OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

BOARD MEETING AGENDA

Friday February 3, 2023 9:00 a.m.		PERS 11410 SW 68th Parkway Tigard, OR
	ITEM	**PRESENTER**
A.	**Administration**	
1.	December 2, 2022 Board Meeting Minutes	SHENOY
2.	Director's Report	OLINECK
	a. Forward-Looking Calendar	
	b. OPERF Investment Report	
	c. Budget Execution Report	
	d. Annual Report of Director's Financial Transactions	STANLEY
B.	**Administrative Rulemaking**	
1.	Notice of Yearly Salary Contribution Limits Increase	VAUGHN
2.	Notice of Required Minimum Distribution	
3.	Adoption of Return-to-Work Rules	
4.	Adoption of Employer Reporting Rules	
C.	**Action and discussion items**	
1.	Legislative update	CASE
2.	Modernization Program update	CRAVEN
3.	Senate Bill 1566 Reporting Requirements	WINSHIP
4.	Preliminary 2022 Earnings Crediting and Reserving	HORSFORD, GRAVES
5.	Milliman response to Secretary of State Actuarial Review Findings	MILLIMAN
6.	Verbal update reflecting on earnings through December 31, 2022	MILLIMAN

The PERS Board members, meeting presenters, and the public have the option to attend this meeting in person or remotely. Visit https://www.oregon.gov/pers/Pages/Board/PERS-Board-Information.aspx for options. This meeting will be recorded. An audio recording of the meeting will be available on the PERS website following the meeting.

Public testimony or comment will be taken on action items at the Chair's discretion. Written testimony/comment must be submitted to pers.board@pers.oregon.gov. Requests to provide oral testimony/comment must also be submitted to pers.board@pers.oregon.gov.

All written testimony/comment and requests to provide oral testimony/comment should be submitted three days or more in advance of the meeting. Three days allows testimony/comment to be processed by staff, included in the PERS board materials, and considered by board members.

***NOTE:** During its meetings, the PERS Board addresses the PERS program as a whole, not an individual member's benefits. If you have a specific concern about how PERS administers your individual benefits, please call PERS Member Services at 888-320-7277 or follow the PERS appeal process as outlined in OAR 459-001-0030.*

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

2023 Meetings: February 3, April 3*, June 2, July 28*, September 29, December 1*
***Audit Committee planned for post-Board meeting**

February 3, 2023
PERS Board Meeting Agenda

Administration

1. December 2, 2022, Board Meeting Minutes
2. Director's Report
   a. Forward-Looking Calendar
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OREGON PERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM
BOARD MEETING MINUTES

December 2, 2022

Board members present:

Chair Sadhana Shenoy, Vice Chair Lawrence Furnstahl, Jardon Jaramillo, Stephen Buckley, and John Scanlan attended in the PERS Boardroom.

Staff present:

Kevin Olineck, Katie Brogan, Heather Case, Jason Stanley, Neil Jones, Jake Winship, and Jordan Masanga attended in the PERS Boardroom.

Al Smith, Anne Marie Vu, Akiko Yoshida, Alyse Greer, Chris Long, Colin Campi, David Larson, Elizabeth Rossman, Janice Ness, Janice Richards, Jeremy Frese, Joel Mellor, Jonathan Yost, Julie Coatney, Karen Herrold, Katie Davis, Matthew Graves, Matt Rickard, Melanie Chandler, Michael Duren, Nancy Van Dyke, Pamela Foust, Phuongnam Tran, Rebecca Craven, Richard Horsford, Sam Paris, Sean Laurie, Shane Perry, Shawn Harper, Sofia Lalev, Steven Cardinale, Susannah Bodman, Theresa Tabish, Tiffani Cairo, and Yvette Elledge Rhodes attended virtually.

Others present:

Matt Larrabee attended in the PERS Boardroom.

Scott Preppernau, Anita Gurule, Anne Willis, Aruna Masih, Audrey Chinchilla, Caleb Ford, Carol Samuels, Christina Dannenbring, Christine Giordano, Christine Moody, Christine Wolfe, Dale Whipple, David Graf, David Randall, Deborah Tremblay, Denise Treadway, Gay Lynn Bath, Ian Peterson, Jackie Olsen, Jameson Baird, Jamie Johnson-Davis, Jeff Gudman, Jeff Lange, Jenniffer Hyre, Jessica Gibson, Joe Ebisa, John Borden, Josh Eggleston, Joy King-Cortes, Julie Lindsey, June Hadlock, Justine Hill, Kady Strode, Kali Leinenbach, Katherine Knop, Kathy Steinert, Kenny Bao, Kevin Grainey, Kevin Strong, Korrin Petersen, Lorelle Davies, Lori Sattenspiel, Michael Stout, Michelle Lisper, Mindy Landwehr, Nancy Brewer, Nate Carter, Nicole Blodgett, Qristy Kurtz, Robert Tintle, Ronald Vaught, Rosalyn Freedland, Ryan Falls, Sandy Catalan, Shauna Tobiasson, Stephanie Vaughn, Steven Demarest, Susan Copeland, Susan Steen, Teri Wallin, Tom Crawford, Trudy Vidal, Twylla Miller, and Tyler Goode attended virtually.

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

ADMINISTRATION

A.1. MEETING MINUTES OF SEPTEMBER 30, 2022

Vice Chair Furnstahl moved to approve the minutes as presented from the September 30, 2022, PERS Board meeting. Board Member Scanlan seconded the approval of the minutes. The motion passed unanimously.

A.2. DIRECTOR'S REPORT

Director Kevin Olineck presented the Director's Report and the forward-looking calendar. The forward-looking calendar has 2023 PERS Board meeting dates listed. Chair Shenoy requested comments on the First Wage Clean-Up Project. Olineck noted that staff have cleaned up a significant number of accounts.

The Oregon Public Employees Retirement Fund (OPERF) returns, for the period ending October 31, 2022, were -3.31%.

Operating expenditures for September, October, and preliminary expenditures for November are $9,460,501, $6,148,249, and $4,958,054 respectively.

Through November 13, 2022, the agency has expended a total of $80,323,603 or 63.4% of PERS' legislatively approved operations budget of $126,596,362. Currently, the agency's projected variance is $5,777,872 or 4.56%. Olineck reviewed the meeting agenda.

A.3. <u>2023-28 STRATEGIC PLAN ADOPTION</u>

Olineck provided a report on the 2018-23 PERS Strategic Plan. The 2023-28 strategic plan focuses on goals and objectives tied to the PERS Modernization Program. The Executive Team has refined the goals and objectives, primarily around staff development. They then updated the tactics to be executed to achieve these goals and objectives and tied specific measures to these tactics. At the request of Chair Shenoy, Olineck elaborated on the changes from Enterprise Risk Management to Risk Management Program. Changes include adding broader goals for the agency around risk management, information security, and privacy rather than just the objectives surrounding standing up the initial program.

Board Member Jaramillo moved adopt the 2023-28 PERS Strategic Plan, as presented. Vice Chair Furnstahl seconded. The motion passed unanimously.

A.4. <u>BOARD SCORECARD REPORT ON AGENCY PERFORMANCE MEASURES</u>

Matt Rickard of PERS' Outcome-Based Management System Council presented the Board Scorecard Report for the third quarter 2022. Rickard highlighted improvements to the call wait-time measure. The next report will be presented at the June 2, 2023, meeting, showing the scorecard results for the first quarter 2023.

ADMINISTRATIVE RULEMAKING

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

<u>B.1. NOTICE OF RETURN TO WORK RULES</u>

Vaughn presented notice of Rulemaking for Return to Work Rules: OAR 459-015-0045, Return to Work and OAR 459-075-0150, Retirement Credit.

A rulemaking hearing will be held on December 22, 2022, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends on December 27, 2022, at 5:00 p.m.

<u>B.2. NOTICE OF EMPLOYER REPORTING RULES</u>

Vaughn presented notice of Rulemaking for Employer Reporting Rules: OAR 459-009-0100, Employer Reporting and Remittance of Contributions, OAR 459-070-0100, Employer Reporting and OAR 459-070-0110, Employer Remittance of Contributions.

A rulemaking hearing will be held remotely on December 22, 2022, at 2:00 p.m. The public comment period ends December 27, 2022, at 5:00 p.m.

<u>B.3. ADOPTION OF OSGP TRADING RESTRICTIONS RULE</u>

Vaughn presented adoption of Oregon Savings Growth Plan (OSGP) Trading Restrictions Rule: OAR 459-050-0037, Trading Restrictions.

A rulemaking hearing was held remotely on October 25, 2022, at 2:00 p.m. No members of the public attended. The public comment period ended November 1, 2022, at 5:00 p.m. No public comment was received.

Board Member Buckley moved to adopt the OSGP Trading Restrictions rule, as presented. Vice Chair Furnstahl seconded to motion. The motion passed unanimously.

ACTION AND DISCUSSION ITEMS

<u>C.1. PRESENTATION OF FINAL LEGISLATIVE CONCEPT DRAFTS AND LEGISLATIVE UPDATE</u>

Heather Case, Senior Policy Advisor, presented.

Case provided an update on September and December Legislative Days. Legislative concept final drafts have been returned to PERS for all three legislative concepts that were approved by the board in March 2022. Case summarized the concepts and provided final drafts in the meeting packet. They will be filed as written for the 2023 legislative session. An update will be provided at the February 3, 2023, PERS Board meeting.

In preparation for the 2023 legislative session, staff requests that the board confirm membership of the Legislative Advisory Committee (LAC). Board Member Buckley moved to approve the recommended appointments, as presented, effective immediately. Board Member Jaramillo seconded the motion. The motion passed unanimously.

C.2. SENATE BILL 1049 UPDATE

Yvette Elledge-Rhodes, Deputy Director, presented.

Elledge-Rhodes reviewed the ongoing activities of the individual projects that make up the Senate Bill (SB) 1049 Implementation Program. She highlighted program activities that have been completed, or are in process, since the last update to the board. Program health is in the red status.

No board action was required.

C.3. SECRETARY OF STATE ACTUARIAL REVIEW FINDINGS

Jake Winship, Actuary and Ryan Fall of GRS Consulting presented the Oregon Secretary of State Actuarial Review. A summary of the review, actuarial assumptions, methods, and results were shared. PERS will ensure the recommendations are addressed timely and incorporate recommended changes to reporting and review cycles, as appropriate. The board requested that Milliman submit a response to the review findings.

No board action was required.

C.6. 2021 VALUATION RESULTS AND ADOPTION OF EMPLOYER RATES

Actuaries Matt Larrabee and Scott Preppernau of Milliman presented long-term financial modeling projections reflecting published investment results through October 31, 2022. These included system average contribution rates, system funded status, and system unfunded actuarial liability.

No board action was required.

Chair Shenoy adjourned the board meeting at 10:47 a.m.

Respectfully submitted,

Kevin Olineck, Director

Administration

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OREGON PERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

Director's Report

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM
Kevin Olineck, Director

OREGON PERS PUBLIC EMPLOYEES RETIREMENT SYSTEM

Overview

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

Highlights

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

Agency initiatives and accomplishments

Employee of the Year Award As PERS wound down 2022, we were excited to select the 2022 Employee of the Year. The theme was "Silent Hero" and recognized a public servant who has operated behind the scenes, silently working in a dedicated and committed fashion, out of the limelight. The candidates were staff who lay the foundation for stellar public service results and impact positive change in their organization and at the state level.

Staff and managers were encouraged to nominate a peer or team member who they thought of as a true

PERS hero. We looked for examples that demonstrated how nominees embodied the following attributes:

- A silent leader
- Consistent
- Dependable
- Knowledgeable
- Supportive
- The cornerstone of the team

There were 33 nominations received with 26 employees nominated. There were two winners this year; Patricia Saxby who works on the Intake and Review Team and Jason Stallings who works in the Data Integrity Group. Honorable mention went to Marlena Bartolome.

Manager of the Year Award We also chose the PERS Manager of the Year for 2022. Staff had the opportunity to nominate a manager whose efforts have impressed them and who best exemplified the attributes of the ideal manager.

This award was an opportunity to recognize the manager who embodies specific attributes that enable staff and the agency to be successful. Staff were asked to identify nominees who best exemplified the attributes of the ideal manager:

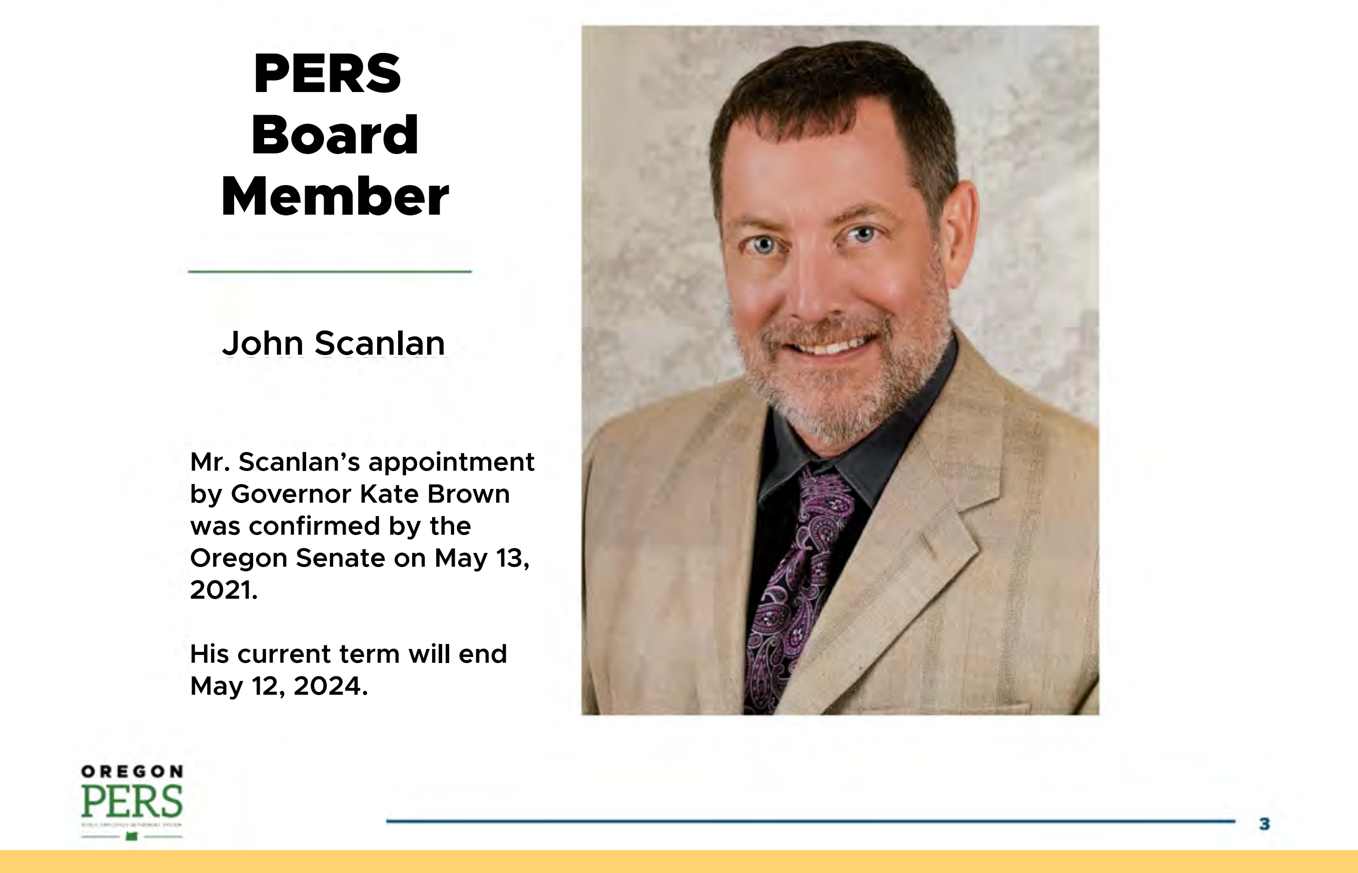
- Commitment
- Clear communication
- Problem solving
- Flexibility
- Innovation
- Productive feedback
- Support
- Consistency

There were 48 nominations received with 16 mangers nominated. The winner was Nick Marello, with honorable mention going to Cyndy Kirkwood.

