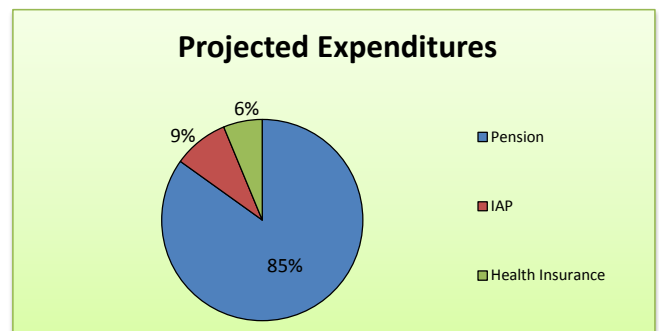
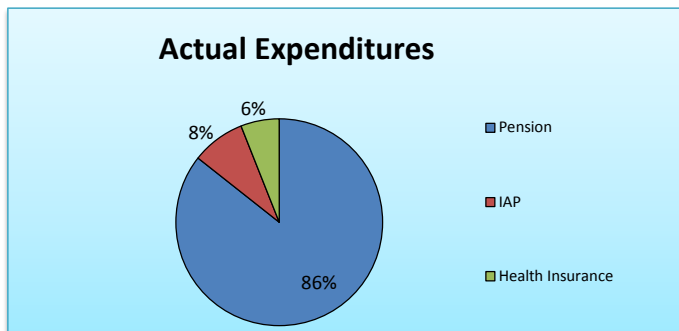
Monthly Summary

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Monthly Projected Exp.
Personal Services	2,620,155	2,830,661	210,506	2,604,838	5,798,058
Services & Supplies	1,247,078	1,244,638	(2,440)	970,052	2,081,028
Capital Outlay	0	0	0	1,234	65,127
Total	3,867,233	4,075,299	208,066	3,576,124	7,944,213

Non-Limited Budget

2015-17 Biennial Summary

Programs	Actual Exp To Date	Projected Expenditures	Total Est. Expenditures	Non-Limited LAB	Variance
Pension	2,513,005,939	5,508,812,003	8,021,817,942	8,291,874,726	270,056,784
IAP	245,070,334	574,927,239	819,997,573	873,488,891	53,491,318
Health Insurance	176,536,650	405,908,624	582,445,274	558,094,445	(24,350,829)
Total	2,934,612,923	6,489,647,866	9,424,260,789	9,723,458,062	299,197,273





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March 28, 2016

TO: Members of the PERS Board

FROM: Jason Stanley, Chief Compliance, Audit, and Risk Officer

SUBJECT: Review the Annual Report of Financial Transactions of the Executive Director for the fiscal year ended June 30, 2015.

REQUESTED ACTION

In accordance with PERS policy and procedure, the Chair of the Audit Committee has reviewed the summary of salary, benefits, personnel expenses, travel, and other financial charges incurred by PERS Executive Director Steve Rodeman in the aggregate amount of \$141,717. This amount covers the period from Mr. Rodeman's promotion to the position on December 1, 2014, through June 30, 2015. Details of this amount will be provided at today's Audit Committee meeting. The financial records supporting this summary are maintained in the Financial and Administrative Services Division (FASD).

BACKGROUND

Oregon Accounting Manual (OAM) policy number 10.90.00.PO requires boards and commissions to establish a formal structure to ensure the proper review and approval of the agency head's financial transactions. This is supported by PERS policy number 1.01.02.00.001.POL.

The policy requires the Chief Compliance, Audit, and Risk Officer or Chief Administration Officer to review and approve all financial transactions of the Executive Director, including monthly timesheets, travel claims (both in-state and out-of-state), Small Purchase Order Transaction System (SPOTS) card purchases, etc. The policy also requires that the Chair of the Audit Committee report to the Audit Committee and the PERS Board annually that they have reviewed the Executive Director's financial transactions, and that their review and approval be documented in the Board meeting minutes.

I approved and reviewed the detailed transactions (payroll time reports, travel expense reimbursement claims, and SPOTS card purchases) of the Executive Director of PERS for the period of December 1, 2014, through fiscal year ended June 30, 2015, and found no exceptions or inappropriate transactions. During this period, the Executive Director had no exceptional performance leave or vacation payouts.

Financial Transactions

March 28, 2016

Page 2 of 2

The PERS Board minutes for this meeting will reflect receipt of this report on the Executive Director's financial transactions for the fiscal year ended June 30, 2015, as submitted by the Chief Compliance, Audit, and Risk Officer in compliance with OAM 10.90.00 PO.



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March 28, 2016

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Notice of Rulemaking for Withdrawal Rules:
OAR 459-005-0001, *Definitions, Generally*
OAR 459-075-0020, *Withdrawal from OPSRP Pension Program*
OAR 459-080-0020, *Withdrawal of Individual Accounts*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Modify definition of “effective date of withdrawal” to reduce incidents of mandatory repayment, clarify items required to process a withdrawal, and housekeeping edit to definition of “effective date of retirement” to include OPSRP Pension Program reference.
- Policy Issue: No policy issues have been identified.

BACKGROUND

A vested, inactive member of the Oregon Public Service Retirement Plan (OPSRP) Pension Program may withdraw from the program under ORS 238A.120. Upon withdrawal, the member receives the actuarial equivalent of the member’s benefit in a lump sum. To withdraw from the OPSRP Pension Program, the member must be separated from all PERS covered employment, and the actuarial equivalent of their pension benefit must be less than \$5,000. To determine the actuarial equivalent of their pension benefit, the member’s benefit at retirement is determined and a calculation is performed using the member’s age at the time of the withdrawal and the actuarial equivalency factor adopted by the PERS Board.

Submission of Last Completed Document Required from the Member/Proof of Age

The definition of “effective date of withdrawal” in OAR 459-005-0001, which applies to all programs, currently states:

“Effective date of withdrawal” means the later of:

- (a) The first day of the calendar month in which PERS receives the last completed document required from a member who requested a withdrawal; or
- (b) The first day of the second calendar month following the calendar month in which the member terminated employment with all participating employers and all employers in a controlled group with a participating employer.

When this definition was adopted, proof of age was not required¹. In 2012, PERS started to require that OPSRP Pension Program members present documentation to verify their age as part of the withdrawal process but did not amend corresponding administrative rules to reflect the change in practice. This created some confusion as to whether the proof of age was a required “completed document” or was merely part of the withdrawal process.

An OPSRP member providing their proof of age after the withdrawal application has been submitted is not uncommon. If the “effective date of withdrawal” does not occur by rule until the proof of age is received (i.e., the proof of age is required to consider the application a “completed document”), a mandatory repayment could be triggered if the member has subsequently returned to work with a participating employer prior to PERS’ receiving the member’s proof of age to complete the application.

Modifying the definition clarifies that the “effective date of withdrawal” is to be based on receipt of the completed application only. To further clarify, the modification to 459-075-0020 reflects PERS’ practice and states that PERS will not process the withdrawal payment until proof of age is received.

DMV Access

PERS is able to verify proof of age through DMV records for persons with a valid Oregon driver license, permit, or identification card. Because the DMV’s documentation process meets PERS’ standards for proof of age, we will accept information obtained from the DMV as proof of age as required in OAR 459-075-0020(7). For those members whose age cannot be verified through the DMV, the member must submit a valid proof of age before their withdrawal will be processed.

Cancellation If Required Items Not Submitted Within 180 Days of Application Submission

Further rule modifications would allow PERS to cancel the member’s withdrawal application if required items are not submitted within 180 days from submitting their withdrawal application. This has been our practice and is explained in the withdrawal application packet instructions. If cancelled, members may resubmit their application so long as they remain separated from PERS-covered employment.

Impact of “Withdraw From One, Withdraw From All”

Statute requires that a member who withdraws from the OPSRP Pension Program also withdraw from the IAP. IAP withdrawals are processed simultaneously with OPSRP Pension withdrawals, so these rule modifications reference that the OPSRP Pension withdrawal documentation requirements also pertain to an IAP withdrawal application. Consequently, if an OPSRP Pension member’s withdrawal is delayed or canceled because the required items are not timely submitted, then their IAP withdrawal will be similarly impacted.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held April 26, 2016, at 2:30 p.m. at PERS headquarters in Tigard. The public comment period ends May 3, 2016, at 5:00 p.m.

¹ There is no change to Tier One or Tier Two member account withdrawals because they do not require “proof of age” documentation.

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: Reduces incidents of mandatory repayment and provides further clarification of the OPSRP Pension Program withdrawal process. Promotes administrative efficiency.

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

RULEMAKING TIMELINE

March 15, 2016	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
March 28, 2016	PERS Board notified that staff began the rulemaking process.
April 1, 2016	<i>Oregon Bulletin</i> publishes the Notice. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
April 26, 2016	Rulemaking hearing to be held at 2:30 p.m. at PERS in Tigard.
May 3, 2016	Public comment period ends at 5:00 p.m.
May 27, 2016	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A rulemaking hearing will be held April 26, 2016, at 2:30 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the May 27, 2016 Board meeting.

B.1. Attachment 1 – OAR 459-005-0001, *Definitions, Generally*

B.1. Attachment 2 – OAR 459-075-0020, *Withdrawal from OPSRP Pension Program*

B.1. Attachment 3 – OAR 459-080-0020, *Withdrawal of Individual Accounts*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 5 – ADMINISTRATION**

1 **459-005-0001**

2 **Definitions, Generally**

3 The words and phrases used in OAR Chapter 459 have the same meaning given them
4 in ORS Chapters 237, 238, 238A, and 243 unless otherwise indicated. Specific and
5 additional terms used in OAR Chapter 459 generally are defined as follows unless context
6 requires otherwise:

7 (1) “Ad hoc” means one-time for a specific purpose, case, or situation without
8 consideration of a broader application.

9 (2) “After-tax” contributions means:

10 (a) Member contributions required or permitted by ORS 238.200 or 238.515, which a
11 participating employer has not elected to “pick up,” assume or pay in accordance with
12 ORS 238.205 and 238.515(b). “After-tax” contributions are included in the member’s
13 taxable income for purposes of state or federal income taxation at the time paid to PERS.
14 “After-tax” contributions are included in computing FAS and in computing the employer’s
15 contributions paid to PERS.

16 (b) Payments made by a member to PERS for the purchase of additional benefits.

17 (3) “Before-tax” contributions means member contributions required or permitted by
18 ORS 238.200 or 238.515, which a participating employer has elected to “pick up,” assume
19 or pay in accordance with ORS 238.205 and 238.515(b). “Before-tax” contributions are not
20 included in the member’s taxable income for purposes of state or federal income taxation
21 at the time paid to PERS. “Before-tax” contributions are included in:

22 (a) Computing final average salary; and

1 (b) Computing the employer’s contributions paid to PERS if the employer has elected
2 to “pick up” the member contributions.

3 (4) “Business day” means a day Monday through Friday when PERS is open for
4 business.

5 (5) “Calendar month” means a full month beginning with the first calendar day of a
6 month and ending on the last calendar day of that month.

7 (6) “Calendar year” means 12 consecutive calendar months beginning on January 1
8 and ending on December 31.

9 (7) “Casual worker” means an individual engaged for incidental, occasional, irregular,
10 or unscheduled intervals or for a period of less than six consecutive calendar months.

11 (8) “Contributions” means any contributions required or permitted pursuant to ORS
12 238.200 or 238.515.

13 (9) “Differential wage payment” means a payment made on or after January 1, 2009:

14 (a) By an employer to a member with respect to any period during which the member
15 is performing service in the uniformed services, as defined in USERRA, while on active
16 duty for a period of more than 30 consecutive days; and

17 (b) That represents all or a portion of the wages the member would have received
18 from the employer if the member were performing service for the employer.

19 (10) “Effective date of withdrawal” means the later of:

20 (a) The first day of the calendar month in which PERS receives *[the last]* a completed
21 *[document required]* application from a member who requested a withdrawal; or

1 (b) The first day of the second calendar month following the calendar month in which
2 the member terminated employment with all participating employers and all employers in
3 a controlled group with a participating employer.

4 (11) “Effective retirement date” means:

5 (a) For Tier One and Tier Two service retirements, the date described in OAR 459-
6 013-0260.*[; or]*

7 (b) For Tier One and Tier Two disability retirements, the date described in OAR
8 459-015-0001.

9 (c) For OPSRP Pension Program service retirements, the date described in OAR
10 459-075-0175.

11 (12) “Elected official” means an individual who is a public official holding an elective
12 office or an appointive office with a fixed term for the state or for a political subdivision of
13 the state who has elected to participate in PERS pursuant to ORS 238.015(5).

14 (13) “Emergency worker” means an individual engaged in case of emergency,
15 including fire, storm, earthquake, or flood.

16 (14) “Employee” has the same meaning as provided in ORS 238.005 and shall be
17 determined in accordance with OAR 459-010-0030.

18 (a) For the purposes of ORS 238.005 to 238.750 the term “employee” includes public
19 officers whether elected or appointed for a fixed term.

20 (b) The term “employee” does not include:

21 (A) A member of the governing board of a political subdivision unless the individual
22 qualifies for membership under ORS 238.015.

1 (B) An individual who performs services for a public employer as a contractor in an
2 independently established business or as an employee of that contractor as determined in
3 accordance with OAR 459-010-0032.

4 (C) An individual providing volunteer service to a public employer without
5 compensation for hours of service as a volunteer, except for volunteer firefighters who
6 establish membership in accordance with ORS 238.015(6).

7 (15) “Employer contribution account” means a record of employer contributions to the
8 Fund, as required by ORS 238.225(1), and investment earnings attributable to those
9 contributions, that the Board has credited to the account after deducting amounts required
10 or permitted by ORS Chapter 238.

11 (16) “Employment” is compensated service to a participating employer as an
12 employee whose:

13 (a) Period or periods of employment includes only the actual hours of compensated
14 service with a participating employer as an employee; and

15 (b) Compensated service includes, but is not limited to, paid vacation, paid sick leave,
16 or other paid leave.

17 (17) “Estimate” means a projection of benefits prepared by staff of a service or
18 disability retirement allowance, a death or a refund payment. An estimate is not a
19 guarantee or promise of actual benefits that eventually may become due and payable, and
20 PERS is not bound by any estimates it provides.

21 (18) “FAS” and “final average salary” have the same meaning as provided in:

22 (a) ORS 238.005 for all PERS Tier One members;

1 (b) ORS 238.435(2) for all PERS Tier Two members who are not employed by a local
2 government as defined in ORS 174.116;

3 (c) ORS 238.435(4) for all PERS Tier Two members who are employed by a local
4 government as defined in ORS 174.116; or

5 (d) ORS 238.535(2) for judge members of PERS for service as a judge.

6 (19) “General service member” means membership in PERS as other than a judge
7 member, a police officer, a firefighter, or a legislator.

8 (20) “Good cause” means a cause beyond the reasonable control of an individual.
9 “Good cause” exists when it is established by satisfactory evidence that factors or
10 circumstances are beyond the reasonable control of a rational and prudent individual of
11 normal sensitivity, exercising ordinary common sense.

12 (21) “Independent contractor” means an individual or business entity that is not
13 subject to the direction and control of the employing entity as determined in accordance
14 with OAR 459-010-0032.

15 (22) “Judge member” has the same meaning as provided in ORS 238.500(3). For
16 purposes of this chapter, active, inactive, and retired membership of a judge member shall
17 have the same meaning as provided in ORS 238.005.

18 (23) “Legislator” means an individual elected or appointed to the Oregon Legislative
19 Assembly who has elected to participate in PERS for their legislative service.

20 (24) “Member cost” means after-tax member contributions and payments made by or
21 on behalf of a member to purchase additional benefits.

22 (25) “Participating employer” means a public employer who has one or more
23 employees who are active members of PERS.