Both the Employee- and Manager-of-the-Year Awards were made possible by a very active Employee Recognition Work Group, made up of staff throughout the agency, and I'd like to thank them for their efforts.

Staff meeting We held our semi-annual all-staff meeting on December 8. Board Member Scanlan attended the meeting and provided welcoming remarks and comments on behalf of the board, which were appreciated by all in attendance. Topics covered included a *2023-28 PERS Strategic Plan* update, Modernization Program update, budget update, and an update on the Governor's transition. The Employee- and Manager-of-the-Year nominees and winners, noted above, were also announced.

Transition to KeyBank/Automated Clearing House (ACH) PERS will complete the transition of all wire and ACH services to KeyBank on February 9, 2023. Oregon State Treasury oversees the banking activities of all state agencies, and they are administrating this project. This



Board member John Scanlan introduced himself to staff at the December 9 all-staff meeting.

project will support the objectives of replacing outdated and unsupported internal Treasury processes and systems. This transition will also improve both Treasury's and PERS' risk profiles while providing enhanced services to customers.

The project should have a minimal impact to PERS members and PERS-participating employers. The Employer Service Center (ESC) has reached out to all employers with updated ACH information. Affected employers can update their payment information in their system or with their bank; most have already been successful in using the new account information. There is a coordinated effort between ESC and PERS' accounting staff to help transition our remaining "push" employers (those who manually schedule payments after receiving their invoice). There are no updates required for employers who automatically pay their invoice through ACH ("pull" employers) or for our members.

The Information Services Division has updated PERS' ACH files in our test environment, and we have tested and confirmed these updates with KeyBank to ensure a smooth transition in February for our members and employers.

A few things will remain the same after the transition. Treasury will still oversee banking activities for PERS, and U.S. Bank will still be the service provider for paper checks.

Phishing campaign In November, PERS deployed a Phish Alert button to staff members' Outlook email accounts. Now, anytime staff notice a suspicious email, they can press this button. Once staff press the Phish Alert button, the suspicious message will be deleted from their inbox and a copy will be forwarded to DAS Cyber Security Services (CSS) and to the PERS Phishing Inbox.

Coinciding with the implementation of the Phish Alert button, DAS CSS instituted a regular phishing awareness campaign, whereby fake phishing emails are randomly sent to staff to see how they respond.

- If the suspicious email was sent by CSS as part of the phishing campaign and staff use the Phish Alert button, then staff see a message indicating that they successfully identified the phishing email.
- If the suspicious email was not recognized as a potential phishing email, and staff open it, they will be notified and required to take cyber security training to raise their awareness levels.
- If the suspicious email was not from CSS, the PERS information security team will review the message to determine if it is malicious or not. If the message turns out to be a false positive, meaning it appears legitimate, then we will notify the user and they will be able to retrieve the message from their deleted folder if desired.
- If the suspicious email turns out to be malicious, PERS information security team will note it and delete from the Phishing Inbox.

This phishing campaign, combined with the Phish Alert button functionality, enables PERS to better educate staff on how to best identify and deal with phishing emails, which are one of the highest cybersecurity threats for agencies.

Death calculation processing For the past few years, the Operations Division found it challenging to meet its death calculation service standards. However, the death calculation unit met its service standards for all categories of death calculations for the first time in October 2022 and was on track to finish the 2022 year overall in green status!

The challenges, and resultant backlog, were primarily due to two main factors, noted below.

Complexity
The complexity of determining death benefits and lack

of functionality to calculate death benefits has increased because of the following circumstances:

1. Each tier (Tier One, Tier Two, OPSRP) has their own requirements.
2. The addition of House Bill 2417 in 2019, which set up the Optional Spouse Death Benefit (OSDB).
3. Senate Bill 1049 created additional IAP accounts and the Employee Pension Stability Account (EPSA), potentially available as a death benefit, with other legislative changes (such as Senate Bill 111 in 2022) adding to the complexity of determining death benefit eligibility.

The lack of system functionality required to calculate OSDB, EPSA, and Senate Bill 111 changes has impacted calculation processing times.

Demographics
The demographics of PERS retirees is also changing. The largest group of PERS members have now moved into their anticipated mortality range. In 2021, 11 out of 12 months had over 400 deaths reported with an average of 427 reported deaths monthly. So far, the 2022 average number of reported monthly deaths is 390. This is compared to the monthly average number of reported deaths four years ago of 340. The 2022 number of reported deaths does not include any "project" accounts that add to the overall number of death accounts that were processed. "Project" accounts included approximately 1,100 files that were worked on in conjunction with the Financial Services Division clean-up project that dealt with uncashed (outstanding) checks.

Given both the recent changes to legislation coupled with the increasing volume of deaths reported, there is a significant increase in the time it takes to review and process accounts for death benefit eligibility.

Action Plan
After analyzing workload and staffing levels, the death calculation unit received budgetary approval for two additional staff members in the 2021-2023 budget and went from three to five staff members. To better manage and track incoming deaths, three new queues were created. This allowed the team to capture and create workflows specifically based on what type of death benefit was payable. This also allowed easier workload tracking with the ability to redirect staff when backlogs occurred. The queues are monitored daily to ensure that work is being correctly prioritized, and resources reallocated appropriately.

The team lead, Marlena Bartolome, created spreadsheets with guides to be able to determine OSDB calculations accurately and efficiently. The outgoing death benefit forms were changed to be able to personalize each set of forms with drop-down menus. Marlena also assisted in facilitating and programming a spreadsheet for the Calculations unit to aid in calculating any EPSA amounts due to pre-retired members who passed.

The death calculation unit has taken responsibility for all relevant communication coming into the Member Information Center. They now handle all death-related communications. This allows for a quicker turnaround time to answer beneficiary questions and assist with death-benefit form completion.

Specialty Qualifications encompasses Death, Divorce, and Disability calculation work and, although they are three separate units, they function as one team. Members from both the divorce and disability teams assist in processing death calculations with their workload whenever possible. This has helped spread out the workload.

The tenacity of the staff cannot be underestimated in working towards achieving their service standards. At the beginning of 2022 the backlog of payable death benefits was at one of the highest points. There were close to 1,000 benefits that were in a pending status. Currently, all death queues are now current, with no backlog.

Employer Reporting (ER) Guides Based on the Employer Data Exchange (EDX) update, PERS-participating employers can now begin using a new series of employer manuals called Employer Reporting Guides available on the Employer Manuals and Guides webpage. Rather than updating the existing employer manuals, the Employer

Service Center is combining the manuals into a series of short, individual guides. This will help PERS-participating employers find exactly what they need to know to submit reports in EDX. The expanded information will also help them explain PERS benefits to their employees. The first 11 employer-reporting guides are available for reading, printing, and downloading. They provide general information for EDX beginners and include images from the new EDX design. Additionally, there are now eight quick-reference resources available on the employer website. The remaining guides will cover the rest of the topics that employers need to know and reference.

The guides and quick references will eventually replace these existing employer manuals:

- *Employer Manual*
- *EDX User Guide*
- *EDX Reporting Quick Reference Guide*
- *EDX File Format and Development Guide*
- EDX User Quick Info (A-Z)
- Employer Help Files (A-Z)

In addition to the new guides and references, the Employer site includes links to the Unfunded Actuarial Liability Resolution Program (UALRP) actuarial guides.

Employer Data Exchange (EDX) update On November 18, 2022, EDX received a fresh new design. The update enables EDX to perform better on Chrome and FireFox browsers. This update necessitated changing the text styles, so the result is a new look. The same menus, options, and functionality are still available; however, some page layouts are slightly different. Our *November Employer News* provided employers with an overview of these page layouts.

Gold Star Certificate The PERS team responsible for producing our *Annual Comprehensive Financial Report* (ACFR) received the DAS Chief Financial Office's Gold Star Certificate for fiscal year 2021, which is a longstanding financial services tradition at PERS. The certificate is awarded to state agencies that provide accurate and complete fiscal year-end information in a timely manner. This achievement is due to diligent efforts to maintain accurate and complete accounting records throughout the year and aid in the timely preparation of the state of Oregon's ACFR.

PERS Board Meeting
Forward-Looking Calendar

Monday, April 3, 2023*
PERS Board Governance Assignments
Oregon Investment Council (OIC) Annual Review
Legislative Update
Modernization Program Update
Final Earnings Crediting
Oregon Savings Growth Plan Annual Report Out

Tuesday, May 31, 2023, (Joint Meeting with Oregon Investment Council at Treasury)
(PERS Board will be joining the second half of the regular OIC Board meeting 9:00 a.m.-1:00 p.m.)

Friday, June 2, 2023
Board Scorecard Report on Agency Performance Measures
Review Proposed Board Meeting Dates for Next Year
Annual Report of Board Member Training Activities
Legislative Update
Senate Bill 1049 Update
PERS Health Insurance Program (PHIP) Renewals and Rates
PHIP Report Out
Overview of Actuarial Methods and Economic Assumptions

Friday, July 28, 2023*
Legislative Session Review
Modernization Program Update
Preliminary Adoption of Valuation Methods and Assumptions Including Assumed Rate of Return
Preliminary Adoption of Assumed Rate Oregon Administrative Rule (OAR)

Friday, September 29, 2023
Member and Employer Survey Results
Strategic Plan Overview and Update
Legislative Update or Legislative Concepts — if needed
Senate Bill 1049 Update
Funding Policy Review
Final Adoption of Valuation Methods and Assumptions Including Assumed Rate of Return
Valuation Results — Advisory Employer Rates
Final Adoption of Assumed Rate Oregon Administrative Rule (OAR)

Friday, December 1, 2023*
Board Scorecard Report on Agency Performance Measures
Modernization Program Update
Strategic Plan Approval
Valuation Update and Financial Modeling Results
Adoption of Actuarial Equivalency Factor Tables

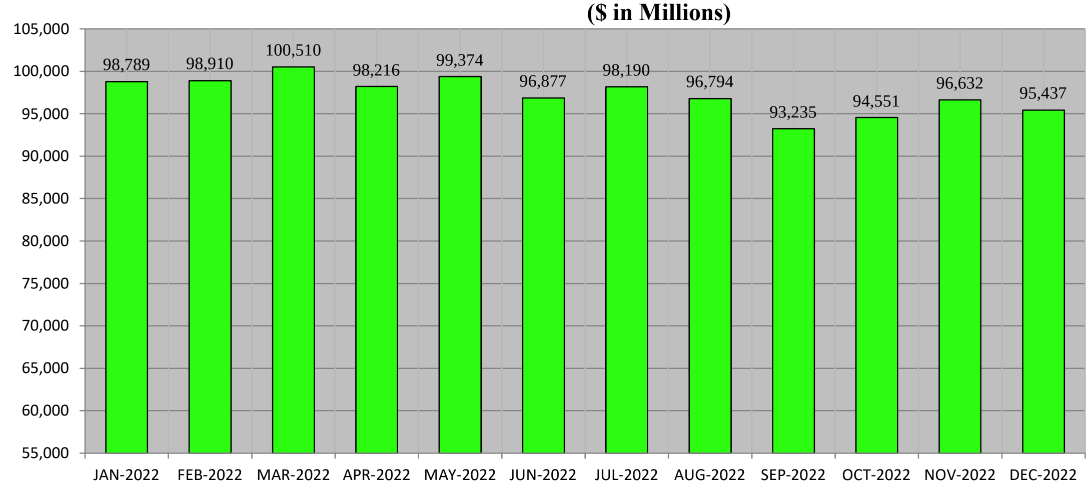
**Audit Committee planned for post-board meeting*