1 (26) “PERS” and “system” have the same meaning as the Public Employees
2 Retirement System in ORS 238.600.

3 (27) “Public university” means a public university with a governing board as listed in
4 ORS 352.002.

5 (28) “Qualifying position” has the same meaning as provided in ORS 238.005 and
6 OAR 459-010-0003.

7 (29) “Regular account” means the account established under ORS 238.250 for each
8 active and inactive member who has made contributions to the Fund or the account of an
9 alternate payee of such a member.

10 (30) “Salary” has the same meaning as provided in ORS 238.005.

11 (a) “Salary” includes a differential wage payment, as defined in this rule.

12 (b) For a Tier One member, a lump sum payment for accrued vacation pay is
13 considered salary:

14 (A) In determining employee and employer contributions.

15 (B) In determining final average salary for the purpose of calculating PERS benefits.

16 (c) For a Tier Two member, a lump sum payment for accrued vacation pay:

17 (A) Is considered salary in determining employee and employer contributions.

18 (B) Is not considered salary in determining final average salary for the purpose of
19 calculating PERS benefits.

20 (31) “Seasonal worker” means an individual whose engagement is characterized as
21 recurring for defined periods that are natural divisions of the employer’s business cycle or
22 services.

1 (32) “Staff” means the employees of the Public Employees Retirement System as
2 provided for in ORS 238.645.

3 (33) “Tier One member” means a member who established membership in the system
4 before January 1, 1996, as defined in ORS 238.430(2).

5 (34) “Tier Two member” means a member who established membership in the system
6 on or after January 1, 1996, in accordance with ORS 238.430.

7 (35) “USERRA” means the federal Uniformed Services Employment and
8 Reemployment Rights Act of 1994, 38 U.S.C. 4301-4334, as in effect on the effective date
9 of this rule.

10 (36) “Vacation pay” means a lump sum payment for accrued leave in a Vacation
11 Leave Program provided by a public employer which grants a period of exemption from
12 work for rest and relaxation with pay, and does not include:

13 (a) Sick leave programs;

14 (b) Programs allowing the accumulation of compensatory time, holiday pay or other
15 special leaves unless the public employer’s governing body indicates by resolution,
16 ordinance, or other legislative process, that such leave is intended to serve as additional
17 vacation leave; and

18 (c) Other programs, such as a Personal Time Off (PTO) plan, which are a combination
19 of vacation, sick, bereavement, personal and other leaves of pay as defined and described
20 by a public employer unless the employer has a written policy that clearly indicates the
21 percentage of the plan that represents vacation leave. If the employer’s PTO has a cash
22 option, the employer must report to PERS the amount of any lump sum pay-off for the
23 percentage that represents vacation leave.

1 (37) “Variable account” and “member variable account” mean the account in the
2 Variable Annuity Account established under ORS 238.260(2) for each active and inactive
3 member who has elected to have amounts paid or transferred into the Variable Annuity
4 Account.

5 (38) “Variable Annuity Account” means the account established in ORS 238.260(2).

6 (39) “Volunteer” means an individual who performs a service for a public employer,
7 and who receives no compensation for the service performed. The term “volunteer” does
8 not include an individual whose compensation received from the same public employer for
9 similar service within the same calendar year exceeds the reasonable market value for such
10 service.

11 (40) “Working day” means a day that the employer is open for business. Unless the
12 employer communicates this information to PERS, PERS will presume an employer’s
13 “working day” is the same as a “business day,” as defined in section (4) of this rule.

14 (41) “Year” means any period of 12 consecutive calendar months.

15 Stat. Auth.: ORS 238.650

16 Stats. Implemented: ORS 238

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 075 – OPSRP PENSION PROGRAM**

1 **459-075-0020**

2 **Withdrawal from OPSRP Pension Program**

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

4 (a) “Controlled group” means a group of employers treated as a single employer for
5 purposes of maintaining qualified status under federal law.

6 (b) “Effective date of withdrawal” has the same meaning as given the term in OAR
7 459-005-0001 ~~[(8)]~~ (10).

8 (c) “Inactive member” has the same meaning given the term in ORS 238A.005.

9 (d) “Pension program” has the same meaning given the term in ORS 238A.005.

10 (2) An inactive member may withdraw from the OPSRP Pension Program under
11 ORS 238A.120 if:

12 (a) The member is vested in the pension program under ORS 238A.115;

13 (b) The member has ~~[separated]~~ terminated from employment with all participating
14 employers and all employers in a controlled group with a participating employer;

15 (c) The member has been absent from service with all participating employers and
16 all employers in a controlled group with a participating employer for at least one full
17 calendar month following the month of ~~[separation]~~ termination;

18 (d) The member files with PERS a written request for withdrawal on a form
19 acceptable to PERS;

20 (e) The actuarial equivalent of the member’s pension benefit is \$5,000 or less on the
21 effective date of withdrawal. The actuarial equivalent may not include any value
22 attributable to cost-of-living adjustments under ORS 238A.210; and

1 (f) The member complies with the requirements of *[section 2, chapter 52, Oregon*
2 *Laws 2007]* ORS 238A.120(4).

3 (3) Any amount payable to the member under the provisions of this rule must be
4 paid to the member in a single lump-sum payment.

5 (4) A member may revoke a request for withdrawal from the pension program if
6 PERS receives the member’s written revocation of the request before the earlier of:

7 (a) The date of distribution; or

8 (b) The date PERS receives a valid court order requiring PERS to pay the
9 distribution to someone other than the withdrawing member.

10 (5) A member who withdraws from the pension program terminates membership in
11 the pension program as of the effective date of withdrawal.

12 (6) A member who withdraws from the pension program forfeits any service
13 performed by the member before the date of the *[separation]* termination described in
14 subsection (2)(b) of this rule and may not use that service for any purpose including, but
15 not limited to, establishing membership under ORS 238A.100, vesting under ORS
16 238A.115, and the accrual of retirement credit under ORS 238A.140, 238A.150, or
17 238A.155.

18 (7) The withdrawal shall be processed following receipt by PERS of all the
19 items in subsections (a) and (b) of this section:

20 (a) From the member:

21 (A) Completed withdrawal application; and

22 (B) Proof of member’s age.

1 (b) From the employer: Financial and demographic information indicating the
2 member has terminated from employment with all participating employers and all
3 employers in a controlled group with a participating employer.

4 (8) PERS may cancel a member's request for withdrawal if PERS does not
5 receive all the items specified in section (7) of this rule within 180 days of PERS'
6 receipt of the original withdrawal application.

7 ~~[(7)]~~(9) If a former member who has withdrawn from the pension program returns to
8 employment with a participating employer or an employer in a controlled group with a
9 participating employer before the first day of the second calendar month following the
10 month of the ~~[separation]~~ termination described in subsection (2)(b) of this rule, the
11 withdrawal is cancelled and membership is restored. The member must repay to PERS in
12 a single payment the total amount of all payments attributable to the withdrawal within
13 30 days following the effective date of the employment. Upon receipt by PERS of
14 repayment under this section, service forfeited under section (6) of this rule is restored as
15 of the effective date of withdrawal.

16 ~~[(8)]~~(10) If the member fails to repay as provided in section ~~[(7)]~~(9) of this rule,
17 PERS shall take all reasonable steps to recover the repayment amount due, including any
18 interest, costs, or penalties assessed by PERS, under the provisions of ORS 238.715 and
19 OAR 459-005-0610. Upon receipt by PERS of repayment under this section, service
20 forfeited under section (6) of this rule is restored effective the first day of the month
21 following the date of repayment.

22 ~~[(9)]~~(11) The effective date of this rule is January 1, 2008.

23 Stat. Auth.: ORS 238A.450

1 Stats. Implemented: ORS 238A.120, OL 2007 Ch. 52

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

1 **459-080-0020**

2 **Withdrawal of Individual Accounts**

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

4 (a) “Controlled group” means a group of employers treated as a single employer for
5 purposes of maintaining qualified status under federal law.

6 (b) “Effective date of withdrawal” has the same meaning as given the term in OAR
7 459-005-0001(8).

8 (c) “Inactive member” has the same meaning given the term in ORS 238A.005(8).

9 (d) “Individual account program” has the same meaning given the term in ORS
10 238A.005(9).

11 (e) “Individual accounts” means the employee account, rollover account, and
12 employer account of a member of the Individual Account Program (IAP) to the extent the
13 member is vested in those accounts under ORS 238A.320.

14 (2) An inactive member may withdraw the individual accounts under ORS 238A.375
15 if:

16 (a) The member has *[separated]* **terminated** from employment with all participating
17 employers and all employers in a controlled group with a participating employer;

18 (b) The member has been absent from service with all participating employers and all
19 employers in a controlled group with a participating employer for at least one full calendar
20 month following the month of *[separation]* **termination**;

21 (c) The member files with PERS a written request for withdrawal on a form
22 acceptable to PERS; and

23

1 (d) The member complies with the requirements of *[section 3, chapter 52, Oregon*
2 *Laws 2007]* [ORS 238A.375\(4\)](#).

3 (3) A member may revoke a request for withdrawal of the individual accounts if PERS
4 receives the member’s written revocation of the request before the earlier of:

5 (a) The date of distribution; or

6 (b) The date PERS receives a valid court order requiring PERS to pay the distribution
7 to someone other than the withdrawing member.

8 (4) A member who withdraws the individual accounts terminates membership in the
9 IAP as of the effective date of withdrawal.

10 (5) An employer account not included in the withdrawn individual accounts by reason
11 of the member’s failure to vest in the employer account is permanently forfeited as of the
12 date of distribution.

13 (6) A member who withdraws the individual accounts and is subsequently employed
14 with a participating employer forfeits any service performed by the member before the
15 *[separation]* [termination](#) described in subsection (2)(a) of this rule for the purpose of
16 vesting in an employer account.

17 (7) If a former member who has withdrawn the individual accounts returns to
18 employment with a participating employer or an employer in a controlled group with a
19 participating employer before the first day of the second calendar month following the
20 month of the *[separation]* [termination](#) described in subsection (2)(a) of this rule the
21 withdrawal is cancelled and membership is restored. The member must repay to PERS in a
22 single payment the total amount of all payments attributable to the withdrawal within 30
23 days following the effective date of the employment. Upon receipt by PERS of repayment
24 under this section, account(s) forfeited under section (5) and service forfeited under section
25 (6) of this rule are restored effective the date of distribution. The repayment amount

1 received will be credited pro rata to the accounts from which the withdrawal amount was
2 derived.

3 (8) If the member fails to repay as provided in section (7), PERS shall take all
4 reasonable steps to recover the repayment amount due, including any interest, costs, or
5 penalties assessed by PERS, under the provisions of ORS 238.715 and OAR 459-005-
6 0610. Upon receipt by PERS of repayment under this section, account(s) forfeited under
7 section (5) of this rule, and service forfeited under section (6) of this rule are restored
8 effective the first day of the month following the date of repayment. The repayment
9 amount received will be credited pro rata to the accounts from which the withdrawal
10 amount was derived effective the first day of the month following the date of repayment.

11 (9) The effective date of this rule is January 1, 2008.

12 Stat. Auth.: ORS 238A.450

13 Stats. Implemented: ORS 238A.375 & OL 2007 Ch. 52



Oregon

Kate Brown, Governor

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March 28, 2016

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

In February 2016, an additional 16,464 *Moro* adjustments were completed. This population consisted of members with a blended COLA as well as the more complex accounts and scenarios that could not be resolved in time for the October 2015 adjustments. Approximately 2,761 of the February adjustments resulted in these recipients receiving invoices of \$50 or more (invoices under \$50 were waived in accordance with PERS policy as allowed by ORS 238.715). PERS experienced the most call volume in over two years, with over 17,000 calls coming through the call center, partly due to this project and our most recent activities. The average number of calls is about 10,000-12,000 per month.

There were also 495 benefit recipients who could not be adjusted for various reasons. They will be notified this month that their adjustment will be done after the system has been programmed with the new COLA rules.

BUDGET UPDATE

The *Moro* project has a remaining budget of \$1,302,375 as of January 31, 2016, out of the \$1.6 million approved. PERS has used \$301,152 so far, mostly in the IT professional services area.

UPCOMING PROJECT ACTIVITIES

- Enhancing the *Moro* project information on the PERS web site.
- Programming and testing for the upcoming system release scheduled for June 14, 2016, to incorporate the new COLA rules.
- Planning the adjustment process for the deceased member population.
- Planning a system batch process in September or October to adjust the remaining benefit recipients who were not captured in the two previous populations.
- Planning for the 2016 COLA update in July that will be paid to benefit recipients August 1, 2016.

Our project end date to resolve all *Moro* impacted accounts is still the end of the biennium, June 30, 2017.

Populations	Numbers	Characteristics
Population A Completed October 2015.	115,919	<ul style="list-style-type: none"> • All recipients with service credit earned prior to 10/01/2013 • All recipients received <i>Moro</i> COLA retroactive payments
Population A & B Completed February 2016.	16,464	<ul style="list-style-type: none"> • 2,761 recipients who received <i>Moro</i> related invoices >\$50 due to overpayments <ul style="list-style-type: none"> ○ Actuarial equivalency factors recalculation ○ OPSRP first year COLA proration ○ Service credit earned after 10/01/2013 • 4,122 recipients whose <i>Moro</i> related invoices <\$50 were waived • 9,581 recipients whose <i>Moro</i>-related adjustments resulted in a COLA retroactive payment
Exclusions and Survivors <i>Anticipated volume by July 2016</i> Work is in progress. Planning to resolve these in September/October.	1,162	<ul style="list-style-type: none"> • Complex accounts due to divorce, variable participation, re-employment, 2nd retirements • Survivors' COLAs are/will be incorrect at inception due to a system defect (7/1/2013 and forward) • Functionality limitations, resource constraints, and validation exceptions not cleared in time
Deceased Members Work is in progress. Planning to resolve these no later than the end of the current biennium.	7,487	<ul style="list-style-type: none"> • Recipients who died during the <i>Moro</i> period (7/1/2013 and forward) • Will be due either a retro payment or an invoice



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March 28, 2016

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

2016 LEGISLATIVE SESSION

The focus of the February 2016 legislative session was on agency budget updates and required reporting to various committees. On two occasions, Executive Director Steve Rodeman presented updates to the Joint Committee on Information Management and Technology regarding progress on 2015 Policy Packages 102, 104, and 105. The Ways and Means Subcommittee on General Government also heard two presentations from Director Rodeman: first for the Assumed Rate budget note report and statutory Preliminary Earnings Crediting report; and second, to respond to JCIMT recommendations for Packages 104 and 105.

Package 102, Integrating IAP into ORION - Since the end of the 2015 legislative session, PERS has responded to concerns and recommendations from LFO, OSCIO, and CFO on project planning and documentation deficiencies. This interim, our partnership and communications with these offices about the project led to approval to move into Stage Gate 3 and reschedule the funds approved in the 2015 session. In 2016, additional project funding of almost \$1.3 million for the biennium was approved to cover these increased project costs. PERS acknowledged that, although the project cost has increased, and completion date has been extended, the additional project review and reporting structure have reduced the risk of project complications.

Package 104, Technology Maintenance and Enhancements – Since the end of the 2015 legislative session, PERS has held a series of presentations and meetings with LFO, OSCIO, and CFO staff to properly frame the 2015 budget request as a system enhancement, not system replacement, strategy. In February 2016, legislative committees approved almost \$1.7 million for additional work on this project, but unscheduled these funds pending approval from those offices about agency capabilities to move forward with its proposed enhancements.

Package 105, Disaster Recovery / Business Continuity Planning – In February 2016, PERS reported on the current state of its Disaster Recovery and Business Continuity planning. During the December 2016 legislative days, PERS will report about additional research and planning activities related to this area.