Returns for periods ending DEC-2022 **Oregon Public Employees Retirement Fund**

OPERF	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
	Regular Account				Historical Performance (Annual Percentage)							
TOTAL OPERF Regular Account			$ 91,897,020		(1.55)	(1.55)	8.72	8.36	9.64	7.74	8.71	8.54
OPERF Policy Benchmark					*(8.53)*	*(8.53)*	*2.82*	*5.91*	*7.88*	*6.51*	*8.12*	*8.18*
Value Added					6.98	6.98	5.89	2.45	1.76	1.23	0.59	0.37
Oregon 70/30 Reference Benchmark					*(16.61)*	*(16.61)*	*(3.34)*	*2.23*	*6.64*	*3.77*	*6.06*	*6.05*
Public Equity	25.0-35.0%	30.0%	$ 19,589,291	21.3%	(14.29)	(14.29)	1.42	5.04	9.76	5.38	8.55	8.61
MSCI ACWI IMI Net					*(18.40)*	*(18.40)*	*(1.78)*	*3.89*	*9.10*	*4.96*	*7.98*	*7.94*
Private Equity	15.0-27.5%	20.0%	$ 24,443,148	26.6%	1.15	1.15	19.76	17.37	15.77	16.24	14.91	14.35
Russell 3000+300 Bps Qtr Lag					*(15.11)*	*(15.11)*	*7.35*	*10.92*	*9.67*	*11.86*	*14.20*	*14.70*
Total Equity	45.0-55.0%	50.0%	$ 44,032,439	47.9%								
Total Fixed	15-25%	20.0%	$ 17,582,185	19.1%	(11.29)	(11.29)	(6.24)	(1.82)	0.74	0.64	1.42	1.50
Oregon Custom Fixed Income Benchmark					*(13.01)*	*(13.01)*	*(7.14)*	*(2.57)*	*0.03*	*0.09*	*0.89*	*0.97*
Risk Parity	0.0-3.5%	2.5%	$ 1,362,484	1.5%	(22.62)	(22.62)	(6.19)					
S&P Risk Parity - 12% Target Volatility					*(19.67)*	*(19.67)*	*(2.55)*	*2.46*	*8.19*	*5.27*	*7.66*	*6.15*
Real Estate	7.5-17.5%	12.5%	$ 13,888,532	15.1%	20.03	20.03	19.55	13.63	12.00	11.20	10.55	11.07
Oregon Custom Real Estate Benchmark					*20.96*	*20.96*	*17.24*	*11.38*	*9.66*	*9.26*	*8.84*	*9.75*
Real Assets	2.5-10.0%	7.5%	$ 8,061,620	8.8%	18.21	18.21	18.61	11.31	7.92	7.31	7.71	5.35
CPI +4%					*10.69*	*10.69*	*10.99*	*9.10*	*8.41*	*7.92*	*7.42*	*6.70*
Diversifying Strategies	2.5-10.0%	7.5%	$ 4,262,856	4.6%	21.38	21.38	14.85	5.06	3.52	0.33	1.41	3.17
HFRI FOF: Conservative Index					*0.45*	*0.45*	*3.98*	*4.80*	*5.17*	*3.94*	*3.67*	*3.67*
Opportunity Portfolio	0-5%	0%	$ 2,552,966	2.8%	1.27	1.27	11.57	11.10	9.84	9.03	8.81	8.73
CPI + 5%					*11.75*	*11.75*	*12.05*	*10.14*	*9.45*	*8.95*	*8.45*	*7.72*
Cash w/Overlay	0-3%	0%	$ 153,938	0.2%	0.50	0.50	0.29	0.71	1.36	1.49	1.43	1.17
91 Day Treasury Bill					*1.46*	*1.46*	*0.75*	*0.72*	*1.11*	*1.26*	*1.07*	*0.76*
Target Date Funds			$ 3,281,047									
TOTAL OPERF Variable Account			$ 259,035		(18.10)	(18.10)	(1.44)	4.22	9.43	5.32	8.34	8.29

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

($ in Millions)



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

[2] Includes impact of cash overlay management.

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

Returns for periods ending NOV-2022 **Oregon Public Employees Retirement Fund**

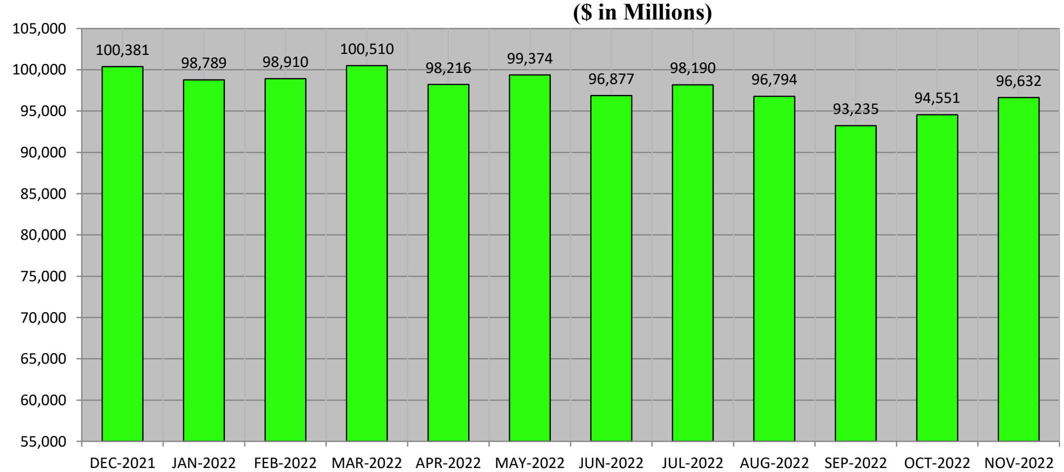
	Regular Account				Historical Performance (Annual Percentage)							
OPERF	**Policy[1]**	**Target[1]**	**$ Thousands[2]**	**Actual**	**Year-To-Date[3]**	**1 YEAR**	**2 YEARS**	**3 YEARS**	**4 YEARS**	**5 YEARS**	**7 YEARS**	**10 YEARS**
Public Equity	25.0-35.0%	30.0%	$ 20,545,744	22.1%	**(11.66)**	**(7.20)**	**5.60**	**7.32**	**8.52**	**6.36**	**8.68**	**9.24**
Private Equity	15.0-27.5%	20.0%	$ 24,487,421	26.3%	**1.39**	**(0.21)**	**19.27**	**17.54**	**16.23**	**16.42**	**14.88**	**14.83**
Total Equity	**45.0-55.0%**	**50.0%**	**$ 45,033,165**	**48.4%**								
Opportunity Portfolio	0-5%	0%	$ 2,491,269	2.7%	**0.58**	**1.74**	**12.93**	**11.18**	**9.46**	**8.88**	**8.67**	**8.70**
Total Fixed	**15-25%**	**20.0%**	**$ 17,635,531**	**19.0%**	**(10.73)**	**(10.89)**	**(5.82)**	**(1.59)**	**1.18**	**0.84**	**1.43**	**1.62**
Risk Parity	**0.0-3.5%**	**2.5%**	**$ 1,755,711**	**1.9%**	**(22.87)**	**(21.39)**	**(4.45)**					
Real Estate	**7.5-17.5%**	**12.5%**	**$ 13,719,337**	**14.8%**	**19.98**	**23.31**	**19.71**	**13.62**	**11.91**	**11.23**	**10.81**	**11.45**
Real Assets	**2.5-10.0%**	**7.5%**	**$ 8,063,835**	**8.7%**	**18.07**	**18.06**	**18.39**	**11.41**	**7.63**	**7.31**	**7.48**	**5.32**
Diversifying Strategies	**2.5-10.0%**	**7.5%**	**$ 4,223,400**	**4.5%**	**20.26**	**23.46**	**16.22**	**4.45**	**3.18**	**0.25**	**1.27**	**3.13**
Cash w/Overlay	**0-3%**	**0%**	**$ 39,166**	**0.0%**	**0.10**	**0.08**	**0.11**	**0.64**	**1.32**	**1.43**	**1.37**	**1.13**
TOTAL OPERF Regular Account		**100.0%**	**$ 92,961,415**	**100.0%**	**(0.70)**	**0.61**	**10.08**	**9.12**	**9.28**	**8.11**	**8.71**	**8.91**
OPERF Policy Benchmark					**(7.07)**	**(5.57)**	**4.93**	**7.01**	**7.76**	**7.10**	**8.08**	**8.62**
Value Added					**6.38**	**6.18**	**5.15**	**2.10**	**1.52**	**1.02**	**0.62**	**0.29**
Oregon 70/30 Reference Benchmark					**(14.19)**	**(11.87)**	**(0.23)**	**4.05**	**6.17**	**4.63**	**6.28**	**6.52**
Target Date Funds			**3,394,241**									
TOTAL OPERF Variable Account			**$ 276,045**		**(14.84)**	**(11.44)**	**2.96**	**6.82**	**8.46**	**6.49**	**8.67**	**8.98**

Asset Class Benchmarks:

	Year-To-Date	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS	7 YEARS	10 YEARS
MSCI ACWI IMI NET	(15.14)	(11.78)	2.62	6.49	8.13	6.13	8.29	8.62
RUSSELL 3000+300 BPS QTR LAG	(14.02)	(13.84)	9.76	11.62	10.72	12.53	13.31	15.63
CPI + 5%	11.64	12.43	12.28	10.22	9.45	9.01	8.44	7.72
OREGON CUSTOM FI BENCHMARK	(12.62)	(12.84)	(6.83)	(2.41)	0.45	0.26	0.89	1.06
S&P Risk Parity - 12% Target Volatility	(13.92)	(11.37)	3.27	5.45	9.09	6.99	8.03	6.93
OREGON CUSTOM REAL ESTATE BENCHMARK	20.83	23.36	17.24	11.47	9.80	9.36	9.30	9.99
CPI +4%	10.67	11.37	11.21	9.18	8.41	7.97	7.41	6.70
HFRI FOF: CONSERVATIVE INDEX	(0.66)	0.01	4.80	4.77	4.65	3.82	3.44	3.66
91 DAY TREASURY BILL	1.09	1.10	0.57	0.65	1.06	1.21	1.02	0.73

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

($ in Millions)



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

[2]Includes impact of cash overlay management.

[3]For 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

Tina Kotek, Governor

Public Employees Retirement System
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February 3, 2023

TO: Members of the PERS Board

FROM: Gregory R. Gabriel, Budget Officer

SUBJECT: February 2023 Budget Report

2021-23 OPERATING BUDGET

Operating expenditures for November, December, and preliminary expenditures for January are $4,227,151, $4,661,726, and $5,157,975 respectively. Final expenditures for January will close in the Statewide Financial Management System on February 17 and will be included in the April 2023 report to the board.

- Through January 13, 2023, the agency has expended a total of $89,118,167 or 70.4% of PERS' legislatively approved operations budget of $126,596,362.
- At this time, the agency's projected variance is $6,381,508 or 5.0%.
- Core Retirement Systems Applications (CRSA) expenditures for November, December, and preliminary expenditures for January are $1,727,660, $691,859, and $1,646,579 respectively. As of January 13, the agency has expended $16,577,278 or 59.7% of the legislatively approved budget of $27,765,009.
- At this time, the CRSA projected variance is $1,866,218 or 6.7%.

2021-23 NON-LIMITED BUDGET

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

- Non-Limited expenditures through January 13, 2023, are $9,608,344,285.

A.2.c. Attachment 1 – *2021-23, CRSA, Agency-Wide Budget Execution Summary Analysis*

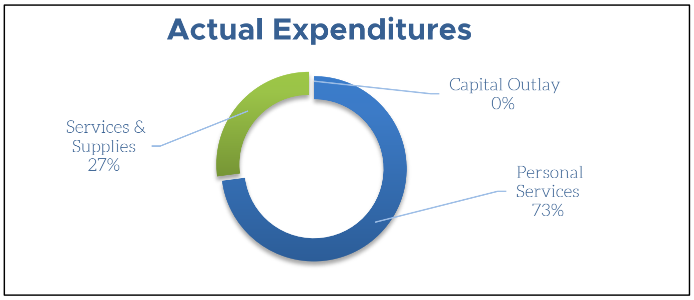
PERS Monthly Budget Report

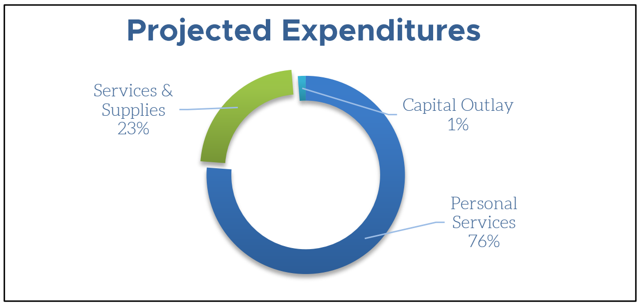
2021-23 Agency-Wide Budget Execution
Preliminary Summary for the Month of January 2023

Limited - Operating Budget

2021-23 Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expenditures	2021-23 LAB	Variance
Personal Services	64,991,666	23,692,411	88,684,077	91,033,361	2,349,284
Services & Supplies	24,105,057	7,005,800	31,110,857	34,094,093	2,983,236
Capital Outlay	21,445	398,475	419,920	1,468,908	1,048,988
Unscheduled				0	0
Total	89,118,168	31,096,686	120,214,854	126,596,362	6,381,508





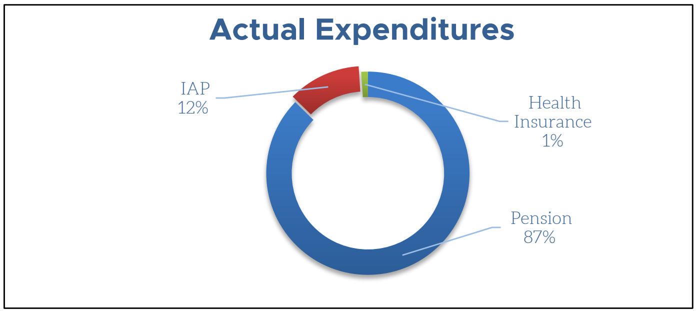
Monthly Summary

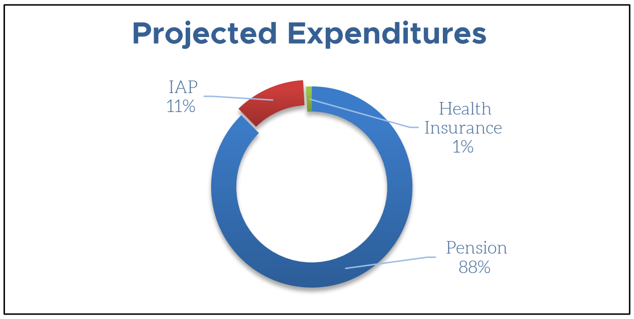
Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Monthly Projected Exp.
Personal Services	3,798,427	3,936,194	137,767	3,436,491	3,839,667
Services & Supplies	1,359,547	1,408,857	49,309	1,316,408	1,199,975
Capital Outlay	0	0	0	7,148	103,103
Total	5,157,975	5,345,051	187,076	4,760,047	5,142,746

Non-Limited Budget

2021-23 Biennial Summary

Programs	Actual Exp To Date	Projected Expenditures	Total Est. Expenditures	Non-Limited LAB	Variance
Pension	8,390,812,555	2,823,914,370	11,214,726,925	11,215,517,678	790,753
IAP	1,115,893,858	343,417,624	1,459,311,483	1,298,603,848	(160,707,635)
Health Insurance	101,637,872	17,704,047	119,341,919	372,492,067	253,150,148
Total	9,608,344,285	3,185,036,042	12,793,380,327	12,886,613,593	93,233,266