2016 Legislation Impacting PERS Statutes – Two bills impacting PERS statutes were approved during the legislative session. House Bill 4022 re-established a work after retirement exception for Tier One and Tier Two speech pathologists working for school districts or education service districts, and the new exception expires January 2, 2026. House Bill 4025 is the regular update to connect to the Internal Revenue Code and other provisions of federal law.

POSSIBLE 2017 AGENCY LEGISLATIVE CONCEPTS

After consideration, agency staff is not recommending that we request the drafting of legislative concepts for the 2017 legislative session. If legislative discussions about PERS occur next session, we may have an opportunity to insert one or more amendments to make previously proposed “housekeeping” or technical fixes to PERS statutes.

As always, we are interested and available to consult with legislators, committees, or other interested parties about their possible legislative proposals. We can help to clarify the impact of proposals on PERS members, employers, and agency operations.



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March 28, 2016

TO: Members of the PERS Board
FROM: Jordan Masanga, Chief Information Officer
SUBJECT: 2017-2019 Budget Preview

At the March 28 meeting, I will present a preview of the Policy Option Packages that are under development for consideration in the 2017-19 Agency Request Budget. The draft budget will be presented to the PERS Board at its May 27, 2016 meeting with final adoption at the July 29, 2016 meeting.

2017-19 Budget Preview

Cybersecurity and Technology Modernization

**Jordan Masanga
Chief Information Officer**

March 28, 2016



PERS Cybersecurity Program 2017-19 Business Case



oregon.gov/pers

Introduction

Information Security is a Core Operating Principle. To embody this principle, we added a Goal to the agency's Strategic Plan in January 2016 to "Establish and implement an Information Security Management System in accordance with PERS' Information Security Plan." Analysis has shown the following areas that need to be addressed to bolster our Information Security efforts:

- Information Security does not have an identified, centralized "home" so efforts are fragmented, with inconsistent accountability and focus.
- Information Security concerns are not always part of the vetting process while implementing or changing technologies.
- Proactive monitoring and review of potential threats needs to be strengthened to stay "ahead of the curve."
- The balance of protecting members' data but still needing access to execute operational transactions is not well defined.

Proposed Solution:

- Develop, implement, and manage a dedicated Cybersecurity Program.

Cybersecurity:

The state of being protected against the criminal or unauthorized use of electronic data, or measures taken to protect a computer or computer systems (as on the Internet) against unauthorized access or attack.

State of PERS cybersecurity efforts...

- Cybersecurity is a subset of the services performed by the Technical Operations Section, therefore:
 - It's not always “front of mind” when considering technical and business solutions, so assessing the changed risk profile doesn't consistently occur.
 - Business operations do not have a defined role in providing guidance on the nature or level of protection required for member data.
 - Staff training and education is ad-hoc.
 - As a distributed function, keeping abreast of the changing threat landscape is difficult and managing accountability and results is not determinable.

New Direction for Cybersecurity...

- Cybersecurity should be “front of mind,” not not an after-thought.
- Should be coordinated with business needs, including clear definitions around the level and nature of protections customized to the data that needs to be protected.
- Should ensure adherence to existing statutory protections for Personally Identifiable Information (PII) and Health Insurance Portability and Accountability Act (HIPPA) data.
- Resourced and deployed to quickly identify, stop, and resolve security breaches.
- Accountability and responsibility will be defined at all levels.

Cybersecurity Budget Request for 2017-19

- Cybersecurity Team
 - Senior Security Analyst – new hire
 - Security Analyst – new hire
- Estimated labor cost = \$374,018
- Estimated security budget = \$546,000
 - Security identification, access, monitoring, and analytic tools and training
 - Security Operations Center (SOC) – security monitoring and alerting service (24x7)
- Total Cybersecurity Program costs = \$920,018/biennium

PERS Technology Modernization 2017-19 Business Case



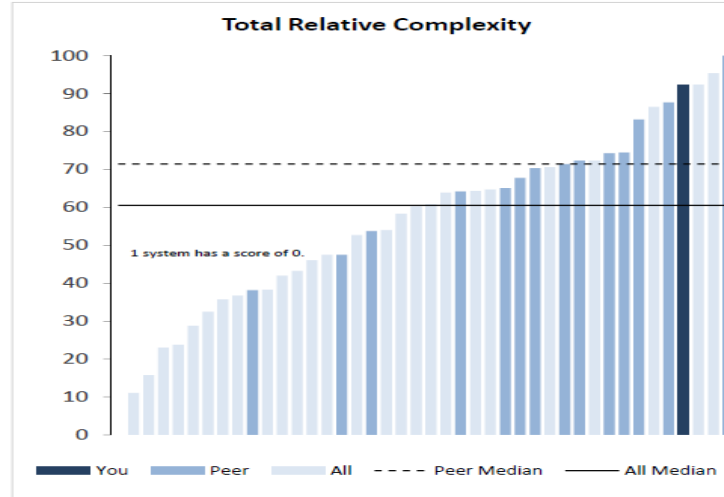
Introduction

- Collectively, PERS IT systems are termed the Oregon Retirement Information Online Network (ORION).
- ORION's core application, jClarety, is a tightly integrated, monolithic business application that is difficult to maintain and enhance to keep up with business demands.
- Modern technology models can support an Agile Technology System that can keep pace with changing plan rules and regulations as well as support service enhancements that cannot effectively be built within jClarety.
- The Service Oriented Architecture (SOA) model as a technology modernization approach for ORION would:
 - provide a common way to communicate between old and the new applications
 - use a common User Interface to business applications and services
 - simplify system regression testing requirements
 - provide a more manageable, sustained approach to technology modernization

PERS is Complex and Difficult to Administer

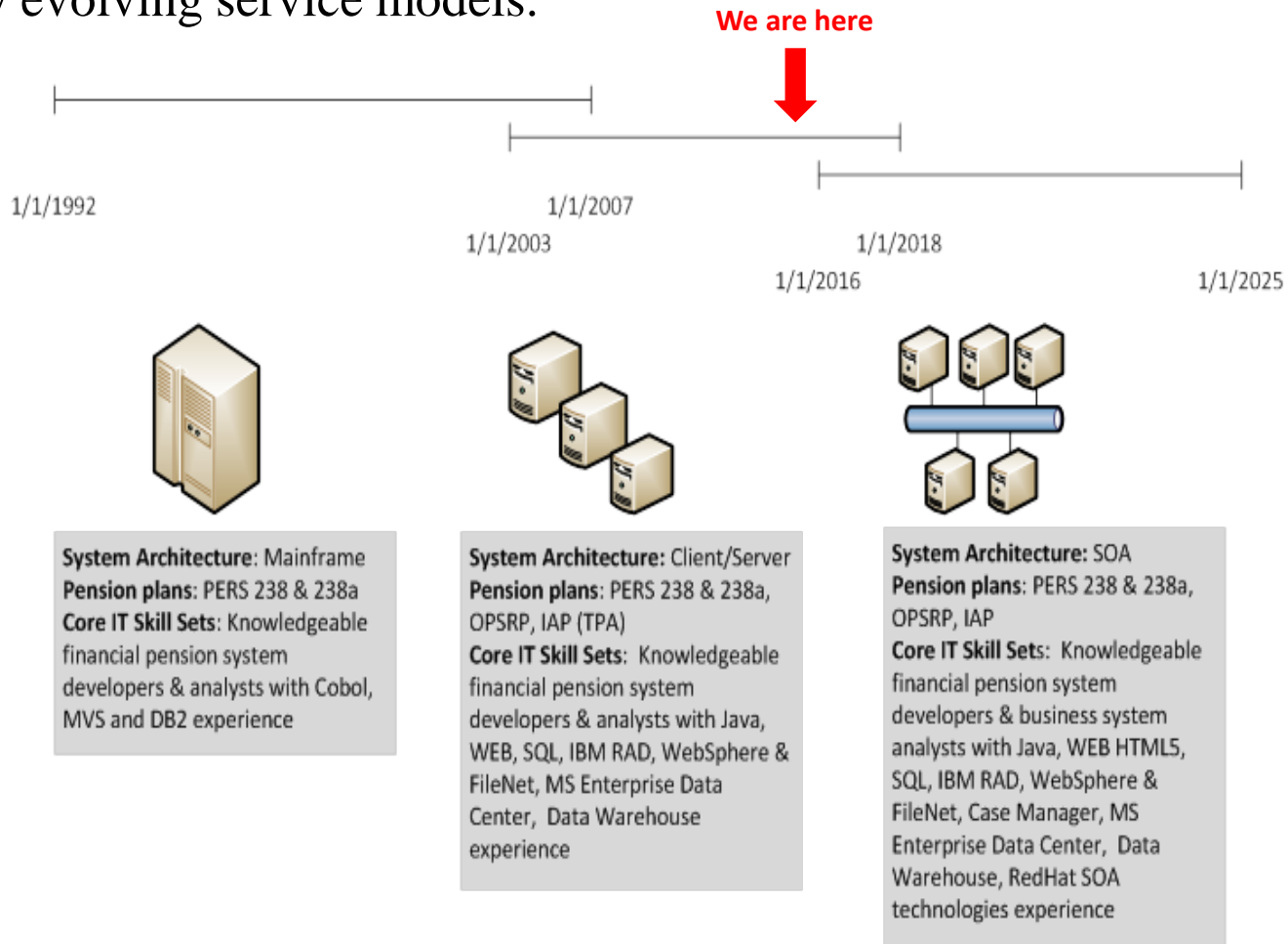
CEM Benchmarking Inc. ranked Oregon PERS as one of the most complex to administer out of 72 leading global pension systems. The retirement plan is defined through over 1,000 business rules supporting the automation of hundreds of Use Cases and Workflows that have to be followed to actually process benefit payments. Even so, narrowly tailored rules, reporting errors, and unanticipated scenarios result in some payments that cannot be supported in the current system.

Back-office costs and productivity are impacted by system complexity. Your total relative complexity score of 92 was above the peer median of 71, and is among one of the highest in CEM's database.



Critical IT Skill Sets Need to be Defined

PERS requires experienced staff with pension system knowledge; a SOA model allows our staff to focus on PERS-specific business needs while integrating with constantly evolving service models.



Technology Modernization 2017-19 Budget Request

- Estimated labor cost for new hires: \$545,000
 - EAS ISS7 Senior Software Engineer
 - EAS ISS5 Business System Analyst
 - ECMS ISS6 Software Engineer
- Estimated cost to retain an experienced vendor: \$4,500,000
- Estimated Information Governance solutions: \$223,000
- **TOTAL** Technology Modernization normal operating budget increase: \$5,268,000/biennia



Oregon

Kate Brown, Governor

Public Employees Retirement System

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March 28, 2016

TO: Members of the PERS Board
FROM: Kyle J. Knoll, Chief Administration Officer
Mary Dunn, Assistant Chief Administration Officer
SUBJECT: Policy on the Funding and Use of the Contingency Reserve

ORS 238.670(1) authorizes the PERS Board to establish a reserve account with earnings and other income in years that earnings on the PERS Fund equal or exceed the assumed interest rate. The statute also states that the PERS Board will continue to fund the account until it determines the reserve is “adequately funded for the purposes specified.” The statute defines the purpose of the Contingency Reserve as preventing fund deficits due to insolvent PERS employers, covering legal expenses or judgements not associated with an individual member or employer, and “to provide for any other contingency that the board may determine to be appropriate.”

At the January 29, 2016 PERS Board meeting, staff posed two questions for policy review around “appropriate use” and “adequate funding” levels of the Contingency Reserve. We also solicited public comment, and received one response from Mr. Greg Hartman (Attachment 1).

POLICY ISSUES:

What is the appropriate method to determine adequate funding for the Contingency Reserve?

In researching best practices of other state and local pension systems, we have found no other systems that have a similar type of reserve. Therefore, the recommendation made here is based on the knowledge and experience for Oregon PERS, as other models do not exist to be considered.

For the last several biennia, PERS’ rationale for adequate Contingency Reserve funding was expressed as a percentage of the PERS Fund, rather than a flat dollar amount. We continue to advocate for setting the funding level based on a percentage, as that method would allow the target to float with the PERS Fund as its value changes over time.

Determining the appropriate funding level percentage should be based on the projected exposures that may tap into that reserve. The 1% funding level was used during a period of substantial legal challenges to legislative changes that reduced member benefits by tens of millions of dollar per year until those changes were resolved. The Oregon Supreme Court’s decision in the *Moro* case resolved the most recent major reform; thus reducing the potential claims against the system.

With this reduced exposure, PERS staff recommends reducing the funding level percentage for the Contingency Reserve from 1% of the PERS Fund to .25%. To illustrate, were that funding level applied to the PERS Fund’s 2015 ending balance, the Contingency Reserve would be adequately funded at a level of around \$170,122,000. To put that funding level in context, previous allocations of the Contingency Reserve by the PERS Board have been in the \$2-7 million range. Even holding aside the \$25 million of the reserve that is allocated for employer insolvencies, a .25% funding level would be more than adequate to cover the PERS Board’s previous allocations.

If the PERS Board adopts a lower adequate funding level, staff will return with a recommendation on the distribution of any excess funds.

What criteria should be applied to PERS Board approval of requests for use of the Contingency Reserve?

One of the expressly provided purposes for the Contingency Reserve in ORS 238.670(1)(a) is to “prevent any deficit in the fund by reason of insolvency of a participating public employer,” with this portion of the reserve to be funded only by earnings on employer contributions. In 2007, \$25 million was set aside for this purpose. To date, none of the \$25 million has been allocated, but PERS staff is currently developing an administrative rule that would further define “insolvency” in this context and perhaps lead to more clarity on when this portion of the reserve would be used.

The other specifically provided purpose of the Contingency Reserve is to pay any legal expenses or judgments that do not arise in the ordinary course of adjudicating an individual member’s benefits or an individual employer’s liabilities. Lastly, the statute allows the reserve to be used to provide for any other contingency that the PERS Board may determine to be appropriate.

In narrowing the permissible purposes that may flow out of this more general grant of authority, consider that the Contingency Reserve is part of the PERS Fund, which is a trust fund for the exclusive benefit of its members. Therefore, any use of the Contingency Reserve must be consistent with the trust’s purpose, which we would suggest the following criteria be used to consider any request for use of the Contingency Reserve:

- Is the request consistent with the PERS Board’s responsibility to manage trust distributions?
- Would the distribution be consistent with the PERS Board’s fiduciary responsibilities?
- Would the distribution represent fiscally responsible management of the fund as a whole?

PERS Staff do not presuppose that these criteria would clearly resolve any future request, but are set forth merely to guide other parties considering whether to request a distribution from the Contingency Reserve as to what the PERS Board will apply when deciding the request. No action is sought on these criteria at this time, but staff is merely setting them forth for the PERS Board’s consideration when deliberating over future requests.

BOARD ACTION

The Board’s options for the Contingency Reserve Funding Policy include:

1. Pass a motion to “adopt a percentage basis funding level for the Contingency Reserve, and establish the percentage at this time to be .25% of the PERF.”
2. Pass a motion adopting a different method to determine an adequate funding level, or specific criteria to evaluate requests for a Contingency Reserve distribution.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

Attachments:

C.4. Attachment 1 – Greg Hartman Memo (February 12, 2016)

BENNETT, HARTMAN, MORRIS & KAPLAN, LLP

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February 12, 2016

BY EMAIL ONLY

Steve Rodeman
Executive Director
Public Employee Retirement System
PO Box 23700
Tigard, OR 97281-3700

Re: Contingency Fund ORS 238.670(1)
Our File No.: 5415-237

Dear Steve:

At the upcoming PERB meeting the board will consider issues relating to the contingency reserve including how to determine adequate funding as well as appropriate uses of the contingency reserve. The purpose of this letter is both to make some observations about the contingency reserve and offer some hopefully helpful thoughts on both topics.