Core Retirement Systems Application

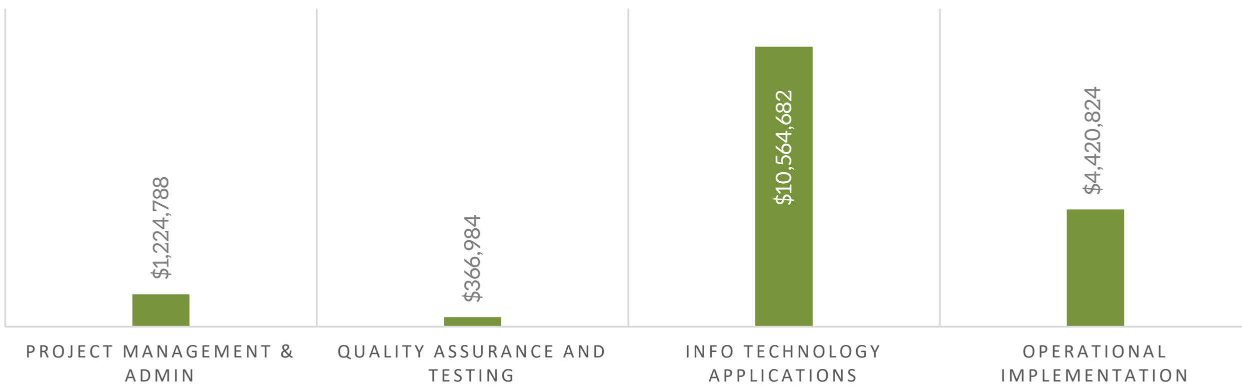
Summary Budget Analysis

Preliminary for the Month of January 2023

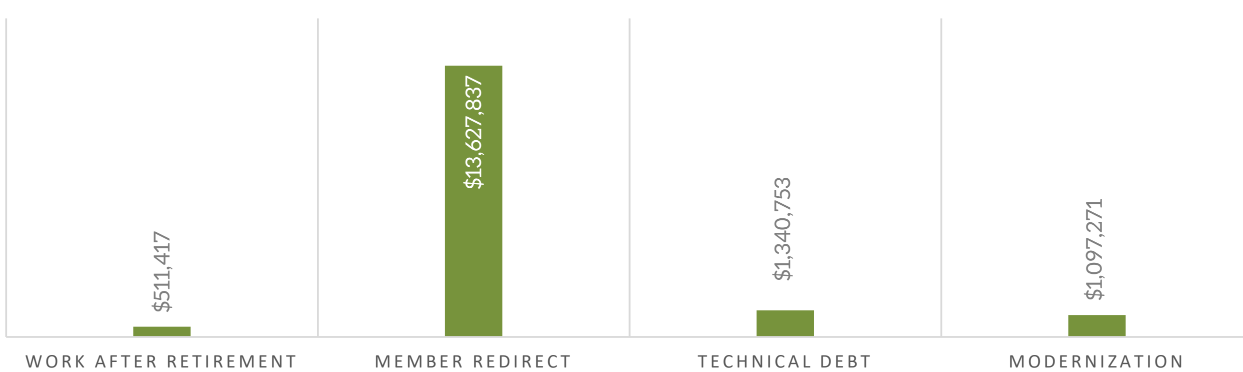
Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2021-23 LAB	Variance
Personal Services	4,224,704	2,545,861	6,770,565	7,037,101	266,536
Services & Supplies	12,336,339	6,775,652	19,111,991	20,672,908	1,560,917
Capital Outlay	16,235		16,235	55,000	38,765
Total	16,577,278	9,321,513	25,898,791	27,765,009	1,866,218

EXPENDITURES BY PACKAGE



EXPENDITURES BY PROJECT



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February 3, 2023

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 PERS Director for the fiscal year ended June 30, 2022

REQUESTED ACTION

In accordance with PERS policy and procedure, the Chair of the Audit and Risk Committee has reviewed the summary of salary, benefits, personnel expenses, travel, and other financial charges incurred by PERS Director Kevin Olineck in the aggregate amount of $322,206. This amount covers the period of July 1, 2021, through June 30, 2022. Details of this amount were provided at the December 2, 2022 Audit and Risk Committee meeting. The financial records supporting this summary are maintained in the Financial Services Division (FSD).

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 Deputy Director to review and approve all financial transactions of the 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 and Risk Committee report to the Committee and the PERS Board annually that they have reviewed the Director's financial transactions, and that their review and approval be documented in the board meeting minutes.

I reviewed the detailed transactions (payroll time reports, travel expense reimbursement claims, and SPOTS card purchases) of the PERS Director for the period of July 1, 2021, through fiscal year ended June 30, 2022, and found no exceptions or inappropriate transactions.

The PERS Board minutes for this meeting will reflect receipt of this report on the Director's financial transactions for the fiscal year ended June 30, 2022, as submitted by the Chief Compliance, Audit, and Risk Officer, in compliance with OAM 10.90.00 PO.

February 3, 2023
PERS Board Meeting Agenda

Administrative Rulemaking

1. Notice of Yearly Salary Contribution Limits Increase
2. Notice of Required Minimum Distribution
3. Adoption of Return-to-Work Rules
4. Adoption of Employer Reporting Rules

OREGON PERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

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February 3, 2023

TO: Members of the PERS Board

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

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

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Update rules to reflect the 2023 Internal Revenue Code (IRC), Social Security, salary limit, and monthly salary threshold for the Employee Pension Stability Account (EPSA).
- Policy Issue: None identified.

BACKGROUND

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

The proposed rule modifications to OAR 459-005-0545 and 459-080-0500 incorporate the federal adjustments for calendar year 2023 and are necessary to ensure compliance with federal limits on the amount of contributions. In addition, the proposed modifications to OAR 459-017-0060 adopt the 2023 Social Security earnings limitations.

Also, under ORS 238.005, 238A.005, and 238A.330, as amended by Senate Bill (SB) 1049 (2019), on January 1 of each year, the PERS Board shall adjust the overall salary limit, and the salary threshold for Employee Pension Stability Account (EPSA) contributions to reflect cost-of-living increases from the previous year, based on the Consumer Price Index (CPI) for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. The year-over-year change for November 2022-2023 is 7.1%. Accordingly, the amendments to OAR 459-005-0525 update the 2023 calendar year salary limit to $225,533, and the amendments to 459-080-0400 update the monthly threshold for redirecting a portion of member contributions to the EPSA to $3,570 for calendar year 2023.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held remotely on February 22, 2023, at 2:00 p.m. The public comment period ends March 1, 2023, at 5:00 p.m.

LEGAL REVIEW

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

IMPACT

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

Benefit: Clarifies the limits for contributions and benefits under federal law for calendar year 2023 and clarifies salary limit and EPSA contributions salary threshold for calendar year 2023.

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

RULEMAKING TIMELINE

January 30, 2023	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
February 1, 2023	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
February 3, 2023	PERS Board notified that staff began the rulemaking process.
February 22, 2023	Rulemaking hearing to be held remotely at 2:00 p.m.
March 1, 2023	Public comment period ends at 5:00 p.m.
April 3, 2023	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A rulemaking hearing will be held remotely on February 22, 2023. The rule is scheduled to be brought before the PERS Board for adoption at the April 3, 2023, board meeting.

B.1. Attachment 1 – *459-005-0525- Ceiling on Compensation for Purposes of Contributions and Benefits*
B.1. Attachment 2 – *459-005-0545- Annual Addition Limitation*
B.1. Attachment 3 – *459-017-0060- Reemployment of Retired Members*
B.1. Attachment 4 – *459-080-0400- Employee Pension Stability Account (EPSA)*
B.1. Attachment 5 – *459-080-0500- Limitation on Contributions*

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

459-005-0545

Annual Addition Limitation

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

(2) Except as otherwise provided in this rule, a member's annual additions to PERS for any calendar year after *[2021]* **2022** may not exceed *[$61,000]* **$66,000** (as adjusted under IRC Section 415(d)).

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

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

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

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

(5) If a member makes a payment to PERS to purchase retirement credit for service in the Armed Forces pursuant to 238.156(3)(c) or 238A.150 and the service is covered

under Internal Revenue Code Section 414(u), the following special rules shall apply for purposes of applying the annual addition limitation in section (2) of this rule:

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

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

(A) The amount of compensation the member would have received from a participating employer had the member not been in the Armed Forces; or

(B) If the amount in paragraph (A) of this subsection is not reasonably certain, the member's average compensation from the participating employer during the 12-month period immediately preceding the period of service in the Armed Forces (or, if shorter, the period of employment immediately preceding the period of service in the Armed Forces).

(6) The provisions of this rule are effective on January 1, 2004.

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

Stats. Implemented: ORS 238.005 - 238.715, 238A.370

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

459-005-0525

Ceiling on Compensation for Purposes of Contributions and Benefits

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

(2) For purposes of this rule:

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

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

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

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

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

(3) For eligible participants, the limit set forth in IRC Section 401(a)(17) shall not apply for purposes of determining the amount of employee or employer contributions that may be paid into PERS, and for purposes of determining benefits due under ORS Chapters 238 and 238A. The limit on annual compensation for eligible participants shall be no less than the amount which was allowed to be taken into account for purposes of

determining contributions or benefits under former ORS 237.001 to 237.315 as in effect on July 1, 1993, for calendar years before 2020. Beginning in *[2022]* **2023**, the limit on annual compensation taken into account for purposes of determining contributions or benefits under ORS Chapter 238 or 238A for eligible participants shall be measured on a calendar year basis, and shall not exceed *[$210,582]* **$225,533** per calendar year.

(4) For noneligible participants, the annual compensation taken into account for purposes of determining contributions or benefits under ORS Chapters 238 and 238A shall be measured on a calendar year basis, and shall not exceed *[$210,582]* **$225,533** per calendar year beginning in *[2022]* **2023**.

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

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

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

(8) With respect to ORS Chapter 238, creditable service, as defined in 238.005, shall be given for each month that an active member is paid salary or wages and allowable contributions have been remitted to PERS, or would be remitted but for the annual compensation limit in this rule. With respect to Chapter 238A, retirement credit as determined in 238A.140, shall be given for each month that an active member is paid

salary or wages and allowable contributions have been remitted to PERS, or would be remitted but for the annual compensation limit in this rule.

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

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

Stats. Implemented: ORS 238.005 & 238A.005

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 017 – REEMPLOYED RETIRED MEMBERS

459-017-0060

Reemployment of Retired Members

(1) For purposes of this rule:

(a) "Bona fide retirement" means that the retired member has been absent from service with all participating employers and all employers in a controlled group with a participating employer for at least six full calendar months between the effective date of retirement and the date of hire.

(b) "Retired member" means a member of the PERS Chapter 238 Program who is retired for service.

(2) A retired member may be employed under ORS 238.082 by a participating employer without loss of retirement benefits provided:

(a) The period or periods of employment with one or more participating employers total less than 1,040 hours in a calendar year; or

(b) If the retired member is receiving retirement, survivors, or disability benefits under the federal Social Security Act, the period or periods of employment total less than either 1,040 hours in a calendar year, or the total number of hours in a calendar year that, at the retired member's specified hourly rate of pay, would cause the annual compensation of the retired member to exceed the following Social Security annual compensation limits, whichever is greater.

(A) For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is *[$19,560]* **$21,240**; or

(B) For the calendar year in which the retired member reaches full retirement age under the Social Security Act and only for compensation for the months before reaching full retirement age, the annual compensation limit is *[$51,960]* **$56,520**.

(3) The limitations on employment in section (2) of this rule do not apply if the retired member has reached full retirement age under the Social Security Act.

(4) The limitations on employment in section (2) of this rule do not apply if:

(a) The retired member meets the requirements of ORS 238.082(4), (5), (6), (7), or (8), and did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or (3);

(b) The retired member retired at a reduced benefit under ORS 238.280(1), (2), or (3), is employed in a position that meets the requirements of ORS 238.082(4), the date of hire is more than six months after the member's effective retirement date, and the member's retirement otherwise meets the standard of a bona fide retirement;

(c) The retired member is employed by a school district or education service district as a speech-language pathologist or speech-language pathologist assistant and:

(A) The retired member did not retire at a reduced benefit under the provisions of ORS 238.280(1) or (3); or

(B) The retired member retired at a reduced benefit under the provisions of ORS 238.280(1) or (3), but is not employed by any participating employer until more than six months after the member's effective retirement date, and the member's retirement otherwise meets the standard of a bona fide retirement;

(d) The retired member meets the requirements of section 2, chapter 499, Oregon Laws 2007, as amended by section 1, chapter 108, Oregon Laws 2015;

(e) The retired member meets the requirements of section 2, chapter 475, Oregon Laws 2015;

(f) The retired member is employed for service during a legislative session under ORS 238.092(2);

(g) The retired member meets the requirements of ORS 238.088(2), and did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or (3); or

(h) The retired member is on active state duty in the organized militia and meets the requirements under ORS 399.075(8).

(i) The retired member is employed as a special campus security officer commissioned by a public university and meets the requirements under section 5, chapter 152, Oregon Laws 2019.

(j) The retired member is employed as a security officer for a community college and meets the requirements under section 5, chapter 152, Oregon Laws 2019.

(k) The retired member is employed by Harney County Health District as a person licensed, registered or certified to provide health services and meets the requirements under section 2, chapter 496, Oregon Laws 2019.

(5) For purposes of population determinations referenced by statutes listed in this rule, the latest federal decennial census shall first be operative on the first day of the second calendar year following the census year.

(6) For purposes of ORS 238.082(6), a retired member replaces an employee if the retired member:

(a) Is assigned to the position of the employee; and

(b) Performs the duties of the employee or duties that might be assigned to an employee in that position.

(7) If a retired member is reemployed subject to the limitations of ORS 238.082 and section (2) of this rule, the period or periods of employment subsequently exceed those limitations, and employment continues into the month following the date the limitations are exceeded:

(a) If the member has been retired for six or more calendar months:

(A) PERS will cancel the member’s retirement.

(i) If the member is receiving a monthly service retirement allowance, the last payment to which the member is entitled is for the month in which the limitations were exceeded.

(ii) If the member is receiving installment payments under ORS 238.305(4), the last installment payment to which the member is entitled is the last payment due on or before the last day of the month in which the limitations were exceeded.

(iii) If the member received a single lump sum payment under ORS 238.305(4) or 238.315, the member is entitled to the payment provided the payment was dated on or before the last day of the month in which the limitations were exceeded.

(iv) A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(B) The member will reestablish active membership the first of the calendar month following the month in which the limitations were exceeded.

(C) The member's account must be rebuilt in accordance with the provisions of section (9) of this rule.

(b) If the member has been retired for less than six calendar months:

(A) PERS will cancel the member's retirement effective the date the member was reemployed.

(B) All retirement benefits received by the member must be repaid to PERS in a single payment.

(C) The member will reestablish active membership effective the date the member was reemployed.

(D) The member account will be rebuilt as of the date that PERS receives the single payment. The amount in the member account must be the same as the amount in the member account at the time of the member's retirement.

(8) For purposes of determining period(s) of employment in section (2) of this rule:

(a) Hours of employment are hours on and after the retired member's effective retirement date for which the member receives wages, salary, paid leave, or other compensation.

(b) Hours of employment that are performed under the provisions of section (4) of this rule on or after the later of January 1, 2004, or the operative date of the applicable statutory provision, are not counted.

(9) If a member has been retired for service for more than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(1):

(a) PERS will cancel the member's retirement effective the date the member is reemployed.