While the funding of the contingency reserve has been the topic of recent litigation, particularly in the *City of Eugene* case, none of those cases have offered any specific guidance on the related issue of how to appropriately size the contingency funds nor any guidance on the appropriate uses of the contingency fund. In addition the trial court opinion by Judge Paul Lipscomb in the *City of Eugene* was later vacated by the Supreme Court, so that decision should not play a major role in the board's discussions.

Prior to any specific discussion about the contingency reserve some historical perspective is appropriate. ORS 238.670(1), which authorizes the contingency fund, is currently part of a five-part statute and should be analyzed in the context of that overall statutory scheme. ORS 238.670(1) as well as ORS 238.670(2) were passed in 1951, shortly after the initiation of the system, and for the most part the operative language of these two reserve statutes has not changed. The contingency statute provides that it is to be used to prevent any "deficit of monies available for the payment of retirement allowances" arising from interest fluctuations, changes in mortality rates, loss of investment capital, or other unforeseen contingency. Though there is no legislative history to give any insight on the meaning of this language, contemporaneous PERS documents indicate that at that time there was a substantial concern that the newly-established system would not have sufficient money to pay benefits. It is reasonable to understand the "deficit of monies" language to mean exactly what it says and that initially the primary purpose of the contingency fund was to guard against not having the money to pay

benefits. This interpretation is further supported by ORS 238.670(2), which provides a preferential allocation of income to the fund which we currently call the benefits in force reserve. Clearly the legislature wanted to make certain that the fund set up to pay benefits would receive adequate earnings to carry out its statutory purpose.

The first major amendment to ORS 238.670 took place in 1967 with the addition of sections (3) and (4), which provide for the establishment of additional reserves “to offset gains and losses of invested capital” or alternatively for the amortization of gains or losses if that is preferable. At that same time the contingency reserve language of subsection (1) was amended to delete the reference to loss of investment capital (as well as “unforeseen” contingencies), with new cross-references to sections (3) and (4). Clearly in 1967 the legislature authorized new reserves to address loss of investment capital rather than assigning that responsibility to the contingency reserve. The reserve authorized by subsection (3) has provided the basis for the establishment of the reserve formerly known as the gain/loss reserve, now known as the Tier One rate guarantee reserve. I don’t recall that it has ever been used for another purpose as it is clear that the board has decided to use the authority under subsection (4) to deal with investment issues through amortization rather than by utilization of special reserves. In 1987 the legislature added subsection (5) which requires the board to report proposed earning creditings to the legislature.

In 2001 the legislature amended ORS 238.670(1) by adding three new provisions, subsections (a), (b), and (c), to add potential additional uses of a contingency reserve. A review of the 2001 legislative history of HB 134 which added these new provisions shows that there were multiple changes proposed to PERS, largely by those employers who were participating in the *City of Eugene* litigation which was pending at that time. Among these many changes were a number of proposed changes which would have allowed contingency fund reserves to be used in various ways for the benefit of the employers. During the course of multiple hearings on the bill both Bob Muir, then DOJ counsel to PERS, and David Heynderickx, then legislative counsel, testified at length on the impropriety of using the contingency reserve to pay expenses which were otherwise assigned to employers. Both argued that this was a breach of elementary trust law as well as potentially placing PERS’ IRS qualification in jeopardy. The legislature ultimately rejected all of those proposed changes to the contingency statute with the exception of subsections (a), (b), and (c), which are part of today’s statute. The limitation in subparagraph (a) which requires that only the portion of the reserve which is funded by employer fund earnings be used to address insolvency of participating public employers is clearly as a result of the Muir and Heynderickx testimony. While (c) gives the board authority to utilize the fund that discretion is subject to the board’s fiduciary obligation to members and that discretion should not be used to pay expenses otherwise assigned to employers consistent with the testimony of Muir and Heynderickx in 2001.

With that background it should be clear that the uses of the contingency reserve under the current statute should be focused on subsections (a), (b), and (c), as given the current size of the fund there is not likely to be a lack of money to pay benefits, which is the focus of subsection (1). With the recent allocation of 2015 earnings the benefits in force reserve has in excess of \$22 billion with an additional \$23 billion in employer accounts available to pay benefits. This should lead to the

conclusion that the current contingency fund is substantially overfunded and that a much smaller fund would be sufficient to meet the needs of subsections (a), (b), and (c).

If the board determines that the current reserve is overfunded, then the historical practice would be to return those funds to the accounts from which they were derived. An exception to that is the specific authorization in ORS 238.670(3) which permits excess funds in the contingency reserve to be paid to a reserve established under subsection (3). Though there has been no recent analysis of the appropriate funding level of the Tier One rate guarantee reserve there would appear to be little question that at the current time it is underfunded. After payment to the Tier Two employee accounts the board should consider whether any additional funds should be paid to the Tier One rate guarantee reserve to assure that it is adequately funded. Certainly at a minimum any funds which would otherwise be returned to Tier One employee accounts should be used to increase the funding of the rate guarantee reserve.

The January 29, 2016 memo to the board on the contingency reserve notes one recent use of the reserve and one pending request for the use of the reserve. The first use of the reserve was the payment of back COLA benefits to retirees as a result of the *Moro* decision. Consistent with basic trust principles that payment should ultimately be charged to the portion of the contingency reserve funded by earnings from the benefits in force reserve as the payment of COLA benefits is specifically assigned by statute to the employers (ORS 238.360(3)).


In settlement of the *City of Eugene* litigation a payment was made from the contingency reserve to certain employers to satisfy a judgment against PERS. In the *White* case the court approved the settlement agreement including a payment from the contingency reserve to satisfy the judgment against PERS, presumably under the authority of ORS 238.670(1)(b). In contrast, in *Moro* the court did not enter a judgment against PERS but only ruled that certain portions of the 2013 legislation were breaches of PERS contracts and set those portions of the legislation aside. There was no judgment against PERS and ORS 238.670(1)(b) provides no authority for the payment from the contingency reserve of COLA benefits. If the board decides that there should be a distribution of funds because the contingency reserve is overfunded then a lower distribution to the benefits in force reserve to take into account the monies already paid would be consistent with the statute and consistent with the board's fiduciary obligation.

The pending request is for an allocation from the contingency reserve to a small group of employers who argue that there was confusion on the appropriate start date for new members of the OPSRP system. They argue that PERS actions added to this confusion and that these confused employers should not be required to fully fund the benefits as required under OPSRP statutes. The board should reject that request if for no other reason than it relates to the OPSRP system which is a separate and distinct part of ORS Chapter 238. It is clear that the contingency fund established by ORS 238.670(1) was never meant to deal with issues relating to the OPSRP system. In addition, to the extent that this request is to compensate employers who did not properly comply with the statute that would run afoul of the board's fiduciary obligation not to use these funds simply to cover expenses otherwise assigned to employers within the system.

Steve Rodeman
February 12, 2016
Page 4

I trust that these comments will be helpful as the board addresses these contingency fund issues.

Yours very truly,



Gregory A. Hartman

GAH:kaj

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cc: Clients



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March 28, 2016

TO: Members of the PERS Board

FROM: Kyle J. Knoll, Chief Administration Officer

SUBJECT: 2015 Final Earnings Crediting and Reserving

OVERVIEW

- Action: Adopt 2015 final earnings crediting.
- Subject: Crediting earnings for calendar year 2015 to the PERS Fund's accounts and reserves.

The PERS Board is charged with crediting the earnings from the PERS Fund each calendar year. Some of those allocations are directed by statute or rule; the balance are at the PERS Board's discretion. At the January 29, 2015 meeting, the PERS Board adopted preliminary earnings allocations. That preliminary allocation was reported to and acknowledged at a meeting of the Joint Committee on Ways And Means on February 12, 2016.