(b) The member will reestablish active membership on the date the member is reemployed.

(c) If the member elected a benefit payment option other than a lump sum option under ORS 238.305(2) or (3), the last monthly service retirement allowance payment to which the member is entitled is for the month before the calendar month in which the member is reemployed. Upon subsequent retirement, the member may choose a different benefit payment option.

(A) The member's account will be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts from the Benefits-In-Force Reserve (BIF) credited to the member's account under the provisions of paragraph (A) of this subsection will be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

(d) If the member elected a partial lump sum option under ORS 238.305(2), the last monthly service retirement allowance payment to which the member is entitled is for the month before the calendar month in which the member is reemployed. The last lump sum or installment payment to which the member is entitled is the last payment due before the date the member is reemployed. Upon subsequent retirement, the member may not choose a different benefit payment option unless the member has repaid to PERS in a single payment an amount equal to the lump sum and installment benefits received and the earnings that would have accumulated on that amount.

(A) The member's account will be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts from the BIF credited to the member's account under the provisions of paragraph (A) of this subsection, excluding any amounts attributable to repayment by the member, will be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

(e) If the member elected the total lump sum option under ORS 238.305(3), the last lump sum or installment payment to which the member is entitled is the last payment due before the date the member is reemployed. Upon subsequent retirement, the member may not choose a different benefit payment option unless the member has repaid to PERS in a single payment an amount equal to the benefits received and the earnings that would have accumulated on that amount.

(A) If the member repays PERS as described in this subsection the member's account will be rebuilt as required by ORS 238.078 effective the date that PERS receives the single payment.

(B) If any amounts from the BIF are credited to the member's account under the provisions of paragraph (A) of this subsection, the amounts may not be credited with earnings for the period from the date of retirement to the date of active membership.

(f) If the member received a lump sum payment under ORS 238.315:

(A) If the payment was dated before the date the member is reemployed, the member is not required or permitted to repay the benefit amount. Upon subsequent retirement:

(i) The member may choose a different benefit payment option.

(ii) The member's retirement benefit will be calculated based on the member's periods of active membership after the member's initial effective retirement date.

(B) If the payment was dated on or after the date the member is reemployed, the member must repay the benefit amount. Upon subsequent retirement:

(i) The member may choose a different benefit payment option.

(ii) The member's retirement benefit will be calculated based on the member's periods of active membership before and after the member's initial effective retirement date.

(iii) The member's account will be rebuilt as described in ORS 238.078(2).

(g) A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(10) If a member has been retired for less than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(2):

(a) PERS will cancel the member's retirement effective the date the member is reemployed.

(b) All retirement benefits received by the member must be repaid to PERS in a single payment.

(c) The member will reestablish active membership effective the date the member is reemployed.

(d) The member account will be rebuilt as of the date that PERS receives the single payment. The amount in the member account must be the same as the amount in the member account at the time of the member's retirement.

(e) Upon subsequent retirement, the member may choose a different benefit payment option.

(11) Upon the subsequent retirement of any member who reestablished active membership under ORS 238.078 and this rule, the retirement benefit of the member must be calculated using the actuarial equivalency factors in effect on the effective date of the subsequent retirement.

(12) The provisions of paragraphs (9)(c)(B), (9)(d)(B), and (9)(e)(B) of this rule are applicable to retired members who reestablish active membership under ORS 238.078 and this rule and whose initial effective retirement date is on or after March 1, 2006.

(13) A participating employer that employs a retired member must notify PERS in a format acceptable to PERS under which statute the retired member is employed.

(a) Upon request by PERS, a participating employer must certify to PERS that a retired member has not exceeded the number of hours allowed under ORS 238.082 and section (2) of this rule.

(b) Upon request by PERS a participating employer must provide PERS with business and employment records to substantiate the actual number of hours a retired member was employed.

(c) Participating employers must provide information requested under this section within 30 days of the date of the request.

(14) Accumulated unused sick leave reported by an employer to PERS upon a member's retirement, as provided in ORS 238.350, may not be made available to a retired member returning to employment under sections (2) or (9) of this rule.

(15) Subsections (4)(c) and (4)(d) of this rule are repealed effective January 2, 2026.

(16) Subsection (4)(e) of this rule is repealed effective June 30, 2023.

(17) A member who is retired for service maintains their status as a retired member of the system, and does not accrue additional benefits during the period of employment. A retired member may not participate in the pension program or the Individual Account Program as an active member, except as provided by ORS 238.092(1) or 237.650.

(18) For calendar years 2020 through 2024, a public employer employing a retired member shall apply the employer's contribution rate for its covered payroll to the wages paid to the retired member. The public employer shall make a payment to the Public Employees Retirement Fund in that amount. This payment is in addition to the employer's contribution required under ORS 238.225, and will be applied to the employer's liabilities, including pension benefit costs and retiree medical benefit costs. If the employer is a member of a pool established under ORS 238.227, the additional payment will be applied to the employer's rate pool's liabilities.

(19) For calendar years 2020 through 2024, the limitations on employment in section (2) of this rule do not apply to a retired member unless the member retired under the provisions of ORS 238.280(1), (2), or (3), and does not have a bona fide retirement.

(20) For calendar years 2020 through 2024, if the member retired under the provisions of ORS 238.280(1), (2), or (3), and does not have a bona fide retirement, the member is subject to the limitations on employment in section (2) of this rule.

(21) Sections (18), (19), and (20) of this rule are repealed effective January 2, 2025.

Stat. Auth.: ORS 238.650 & ORS 238.630

Stats. Implemented: ORS 238.078, ORS 238.082, ORS 238.088, ORS 238.092, ORS 399.075, 2007 OL Ch. 499 & 774, 2015 OL Ch. 108 & 475, 2018 OL Ch. 48 & 2019 OL Ch. 355

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

459-080-0400

Employee Pension Stability Account (EPSA)

(1) The Employee Pension Stability Account (EPSA) is a member account under the IAP as established in ORS 238A.353. A portion of the member contributions is credited to the member's EPSA when the member's monthly salary exceeds the threshold amount and the system funded status is below 90%.

(2) The monthly salary threshold amount:

(a) Is *[$3,333 for calendar year 2022]* **$3,570 for calendar year 2023**;

(b) Includes salary from all PERS covered employment during the calendar month; and

(c) Is determined based on the date the salary is paid except for retroactive salary payments, which are allocated to the period when the salary was earned or would have been earned.

(3) Though part of the IAP, EPSA funds are not invested in target date funds. EPSA funds are held in a separate member account that will be credited annually with earnings or losses in accordance with OAR 459-007-0005. There is no guaranteed rate of return on a member's EPSA.

(4) Unless withdrawn prior to earliest retirement age, a member's EPSA will be applied to the cost of the member's retirement or other pension benefit attributable to service on and after July 1, 2020. The portion of the member's benefit attributable to service on and after July 1, 2020 will be determined by dividing the number of months of service after July 1, 2020 by the total months of service.

(5) If the amount in the EPSA exceeds the cost of the pension or other retirement benefits that are payable to the member or the member's beneficiary determined

according to section (4) of this rule, the board shall pay the excess amounts in a lump sum to the member or the member's IAP beneficiary.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.050, 238A.330, OL 2021, Ch. 298, OL 2019, Ch. 355, Sec. 2, & OL 2018, Ch. 118

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

459-080-0500

Limitation on Contributions

(1) For purposes of this rule, “annual addition” has the same meaning given the term in 26 U.S.C. 415(c)(2).

(2) Except as otherwise provided in this rule, the annual addition to a member account for any calendar year may not exceed *[$61,000]* **$66,000** effective January 1, *[2022]* **2023**.

(3) If a payment of employee contributions for a period of military service is made under OAR 459-080-0100:

(a) The payment shall be allocated as an annual addition to the calendar year(s) of military service to which it relates; and

(b) For the purpose of determining the amount of the payment under this section, the member’s compensation shall be determined under OAR 459-080-0100(3)(d).

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.370

Administrative Rulemaking

1. Notice of Yearly Salary Contribution Limits Increase
2. Notice of Required Minimum Distribution
3. Adoption of Return-to-Work Rules
4. Adoption of Employer Reporting Rules

OREGON PERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

Oregon
Tina Kotek, Governor

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February 3, 2023

TO:	Members of the PERS Board
FROM:	Stephanie Vaughn, Manager, Policy Analysis and Compliance Section
SUBJECT:	Notice of Permanent Rulemaking for Rules regarding Required Minimum Distribution Age
	OAR 459-005-0560, *Required Minimum Distributions, Generally*
	OAR 459-050-0080, *Distribution of Funds After a Severance of Employment*
	OAR 459-050-0300, *Required Minimum Distribution Requirements*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Implement the change in the Required Minimum Distribution age under the Federal SECURE 2.0 Act of 2022.
- Policy Issue: None.

BACKGROUND

In mid-December, staff learned that Congress would be passing the SECURE 2.0 Act of 2022 (SECURE 2.0) by the end of 2022. SECURE 2.0 is follow-up legislation of the federal Setting Every Community Up for Retirement Enhancement (SECURE) Act, which was passed in 2019. The bill moved very quickly and was signed into law on December 29, 2022. Among other provisions, it raises the required minimum distribution (RMD) age once again from 72 to 73 effective January 1, 2023; and to age 75 effective January 1, 2033, which is applicable to both the PERS programs and the Oregon Savings Growth Plan (OSGP).

The RMD age is specified in the PERS statutes and with SECURE 1.0 we waited until the age was updated in statute before updating the rule; however, the RMD age is a federal standard stated in federal law. Particularly in this instance, federal law takes precedent over state law; meaning we need to administer the new age effective January 1, 2023. We anticipate the necessary changes to the PERS statutes will be addressed in the annual federal tax reconnect bill at the next available opportunity.

While this SECURE 2.0 change is effective January 1, 2023, there are numerous other provisions that will need to be implemented for the PERS Plan and for OSGP; we have until 2027 to incorporate the relevant changes into the plan terms.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held remotely on February 22, 2023, at 2:00 p.m. The public comment period ends March 1, 2023, at 5:00 p.m.

LEGAL REVIEW

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

IMPACT

Mandatory: Yes.

Benefit: Provides direction to staff and members regarding the change in the RMD age under the federal SECURE 2.0.

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

RULEMAKING TIMELINE

January 30, 2023	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
February 1, 2023	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
February 3, 2023	PERS Board notified that staff began the rulemaking process.
February 22, 2023	Rulemaking hearing to be held remotely at 2:00 p.m.
March 1, 2023	Public comment period ends at 5:00 p.m.
April 3, 2023	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A rulemaking hearing will be held remotely on February 22, 2023. The rule is scheduled to be brought before the PERS Board for adoption at the April 3, 2023, board meeting.

B.2. Attachment 1 – 459-005-0560, *Required Minimum Distributions, Generally*

B.2. Attachment 2 – 459-050-0080, *Distribution of Funds After a Severance of Employment*

B.2. Attachment 3 – 459-050-0300, *Required Minimum Distribution Requirements*

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

459-005-0560

Required Minimum Distributions, Generally

(1) Applicable Law. Distributions under the Public Employees Retirement System (PERS) shall be made in accordance with Internal Revenue Code (IRC) Section 401(a)(9), including IRC Section 401(a)(9)(G), and the Treasury Regulations and Internal Revenue Service rulings and other interpretations issued thereunder, including Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9. The provisions of this administrative rule and any other statute or administrative rule reflecting the required minimum distribution requirements of IRC Section 401(a)(9) shall override any distribution options that are inconsistent with IRC Section 401(a)(9).

(2) Distributions to Members. Each member's entire benefit under PERS shall be distributed to the member, beginning no later than the required beginning date, over the member's lifetime (or the joint lives of the member and a designated beneficiary), or over a period not extending beyond the member's life expectancy (or the joint life expectancies of the member and a designated beneficiary).

(a) Required Beginning Date. For purposes of this section, the "required beginning date" is April 1 of the calendar year after the later of the following:

(A) The calendar year in which the member reaches:

[age 70 1/2 years of age if the member was born before July 1, 1949, or age 72 if the member was born after June 30, 1949; or]

(i) 70-1/2 years of age in 2019 or earlier,

(ii) 72 years of age in calendar years 2020 through 2022,

(iii)73 years of age in calendar years 2023 through 2032, and

(iv) 75 years of age beginning in 2033 and later, or

(B) The calendar year in which the member retires.

(b) Designated Beneficiary. For purposes of this section, a "designated beneficiary" means any individual designated as a beneficiary by the member. If the member designates a trust as a beneficiary, the individual beneficiaries of the trust shall be treated as designated beneficiaries if the trust satisfies the requirements set forth in Treasury Regulation Section 1.401(a)(9)-4.

(c) Calculation of Life Expectancies. For purposes of this section and Chapter 238 benefits and the Pension Program, which are part of the DB component of PERS, life expectancies shall not be recalculated after the initial determination, unless otherwise required by Treasury Regulation Section 1.401(a)(9)-5, Q&A-4 and Q&A-5. For purposes of this section and the Individual Account Program, life expectancies shall be recalculated but no more frequently than annually, unless otherwise required by Treasury Regulation Section 1.401(a)(9)-5, Q&A-5.

(d) Limitations on Benefit Changes. A retired member who has had a required beginning date shall not change a beneficiary designation, benefit option election, or any other designation or election except as permitted under Treasury Regulation Sections 1.401(a)(9)-4 and 1.401(a)(9)-6.

(e) Limitations on Conversion of Joint Annuity to Single Life Annuity Following Divorce. A retired member who has had a required beginning date may elect to convert a joint and survivor annuity under Option 2A or 3A under Chapter 238 to a single life annuity by reason of the member's divorce from the joint annuitant, subject to the provisions of Treasury Regulation Section 1.401(a)(9)-6. This section applies to ORS Chapter 238 benefits notwithstanding ORS 238.305(5) and 238.325(3).

(f) Limitations on Survivor Annuity Elections. Except as otherwise required by a domestic relation order under ORS 238.465, if a member elects a 100 percent (100%)

joint and survivor annuity (Option 2 or 2A under ORS 238.305(1) and under 238A.190(1)(a)) and designates a nonspouse beneficiary who is more than ten years younger than the member as calculated under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2, the benefit shall be actuarially adjusted to provide for a reduced survivor annuity benefit to the extent necessary to comply with federal requirements for qualified retirement plans.

(g) Limitation on Period-Certain Annuity Election (Chapter 238 only). If a member elects a 15-year certain option (Option 4 under ORS 238.305(1)), and attains age 85 or older during the calendar year in which the benefits commence, the benefit shall be actuarially adjusted to provide for a shorter payout period to the extent necessary to comply with federal requirement for qualified retirement plans.