EARNINGS ALLOCATIONS DIRECTED BY STATUTE OR RULE

The following reserves and accounts are allocated earnings by applicable statute or rule. In compliance with these restrictions, the final earnings allocation for 2015 reflects the following:

- 1. Administrative Expenses:** PERS administrative costs are funded by earnings when they are sufficient, as they were in 2015 (ORS 238.610(1)). As directed by House Bill 4155 (2014 Regular Session), the administrative costs to comply with Governmental Accounting Standards Board (GASB) 68 reporting standards were \$190,400, and will be recovered from earnings on employer's contributions.
- 2. Health Insurance Accounts:** These accounts are created as part of the PERS Fund and directed by statute to be credited with actual earnings or losses, less the expense related to the administration of the programs (ORS 238.410(7); 238.415(4); 238.420(4)). For 2015, the final crediting rate for these accounts is estimated to be 2.74% for RHIA, 0.3635% for RHIPA, and 0.5884% for SRHIA (invested in the Treasury Short-Term Fund).
- 3. Employer Lump Sum Payment Accounts:** These accounts are credited with actual earnings or losses of the PERS Fund Regular Account less administrative expenses, as authorized by ORS 238.225. For 2015, the year-end balances will receive 2.22%.
- 4. Variable Annuity Account:** This account is credited with earnings and losses on its distinct asset allocation of the PERS Fund. The Variable Annuity Account is only invested in equities and, therefore, its earnings are discrete from those of the more diversified PERS Fund Regular Account. As there are insufficient Variable Annuity Account 2015 earnings to pay for administrative expenses, per OAR 459-007-0005, those expenses will be charged to the Regular Account 2015 earnings. For 2015, variable earnings are credited at (1.61%).

- 5. Individual Account Program (IAP):** These member accounts are credited with actual earnings or losses of the PERS Fund Regular Account as required by ORS 238A.350(1). Final IAP earnings for 2015 are to be credited at 1.85% after deducting IAP expenses.
- 6. Tier One Rate Guarantee Reserve:** This reserve, established under ORS 238.255(1), is used to fund crediting of the assumed rate to Tier One member regular accounts when earnings are less than the assumed rate. A transfer of \$281.4 million from the existing reserve will be credited to Tier One member regular accounts for 2015 earnings crediting, resulting in a remaining balance in this Reserve of \$167.4 million.

SUMMARY OF BOARD ALLOCATIONS FOR 2015 EARNINGS

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

Non-Discretionary Allocations

Apply administrative expenses, credit health insurance accounts, employer lump sum accounts, variable annuity accounts, and accounts in the Individual Account Program in the manner described above. Credit Tier One member regular accounts with the assumed earnings rate (7.75%) in effect during 2015.

Judge Member Accounts

Credit Judge Member Accounts with the assumed earnings rate (7.75%) in effect during 2015.

Tier Two Member Regular Accounts

Tier Two member regular accounts usually are credited with a proportional share of available PERS Fund Regular Account earnings. Staff recommends following this practice, which would result in a rate of 1.87%.

Benefits-in-Force and Employer Reserves

Credit the Benefits-in-Force and Employer Reserves evenly with the remaining available PERS Fund Regular Account earnings. The crediting rate to those accounts is 1.87%.

BOARD ACTION – FINAL EARNINGS CREDITING

The Board's options for 2015 final earnings crediting include:

1. Pass a motion to "adopt final crediting of earnings as presented for calendar year 2015."
2. Pass a motion adopting an alternative final allocation of 2015 earnings.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

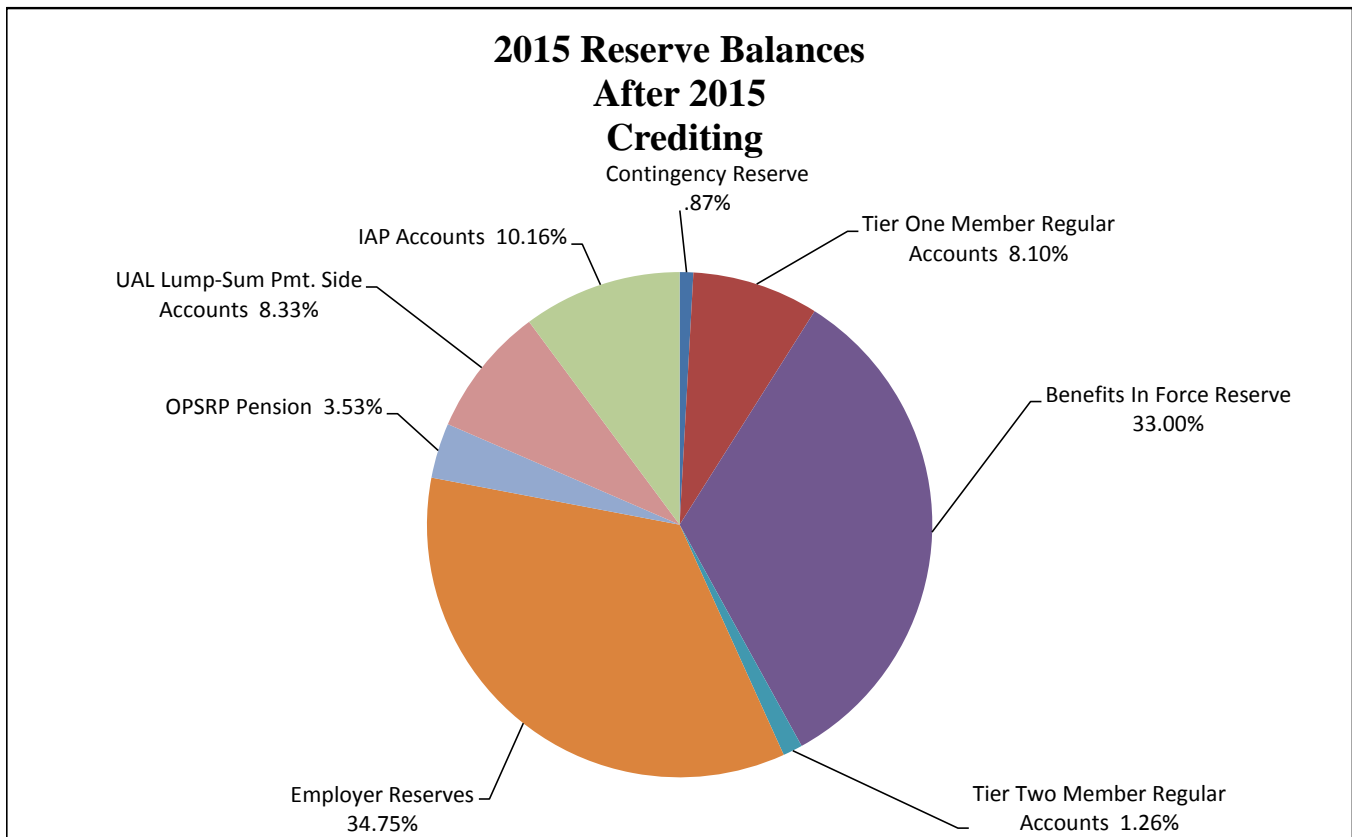
Attachments:

- C.5. Attachment 1 – Final 2015 Accounts and Reserves Crediting

Oregon Public Employees Retirement System Final 2015 Crediting and Reserving

(All dollar amounts in millions)

	Reserves Before Crediting	2015 Crediting	Reserves After Crediting	2015 Rates
Contingency Reserve	\$588.6		\$588.6	N/A
Tier One Member Regular Accounts	4,931.8	382.2	5,314.0	7.75%
Tier One Rate Guarantee Reserve	448.8	(281.3)	167.5	N/A
Benefits In Force Reserve	21,917.8	410.8	22,328.6	1.87%
Tier Two Member Regular Accounts	837.6	15.7	853.3	1.87%
Employer Reserves	23,075.3	432.2	23,507.5	1.87%
OPSRP Pension	2,344.9	42.8	2,387.7	1.82%
*UAL Lump-Sum Pmt. Side Accounts	5,510.3	122.5	5,632.8	Various
*IAP Accounts	6,749.6	122.8	6,872.4	1.85%
Total	\$66,404.7	\$1,247.7	\$67,652.4	



*Informational only. Not affected by Board reserving or crediting decisions.
IAP accounts receiving installments have already received 2015 earnings.