(h) Limitation on Selection of IAP Benefit Options. Benefit payment options selected under the Individual Account Program shall be considered as payment options under a DC plan and must comply with the requirements of Treasury Regulation Section 1.401(a)(9)-5.

(3) Distributions to Beneficiaries of Retired Members. If a retired member dies after annuity benefit payments have begun under Chapter 238 or the Pension Program, any death benefits shall be distributed at least as rapidly as under the distribution method being used at the member's death.

(4) Distributions to Beneficiaries of Active and Inactive Members. If an active or inactive member dies before annuity payments have begun under Chapter 238 or the Pension Program, any death benefits shall be distributed by December 31 of the calendar year that contains the fifth anniversary of the member's death, except as provided in the following:

(a) Distributions to Designated Beneficiaries. The five-year rule shall not apply to any death benefit that is payable to a member's designated beneficiary, if:

(A) The benefit is distributed over the designated beneficiary's lifetime or over a period not extending beyond the designated beneficiary's life expectancy; and

(B) The distributions begin no later than December 31 of the calendar year that contains the first anniversary of the member's death.

(b) Distributions to Spouse Designated Beneficiaries. Notwithstanding subsection (a) of this section, if the designated beneficiary is the member's surviving spouse as defined by the Internal Revenue Code:

(A) The commencement of distributions under subsection (a)(B) of this section may be delayed until December 31 of the calendar year in which the member would have reached the age specified in section (2)(a)(A) of this rule; and

(B) If the surviving spouse dies after the member's death but before the distributions to the spouse have begun, the rules of this section shall apply to any death benefit payable to any contingent beneficiary as if the spouse were the member. Notwithstanding the foregoing, however, this subsection shall not apply to any death benefit payable to a surviving spouse of the deceased member's surviving spouse.

(5) The provisions of this rule are effective on January 1, 2003.

Statutory/Other Authority: ORS 238.630, 238.650, 238A.130, 238A.170 & 238A.410

Statutes/Other Implemented: ORS 238.005 - 238.715

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

459-050-0080

Distribution of Funds After a Severance of Employment

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

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

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

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

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

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

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

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

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

(A) The calendar year in which the participant**:** *[reaches 70-1/2 years of age if the participant was born before July 1, 1949, or age 72 if the participant was born after June 30, 1949,]*

(i) 70-1/2 years of age in 2019 or earlier,

(ii) 72 years of age in calendar years 2020 through 2022,

(iii)73 years of age in calendar years 2023 through 2032, and

(iv) 75 years of age beginning in 2033 and later, or

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

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

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

(a) Total distribution of the account value in a lump sum.

(b) Single distribution of a portion of the account value in a lump sum. Funds not distributed shall continue to receive earnings or losses based on the performance of investment option(s) in which funds are held;

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

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

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

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

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

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

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

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

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

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

(4) Denial of distribution election. The Deferred Compensation Program may deny any distribution election if that denial is required to maintain the status of the Deferred

Compensation Program under the Internal Revenue Code and regulations adopted pursuant to the Internal Revenue Code and ORS Chapter 243.

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

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

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

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

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

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

Stat. Auth.: ORS 243.470

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

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

459-050-0300

Required Minimum Distribution Requirements

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

(a) “Designated Beneficiary” means:

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

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

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

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

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

(A) The calendar year in which the participant reaches:

[70-1/2 years of age if the participant was born before July 1, 1949, or age 72 if the participant was born after June 30, 1949,]

(i) 70-1/2 years of age in 2019 or earlier,

(ii) 72 years of age in calendar years 2020 through 2022,

(iii)73 years of age in calendar years 2023 through 2032, and

(iv) 75 years of age beginning in 2033 and later, or

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

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

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

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

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

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

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

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

(3) Applicable law. Distributions under the Deferred Compensation Program shall be made in accordance with Internal Revenue Code (IRC) Section 401(a)(9), Treasury regulations, Internal Revenue Service rulings and other interpretations issued, including Proposed Treasury Regulation Section 1.401(a)(9)-2. IRC Section 401(a)(9) overrides the provisions of this rule and any other statute or rule pertaining to the required minimum distribution requirements and any manners of distributions, if they are found to be inconsistent with IRC Section 401(a)(9).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) December 31 of the calendar year in which the participant would have [attained 70-1/2 years of age if the participant was born before July 1, 1949, or age 72 if the participant was born after June 30, 1949,] **reached their required beginning date.**

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

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

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

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

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

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

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

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

(13) Notwithstanding any other sections of this rule and pursuant to the Coronavirus Aid, Relief, and Economic Security Act of 2020, required minimum distribution under IRC 401(a)(9) is waived for calendar year 2020, including 2019 required minimum distribution that would be made between January 1 and April 1, 2020.

Stat. Auth.: ORS 243.470

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

February 3, 2023
PERS Board Meeting Agenda

Administrative Rulemaking

1. Notice of Yearly Salary Contribution Limits Increase
2. Notice of Required Minimum Distribution
3. Adoption of Return-to-Work Rules
4. Adoption of Employer Reporting Rules

OREGON PERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

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February 3, 2023

TO: Members of the PERS Board

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

SUBJECT: Adoption of Amendments to Return-to-Work Rules:
OAR 459-015-0045, *Return to Work*
OAR 459-075-0150, *Retirement Credit*

OVERVIEW

- Action: Adoption of updated Return-to-Work Rules.
- Reason: Clarify how PERS calculates the accrual of retirement credit for a "period of disability" involving a workers' compensation injury.
- Policy Issue: None identified.

BACKGROUND

ORS 238.175 provides that a Chapter 238 Tier One or Tier Two member may accrue retirement credit for the period during which the member receives a PERS disability retirement allowance or workers' compensation payments under ORS Chapter 656. Under the statute, the accrual of retirement credit is triggered "only if the member returns to employment with a participating public employer after the period of disability."

ORS 238A.155 contains a similar requirement for Oregon Public Service Retirement Plan (OPSRP) members. The statute allows an OPSRP member to accrue retirement credit while disabled so long as the member returns to employment with a participating public employer after the period of disability.

Administration of these statutory requirements is straightforward when a member applies for and receives a PERS disability retirement allowance (Tier One or Tier Two) or disability benefit (OPSRP) because the agency has established processes for returning to work. However, when a period of disability ends is less clear in the context of members who receive workers' compensation payments. Specifically, it is not uncommon for members who were out of work with a compensable injury to return to work in some limited or modified capacity while still receiving workers' compensation payments. These payments can continue for an indefinite period after the member returns to work.

The current administrative rules do not address how PERS calculates a member's creditable service or retirement credit when this situation arises. This raises a question as to when a period of disability ends.

The proposed rulemaking is intended to clarify how PERS determines the end of a member's period of disability in the context of workers' compensation injuries. The amendments clarify that, for purposes of calculating creditable service under ORS 238.175 and retirement credit under 238A.155, a period of disability for a member who receives workers' compensation payments ends either when payments end or when the member returns to work with a participating public employer, whichever is earlier. Note that in either case, the statute still requires the member to return to employment to receive credit for the period of disability. This ensures that a member who continues receiving partial workers' compensation payments after returning to work can still accrue retirement credit for the period in which they were out of work due to a compensable injury. It also establishes that the member whose workers compensation benefits end before they return to work will receive credit only for the period they received the workers compensation benefits.

The Chapter 238 Tier One/Tier Two rule, OAR 459-015-0045, contains additional minor edits to update the phrase "PERS covered employment" with more specific language as to whether the rule requires employment in a qualifying position. The OPSRP rule contains an additional provision to specify that members cannot accrue retirement credit beyond normal retirement age in accordance with ORS 238A.155.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely on December 22, 2022, at 2:00 p.m. The public comment period ended December 27, 2022, at 5:00 p.m. No public comments were received.

LEGAL REVIEW

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

IMPACT

Mandatory: No, the board need not adopt the rule modifications.

Benefit: Updates the rules to reflect current agency practice and provides clarification for members and employers.

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

RULEMAKING TIMELINE

December 1, 2022	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
December 2, 2022	PERS Board notified that staff began the rulemaking process.
December 2, 2022	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
December 22, 2022	Rulemaking hearing to be held remotely at 2:00 p.m.
December 27, 2022	Public comment period ends at 5:00 p.m.

February 3, 2023	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

BOARD OPTIONS

The PERS Board may:

1. Pass a motion to “adopt modifications to OAR 459-015-0045 and 459-075-0150, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATIONS

Staff recommends the PERS Board choose Option #1.

Reason: The rules need to be amended to reflect current agency practice and provide clarification for members and employers.

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 – 459-015-0045, *Return to Work*

B.2. Attachment 2 – 459-075-0150, *Retirement Credit*

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

459-015-0045

Return to Work

(1) The Public Employees Retirement Board allows a member who is receiving a disability allowance to return to work as follows:

(a) Returning to work in a PERS qualifying position. A member who has not been medically released for any work for which qualified, may return to work in a PERS qualifying position, as defined by OAR 459-010-0003, for a 90-day trial period without losing disability retirement status. While the member is working during this trial period:

(A) The disability retirement allowance and supplemental benefits will be suspended.

(B) Any wages earned during the trial period are excluded from the definition of salary for purposes of computing PERS contributions or determining PERS retirement benefits unless the member continues the employment beyond 90 days. If the member continues beyond the 90 days, the period will be considered qualifying as of the first day the member returned to work and retroactive contributions, without interest, are required.

(b) Returning to work in a PERS non-qualifying position. A member who has not been medically released for any work for which qualified, may return to work with a PERS participating employer in a position not qualifying for PERS active membership, as defined by OAR 459-010-0003. Unless the member has reached normal retirement age, the monthly disability retirement will be adjusted by any earned income issued during that month which, when added to the disability retirement allowance, exceeds the gross monthly salary earned at the date of disability.

(c) Returning to work in a non-PERS position. A member who has not been medically released for any work for which qualified, may be employed by other than a

PERS participating employer in a position that is not similar in compensation. Unless the member has reached normal retirement age, the monthly disability retirement allowance shall be adjusted by any earned income issued during that month which, when added to the disability retirement allowance, exceeds the gross monthly salary earned at the date of disability.

(d) If a member is able to generate income that is similar in compensation for a period of three calendar months in six consecutive calendar months, PERS shall initiate a review under the periodic review standard in OAR 459-015-0050.

(2) A member's disability retirement allowance will be terminated if the member has been medically released for any work for which qualified, whether the member returns to work or not, and PERS will invoice the member for, or recover under ORS 238.715, any overpayment of benefits.

(3) If a member returns to work as provided in sections (1) or (2) of this rule, the member must:

(a) Notify PERS in writing of the reemployment within 30 days of such reemployment; and

(b) Report monthly to PERS the amount of any earned income issued.

(4) PERS may contact other public or private agencies, such as the Oregon Employment Department, the Oregon Department of Revenue, or the U.S. Internal Revenue Service to obtain employment information.

(5) Upon request by PERS, a member must provide PERS with a copy of the member's federal income tax returns, together with copies of IRS forms W-2.

(6) The Board may require medical examination reports or vocational evaluations for any member receiving a disability retirement allowance who is reemployed.

(7) If the member is reemployed under section (1) of this rule and is unable to continue employment due to the disabling injury or disease as confirmed by medical

documentation, the member or employer must notify PERS. If medical documentation substantiates that the disability prevents the completion of the trial period, the disability retirement allowance will be reinstated at the end of the 90 day period, or as of the date the member leaves the trial employment, whichever is sooner.

(8) A disability retirement allowance shall not be discontinued solely by reason of the retired member entering a training or vocational rehabilitation program as defined in OAR 459-015-0001(24).

(9) Restoration of member account after return to work. If a member returns to *[PERS covered employment]* **work in a PERS qualifying position** after the 90-day trial period **described in section (1)(a) of this rule**, or is medically released at any time for any work for which they are qualified, the disability claim will be closed.

(a) The member's regular and variable PERS account(s) will be restored to the dollar amount of the account as of the effective date of disability retirement. If a variable account transfer was elected at the time of disability retirement, the amounts transferred from the variable account to the regular account will remain in the regular account.

(b) Earnings crediting will resume as of the first of the month following the last month for which a disability retirement allowance was paid.

(10) Creditable service. A member does not receive creditable service while drawing a disability retirement allowance. If, however, the member returns to **work for a PERS participating employer** *[PERS covered employment]*, their disability claim is closed, and they subsequently retire under a service retirement, service time for the period of disability will be restored as follows:

(a) For duty disabilities, creditable service will be granted to the member at no cost to the member.

(b) For non-duty disabilities, creditable service may be purchased by the member under the provisions of ORS 238.175.

(11) For purposes of calculating retirement credit accrued under ORS 238.175, the period of disability for a member who receives workers' compensation payments under ORS Chapter 656 and later returns to work with a PERS participating employer shall be deemed to end upon the earlier of:

(a) The date on which the member's workers' compensation payments end; or

(b) The date on which the member returns to work with a PERS participating employer.

Statutory Authority: ORS 238.650

Statutes Implemented: ORS 238.175, 238.320–238.345 & 238.715

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

459-075-0150

Retirement Credit

(1) For purposes of this rule:

(a) “Active member” has the same meaning as provided in ORS 238A.005.

(b) “Major fraction of a month” means a minimum of 50 hours in any calendar month in which an active member is being paid a salary by a participating public employer and for which benefits under ORS Chapter 238A are funded by employer contributions.

(2) Except as provided in OAR 459-010-0010(3), an active member accrues one month of retirement credit for each month in which the member performs service for the major fraction of the month.

(3) An active member is presumed to have performed service for a major fraction of a month if:

(a) The member performs at least 600 hours of service in the calendar year and the member’s employer(s) reports salary and hours for a pay period occurring within the calendar month;

(b) The member starts employment on or before the 15th day of the calendar month and the employment continues through the end of the month;

(c) The member starts employment on or before the first day of the calendar month and ends employment on or after the 16th day of the month; or

(d) The member starts employment on or before the first day of the calendar month and ends employment before the 16th day of the month, but is reemployed in a qualifying position before the end of the month.

(4) A member or employer may seek to rebut the determination of creditable service based on the presumptions in section (3) by providing to PERS records that establish

that the member did or did not perform service for a major fraction of a month as defined in subsection (1)(c) of this rule.

(5) Except as provided in OAR 459-010-0010(3), an active member who is a school employee will accrue six months of retirement credit if the member performs service for a major fraction of each month of a school year that falls between January 1 and June 30, and six months of creditable service if the member performs service for a major fraction of each month of a school year that falls between July 1 and December 31.

(6) A member may not accrue more than one month of retirement credit for any calendar month and no more than one year of retirement credit for any calendar year.

(7) Credit for the six-month waiting period required by OAR 459-075-0010(2).

(a) Upon establishing membership in the pension program, a member shall receive credit for the waiting period required to establish membership under OAR 459-075-0010(2).

(b) If the member's waiting period before establishment of membership included an interruption of service as described in OAR 459-075-0010(2)(b), no credit shall be awarded for the period of employment before the interruption.

(8) For purposes of calculating retirement credit accrued under ORS 238A.155, the period of disability for a member who receives workers' compensation payments under ORS Chapter 656 and later returns to work with a PERS participating employer shall be deemed to end upon the earlier of:

(a) The date on which the member's workers' compensation payments end;

(b) The date on which the member returns to work with a PERS participating employer; or

(c) The date on which the member attains normal retirement age as defined in ORS 238A.160

*[(8)]***(9)** The provisions of this rule are effective for retirement credit determinations made on or after January 1, 2008.

Statutory Authority: ORS 238A.450

Statutes Implemented: ORS 238A.140

February 3, 2023
PERS Board Meeting Agenda

Administrative Rulemaking

1. Notice of Yearly Salary Contribution Limits Increase
2. Notice of Required Minimum Distribution
3. Adoption of Return-to-Work Rules
4. Adoption of Employer Reporting Rules

OREGON PERS
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February 3, 2023

TO: Members of the PERS Board

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

SUBJECT: Adoption of Amendments to Employer Reporting Rules:
OAR 459-009-0100, *Employer Reporting and Remittance of Contributions*
OAR 459-070-0100, *Employer Reporting*
OAR 459-070-0110, *Employer Remittance of Contributions*

OVERVIEW

- Action: Adoption of updated Employer Reporting Rules.
- Reason: Housekeeping edits to reorganize public employer reporting and remittance rules into Division 9.
- Policy Issue: None identified.

BACKGROUND

Oregon Revised Statutes (ORS) 238.705 requires all participating public employers to timely remit contributions and furnish reports to PERS. Details on employer reporting and remittance of contributions were originally provided in Oregon Administrative Rule (OAR) 459-009-0100. However, in 2003, with the inception of the Oregon Public Service Retirement Plan (OPSRP), the rules were moved to Division 70.

Current OAR 459-009-0100 redirects readers to OAR 459-070-0100 and 459-070-0110, stating that "employers shall transmit reports and contributions to PERS in accordance with OAR 459-070-0100 and 459-070-0110." The Division 70 rules direct employers to submit required information and contributions to PERS and specifies penalties for incomplete or late reporting of data or contributions. The organization of the rules in Division 70 which applies to OPSRP created confusion as to whether the rules apply to employers with employees who are Tier One and Tier Two members.

These housekeeping rule amendments restore the employer reporting and remittance rules back to Division 9 which applies to all public employers in an effort to simplify the rules. It also removes references to waivers for reports due on or after January 1, 2011, and before January 1, 2012, because such waivers are now obsolete.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely on December 22, 2022, at 2:00 p.m. The public comment period ended December 27, 2022, at 5:00 p.m. No public comments were received.

LEGAL REVIEW

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

IMPACT

Mandatory: No, the board need not adopt the rule modifications.

Benefit: Provide clarification for employers.

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

RULEMAKING TIMELINE

December 1, 2022	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
December 2, 2022	PERS Board notified that staff began the rulemaking process.
December 2, 2022	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
December 22, 2022	Rulemaking hearing to be held remotely at 2:00 p.m.
December 27, 2022	Public comment period ends at 5:00 p.m.
February 3, 2023	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt modifications to OAR 459-009-0100, OAR 459-070-0100 and 459-070-0110, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATIONS

Staff recommends the PERS Board choose Option #1.

Reason: The rules need to be amended to provide clarity to employers regarding employer reporting.

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.3. Attachment 1 — 459-009-0100, *Employer Reporting and Remittance of Contributions*
B.3. Attachment 2 — 459-070-0100, *Employer Reporting*
B.3. Attachment 3 — 459-070-0110, *Employer Remittance of Contributions*

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

459-009-0100

Employer Reporting and Remittance of Contributions

[Employers shall transmit reports and contributions to PERS in accordance with OAR 459-070-0100 and 459-070-0110.]

(1) Definitions.

(a) “Pay period” means the span of time covered by an employer’s report to PERS.

(b) “Statement” means a remittance statement that itemizes any required contributions, invoices, and penalties for the period covered in the statement.

(c) “Statement date” means the date a statement is issued by PERS.

(2) Unless otherwise agreed upon by PERS and the employer, an employer must transmit to PERS an itemized report of all information required by PERS.

(a) An itemized report must include wage, service, and demographic data for all employees for a pay period.

(b) Except as provided in subsection (c) of this section, an employer may not submit or modify a report for a pay period within any calendar year on or after the first date in March of the subsequent calendar year in which PERS issues the employer a statement.

(c) PERS will permit an employer to submit or modify a report subject to the limitation of subsection (b) of this section if PERS determines the report is necessary for accurate benefit administration.

(3) The report required under section (2) of this rule must be acceptable to PERS and transmitted on forms furnished by the agency or in an equivalent format. The report must be transmitted electronically, faxed, or postmarked, as applicable,

no later than three business days after the end of the pay period assigned to the employer under section (4) of this rule.

(4) PERS will assign an employer a pay period which most closely matches the employer's pay cycle:

(a) Monthly: the pay period ends on the last day of the month;

(b) Semi-monthly: the pay period ends on the fifteenth of the month and the last day of the month;

(c) Weekly: the pay period ends the Friday of every week; or

(d) Biweekly: the pay period ends every other Friday.

(5) For the purpose of determining a "pay period" under ORS Chapters 238 and 238A, when salary is paid on a day other than the first of the month or the first business day of the month, that salary shall be considered earned in the calendar month in which it is paid, unless the employer provides PERS records that establish that the salary was not earned in that calendar month.

(6) If a report required under section (2) of this rule is accepted by PERS with exception(s), PERS will notify the employer of any exceptions, and the employer must reconcile its report. The reconciled report must be transmitted to PERS before the date of limitation described in subsection (2)(b) of this rule, unless otherwise specified by PERS.

(7)(a) An employer that fails to transmit a report as required under sections (2) and (3) of this rule must pay a penalty equal to one percent of the total amount of the prior year's annual contributions or $2,000, whichever is less, for each month the employer is delinquent.

(b) Penalties under subsection (a) of this section continue to accrue until the earlier of the date the report is submitted, or the date of limitation described in subsection (2)(b) of this rule is effective.

(c) Notwithstanding subsection (b) of this section, an employer that submits or modifies a report pursuant to subsection (2)(c) of this rule must pay the penalty described in subsection (a) of this section.

(8) When PERS issues a statement, unless otherwise agreed upon by PERS and the employer, an employer must pay to PERS the total amount due on the statement no later than five business days from the statement date. Payment must be made pursuant to OAR 459-005-0225.

(9) An employer that fails to pay the total amount due on the statement within the time specified in section (8) of this rule must pay a penalty equal to one percent of the total amount of contributions due on that statement for each month the employer is delinquent.

Statutory Authority: ORS 238.650 & OL 2003 Ch. 733

Statutes Implemented: ORS Chapter 238 & OL 2003 Ch. 733

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 070 – OREGON PUBLIC SERVICE RETIREMENT PLAN, GENERALLY

[459-070-0100

Employer Reporting

(1) Definition. “Pay period” means the span of time covered by an employer’s report to PERS.

(2) Unless otherwise agreed upon by the PERS Executive Director and the employer, an employer must transmit to PERS an itemized report of all information required by PERS.

(a) A report must include wage, service, and demographic data for all employees for a pay period.

(b) Except as provided in subsection (c) of this section, an employer may not submit or modify a report for a pay period within a calendar year on or after the first date in March of the subsequent calendar year on which PERS issues the employer a statement of contributions due. This subsection applies to pay periods beginning on or after January 1, 2011.

(c) PERS will permit an employer to submit or modify a report subject to the limitation of subsection (b) of this section if PERS determines the report is necessary for accurate benefit administration.

(3) The report required under section (2) of this rule must be acceptable to PERS and transmitted on forms furnished by the agency or in an equivalent format. The report must be transmitted electronically, faxed, or postmarked, as applicable, no later than three business days after the end of the pay period assigned to the employer under section (4) of this rule.

(4) PERS will assign an employer a pay period which most closely matches the employer’s pay cycle:

(a) Monthly: the pay period ends on the last day of the month;

(b) Semi-monthly: the pay period ends on the fifteenth of the month and the last day of the month;

(c) Weekly: the pay period ends the Friday of every week; or

(d) Biweekly: the pay period ends every other Friday.

(5) For the purpose of determining a "pay period" under ORS 238.435(3) and 238A.130(2), when salary is paid on a day other than the first of the month or the first business day of the month, that salary shall be considered earned in the calendar month in which it is paid, unless the employer provides PERS records that establish that the salary was not earned in that calendar month.

(6) If a report required under section (2) of this rule is accepted by PERS, PERS will notify the employer of any exceptions and the employer must reconcile its report. The corrected report must be transmitted to PERS before the employer is subject to the limitation of subsection (2)(b) of this rule for that report.

(7)(a) An employer that fails to transmit a report as required under sections (2) and (3) of this rule must pay a penalty equal to one percent of the total amount of the prior year's annual contributions or $2,000, whichever is less, for each month the employer is delinquent.

(b) Penalties under subsection (a) of this section continue to accrue until the earlier of the date the report is submitted or the date the limitation of subsection (2)(b) is effective.

(c) Notwithstanding subsection (b) of this section, an employer that submits or modifies a report pursuant to subsection (2)(c) of this rule must pay the penalty described in subsection (a) of this section.

(8) The PERS Executive Director or a person designated by the Director may waive the penalty described in section (7) of this rule for reports due on or after January 1,

2011 and before January 1, 2012. For reports due on or after January 1, 2012, penalties may be waived by the Director or the Director's designee only upon written petition from the employer.

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

Stats. Implemented: ORS 238A.050, 238A.130, 238.435 & 238.705]

[459-070-0110

Employer Remittance of Contributions

(1) Definition. "Statement date" means the date a statement of contributions or penalty due is generated by PERS.

(2) When PERS issues a statement of contributions due and, if applicable, any penalty due, unless otherwise agreed upon by the PERS Executive Director and the employer, an employer must pay to PERS the total amount of contributions and penalty due no later than five business days from the statement date. Payment must be made pursuant to OAR 459-005-0225.

(3) An employer that fails to pay the total amount due on a statement within the time specified in section (2) of this rule must pay a penalty equal to one percent of the total amount of contributions due on that statement for each month the employer is delinquent.

(4) The PERS Executive Director or a person designated by the Director may waive the penalty described in section (3) of this rule for contributions due on or after January 1, 2011 and before January 1, 2012. For contributions due on or after January 1, 2012, penalties may be waived by the Director or the Director's designee only upon written petition from the employer.

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

Stats. Implemented: ORS 238A.050 & 238.705]

Action and discussion items

1. Legislative update
2. Modernization Program update
3. Senate Bill 1566 Reporting Requirements
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5. Milliman response to Secretary of State Actuarial Review Findings
6. Verbal update reflecting on earnings through December 31, 2022

OREGON PERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

Oregon
Tina Kotek, Governor

Public Employees Retirement System
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February 3, 2023

TO: Members of the PERS Board

FROM: Heather Case, Senior Policy Advisor

SUBJECT: Legislative Preview and Updates

DECEMBER LEGISLATIVE DAYS

December legislative days were held December 7 to 9, 2022. PERS was not a subject of discussion during committee meetings, and the agency did not bring anything before the legislature.

AGENCY LEGISLATION – 2023 SESSION

The 2023 legislative session began on January 17, 2023. PERS' legislative concepts were filed as bills and accepted for the 2023 legislative session. They will begin their journey in the House as House Bill (HB) 2283 (PERS Modernization Clean-Up Bill), HB 2284 (Increase to Divorce Decree Processing Fee), and HB 2285 (Social Security Statute Updates). PERS will be monitoring and advocating for the agency's bills throughout the 2023 session.

LEGISLATIVE PREVIEW – 2023 SESSION

At the time of this writing, approximately 2,000 bills have been filed for the 2023 legislative session. "Organizational days" were held on January 9, which included both the swearing in of new legislators, and the inauguration of Governor Tina Kotek. The session began in earnest on January 17, 2023. While there is still construction taking place at the capitol building, all committee meetings and floor sessions will be open to the public and held in person at the capitol, with options for remote testimony as needed. We look forward to providing updates throughout the session on PERS' bills, as well as other bills that will impact our agency and/or the plan.

REPORTING REQUIREMENTS FOR 2023 LEGISLATIVE SESSION

There are a number of statutory reporting requirements that agencies must submit to the legislature every year. The majority of those reports include information that is also given to the board, as well as reports on board actions. The following is a brief summary of those reporting requirements.

- Per Senate Bill (SB) 1566 (2018), PERS is required to report to the legislature on the implementation of employer programs, including the School Districts Unfunded Liability Fund and the Employer Incentive Fund.

- Each year, PERS reports to the legislature on board action related to preliminary earnings crediting. Final earnings crediting action taken by the PERS Board on April 3, 2023, will also be reported to the legislature.
- PERS also notifies the legislature 30 days before the board adoption of actuarial methods and assumptions. This notification will likely occur near the end of July. Because this is after the legislative session will have ended, the agency will not likely be called upon to present this information directly to a legislative committee.
- As a note, there are currently no longer direct-reporting requirements to the legislature regarding SB 1049 implementation, however we continue reporting progress to our external partners. Additionally, the agency anticipates legislative discussions regarding SB 1049 to continue in the context of approval of the agency's 2023-2025 budget.

February 3, 2023
PERS Board Meeting Agenda

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February 3, 2023

TO: Members of the PERS Board

FROM: Rebecca Craven, Modernization Program Director

SUBJECT: Modernization Program Update

BACKGROUND

The PERS Modernization Program is a multi-biennial effort to reimagine and evolve the deployment of our business capabilities via our people, processes, and technologies in order to meet our member and PERS-participating employer needs into the future. As detailed in previous presentations to this board, this is in alignment with the *2023-2028 PERS Strategic Plan* and is currently supported by $800,000 in our 2021-23 Legislatively Approved Budget and $3,797,797 in funds granted at the June 2022 Emergency Board. As approved by the board at its July meeting, PERS has also requested $9,573,073 to continue modernization efforts during the 2023-2025 biennium.

CURRENT ACTIVITIES

Current program activities are threefold. First, we are continuing to support the 2023-25 budget request for PERS Modernization Program funding as it works its way through the state's budgeting process. This includes meeting with key budget stakeholders in both the legislative and executive branches to discuss this request and providing additional information and documentation as requested. We remain at the ready to support this request through the legislative session.

Second, we are in progress on all of the major elements included in the June 2022 Emergency Board request. This includes hiring key positions that reside within the program hierarchy or support the program from other established sections of the agency, as well as making progress on consulting engagements to further our understanding of and planning for early initiatives in the program that will establish agency capabilities to enable the success of the larger, longer-term initiatives. Perhaps most critical in this area, we have begun the journey to establish a contractual relationship with an independent Quality Management Service (iQMS) vendor that will provide our statutorily required quality assurance and quality control services. This is an important relationship that will provide third-party assessments of our program processes, artifacts, and general progress toward delivery goals for the duration of the program.

Third and finally, in the spirit of modernization, we are reviewing and revising our key program artifacts as we gain additional information and insight into the trajectory of this program. Modernization is, in part, about ensuring that PERS fully embraces a continuous-improvement mindset that allows for periodic reviews and adjustments to reflect current circumstances, understandings, and priorities. The PERS Modernization Program is modeling this behavior and expected outcome of the program by establishing the processes by which we undertake these periodic reviews in a systematic and transparent way. We are then enacting those processes to review and reconfirm our Program Road Map, guiding principles, and the previously shared desired future state.

The PERS Modernization Program is moving forward and making progress in initiation and planning activities required for a program of this size and length. We expect to provide a more substantial update on the program at the conclusion of the 2023 Legislative Session when the 2023-25 Legislatively Approved Budget is finalized.

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February 3, 2023

The Honorable Senator Elizabeth Steiner, Co-Chair
The Honorable Representative Tawna Sanchez, Co-Chair
Joint Committee on Ways and Means
900 Court St NE
H-178 State Capitol
Salem, OR 97301-4048

Nature of the Request

As required by Senate Bill 1566 (2018), PERS is providing the status of the School Districts Unfunded Liability Fund, the Employer Incentive Fund, the Unfunded Actuarial Liability Resolution Program, and extended amortization options for side accounts of $10 million or more as of December 2022.

Agency Action

School Districts Unfunded Liability Fund

The School Districts Unfunded Liability Fund (SDULF) is a pooled side account intended to provide rate relief to all public school districts, public charter schools, and education service districts. The SDULF has four defined revenue sources: interest on unclaimed property from the Department of State Lands, proceeds from estate taxes, proceeds from capital gains taxes, and proceeds from debt collection.

- Department of State Lands advises that there will be no funds transferred from interest on unclaimed property to the SDULF in 2023.
- The Office of Economic Analysis (OEA) forecasts a transfer of $89,000,000 from Estate taxes will occur in 2023.
- OEA advised no transfer is expected from proceeds of Capital Gains taxes as the growth did not exceed the 10-year trend, as required by statute.
- The Department of Administrative Services advised no transfer is expected from debt collection.

As of November 30, 2022, the SDULF has a balance of $46,366,763. Despite the anticipated deposits in 2023, the funding is not sufficient to provide an offset for the School District Pool. As of the December 31, 2021, valuation, the School Districts Pool has a combined valuation payroll of $4,141,800,000; $580,000,000 is the minimum amount the fund requires to provide a 1% rate offset to the pool.

Proceeds from estate taxes and capital gains taxes as an income source for the SDULF sunset in 2023. The transfer of proceeds from debt collection as an income source for the SDULF sunsets in 2024. The transfer of interest on unclaimed property as an income source for the SDULF sunsets in 2027.

Employer Incentive Fund

The Employer Incentive Fund (EIF) provides a 25% match to employers making a lump sum payment from non-borrowed funds of at least $25,000. This lump sum payment may be used to establish a new side account or as a payment into an existing side account and is subject to the limitations stated in the statute. The first 90 days of the application period are dedicated to employers whose UAL as a percentage of payroll that exceeds 200%; the application is subsequently open to all employers.

During the 2022 Regular Session, the Legislature apportioned an additional $17,250,000 in General Fund dollars to the EIF. The Legislature's intent is for PERS to use existing EIF funds of $19,500,000 (from sports-betting proceeds) and these new funds to offer matches to all EIF waitlisted employers and clear the EIF waitlist. In order to accomplish this objective, the prior EIF administrative rule was updated at the May 27, 2022, PERS Board meeting. This change extended the payment date to March 31, 2023.

Each waitlist employer is permitted, but not required, to deposit side account funds sufficient to receive their approved EIF match. In addition, any qualifying side account deposits made between the establishment of the waitlist and the availability of additional funds will receive an EIF match up to the lesser of the amount approved and 25% of the deposit.

PERS will provide matching funds to all employers on the waitlist who make their full deposit by March 31, 2023. (Any employers who miss this deadline will forfeit their matching funds.) As of December 31, 2022, PERS has distributed $30,118,738 from EIF to match 21 employers on the waitlist. Approved EIF matches totaling $6,317,842 remain to be distributed to the final 20 employers on the list.

PERS does not anticipate opening a new round of EIF application until all waitlisted employers who participate are matched and the fund reaches a minimum of $25,000,000. Based on current budget projections, we plan to open the next application period in 2025.

Unfunded Actuarial Liability (UAL) Resolution Program

Senate Bill 1049 modified the UAL Resolution Program (UALRP) to include the development of funding plans to improve the employers' funded status and to manage contribution rates. The bill also requires all PERS-participating employers to participate in the UALRP, whereas previously this was a requirement for employers only participating in EIF.

PERS launched an enhanced Employer Rate Projection Tool in 2021. This version of the tool provides employers the ability to modify payroll or contribution rates and predict how these changes will affect their contributions over time. The revised tool offers enhanced modeling of new side accounts as well. An ongoing maintenance plan provides annual update of projection factors that reflect the current actuarial valuation data for each employer.

PERS has created a series of guides to help employers understand the fundamentals of the system and provide context to the resources they receive when forecasting and budgeting.

Those guides are:

- *Guide to Understanding Your Rate*
- *Guide to Understanding Your Valuation*
- *Guide to Understanding Unfunded Actuarial Liability*
- *Guide to Understanding Pooling*
- *Guide to Financial Modeling*

The *Guide to Understanding Pension Obligation Bonds* will be published in 2023.

Extended Amortization Options

Senate Bill 1566 (2018) introduced additional amortization options for side accounts of at least $10,000,000. These include the ability to select a shortened amortization period of six, 10, or 16 years rather than the standard amortization period of 20 years. Employers also have the ability to select a deferred rate offset date.

Summary

Employer Programs have been well received by PERS-participating employers despite budgetary uncertainty. Employers appreciate incentives to proactively manage their contribution rates and appreciate the engaged role PERS has had in addressing knowledge gaps.

Action Requested

PERS requests the Committee acknowledge receipt of the report.

Legislation Affected

No legislation is affected by this request.

Sincerely,

Kevin Olineck, Director
Oregon Public Employees Retirement System

February 3, 2023
PERS Board Meeting Agenda

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February 3, 2023

TO: Members of the PERS Board

FROM: Richard Horsford, Chief Financial Officer
Matt Graves, Financial Reporting Manager

SUBJECT: 2022 Preliminary Earnings Crediting and Reserving

OVERVIEW

- Action: Allocate 2022 preliminary earnings crediting.
- Reason: ORS 238.670(5) requires PERS to submit a preliminary proposal to the appropriate legislative committee at least 30 days before making a final decision on earnings crediting.
- Subject: Crediting earnings for calendar year 2022 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; allocation of the balance, if any, is at the PERS Board's discretion.

2022 PRELIMINARY ALLOCATIONS

The PERS Board's Annual Earnings Crediting rule (see 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 preliminarily by the PERS Board:

NON-DISCRETIONARY ALLOCATIONS

1. Tier One Member Regular Accounts Reserve and Judge Member Accounts

Credit Tier One Member Regular Accounts and Judge Member Accounts with the assumed earnings rate of 6.90% in effect during 2022.

Tier One Rate Guarantee Reserve: This reserve, established under ORS 238.255(1), is used to fund crediting of the assumed rate to Tier One member regular accounts when earnings are less than the assumed rate. Because earnings on Tier One member regular accounts for 2022 are negative, this reserve will absorb the losses attributed to Tier One Member Regular Accounts and Judge Member Accounts, plus cover the mandatory crediting of the assumed earnings rate, resulting in a reduction of $218.5 million and a remaining balance of $742.2 million.

2. Tier Two Member Regular Accounts

Allocate a proportional share of the remaining 2022 losses to Tier Two Member Regular Accounts except that the portion of the losses representing administrative expenses be paid solely from the Employer Reserves, which will result in a preliminary rate of -1.89%.

3. Benefits-in-Force

Allocate a proportional share of the remaining 2022 losses to Benefits-in-Force except that the portion of the losses representing administrative expenses be paid solely from the Employer Reserves, which will result in a preliminary rate of -1.89%.

4. Employer Reserves

Allocate a proportional share of the remaining 2022 losses to Employer Reserves, which will result in a preliminary rate of -1.98%. In years in which there are insufficient earnings on the PERS Variable and Regular Account to pay for administrative expenses, such as 2022, ORS 238.610(1) requires administrative expenses to be funded through employer contributions.

5. OPSRP Pension Plan Member Accounts

OPSRP member accounts usually are credited with a proportional share of available PERS Fund Regular Account earnings or losses, which will result in a preliminary rate of -1.88%.

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 preliminary earnings allocation reflects the following:

6. Individual Account Program (IAP)

These member accounts are credited with actual earnings or losses of the PERS Fund Regular Account as required by ORS 238A.350 (1). The overall preliminary IAP earnings for 2022 are -4.25% after deducting IAP expenses. The table below illustrates the IAP earnings by tranche.

Oregon Public Employees Retirement System
Preliminary IAP TDF Earnings
(All dollar amounts in thousands)

TDF Fund	Reserves Before Crediting	2022 Crediting	Reserves After Crediting	2022 Rates
RAF Fund	$ 656,557.3	$ (53,550.2)	$ 603,007.1	-8.15%
2025 Fund	1,474,935.9	(94,387.5)	1,380,548.4	-6.39%
2030 Fund	2,152,923.6	(116,480.9)	2,036,442.7	-5.41%
2035 Fund	2,608,514.6	(95,581.6)	2,512,933.0	-3.66%
2040 Fund	2,309,185.5	(49,659.0)	2,259,526.5	-2.15%
2045 Fund	1,781,245.2	(70,607.8)	1,710,637.4	-3.96%
2050 Fund	984,322.7	(49,619.0)	934,703.7	-5.04%
2055 Fund	426,178.6	(19,113.2)	407,065.4	-4.48%
2060 Fund	129,916.4	(4,640.8)	125,275.6	-3.57%
2065 Fund	31,305.1	(1,716.6)	29,588.5	-5.48%
Total	$12,555,084.9	($555,356.6)	$11,999,728.3	

In accordance with Senate Bill 1049 (2019), effective July 1, 2020, for all currently employed Tier One/Tier Two and OPSRP members earning $3,333/month or more ($3,570 in 2022), a portion of their 6%t monthly IAP contributions will be redirected to an “Employee Pension Stability Account.” The Employee Pension Stability Account (EPSA) will be used to pay for part of the member’s future pension benefit.

For earnings crediting purposes, Tier One/Tier Two member EPSA accounts will be credited with the same rate as Tier Two Regular Member accounts, which will result in a preliminary rate of -1.89%.

For earnings crediting purposes, OPSRP member EPSA accounts will be credited with the same rate as OPSRP Pension Member Accounts, which will result in a preliminary rate of -1.88%.

7. **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 2022, the preliminary crediting rate for the side accounts established before 1/1/2022 is -1.79%. The preliminary crediting rate for new lump sum payment accounts varies depending on the time of payments.

8. **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 2022, the preliminary crediting rate for these accounts are -2.22% for RHIA, -1.15% for RHIPA, and 0.13% for SRHIA (invested in the Treasury Short-Term Fund).

Oregon Public Employees Retirement System
Health Insurance Accounts Preliminary Rates

Health Insurance Fund	2022
RHIA	-2.22%
RHIPA	-1.15%
SRHIA *	0.13%

* Invested in the Treasury Short-Term Fund

9. **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 2022 earnings to pay for administrative expenses, per OAR 459-007-0005, those expenses will be charged to the Regular Account 2022 earnings. For 2022, the Regular Account earnings are negative, and therefore those expenses will be paid from Employer Contributions. For 2022, preliminary Variable Annuity Account earnings are estimated to be -24.43%.

Administrative Expenses

PERS administrative costs are funded by employer contributions when earnings are not sufficient, as they were in 2022 (ORS 238.610(1)).

The following charts present preliminary earnings crediting and reserving for 2022:

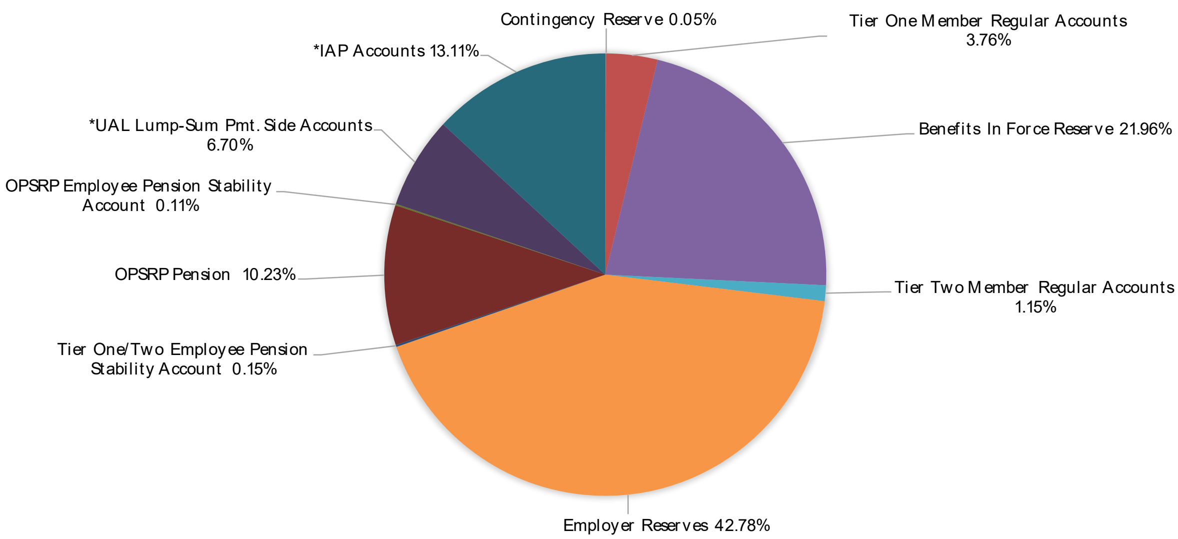
Oregon Public Employees Retirement System
Calendar Year 2022
Preliminary 2022 Crediting and Reserving
No Contingency Reserve Funding
(All dollar amounts in millions)

	Reserves Before Crediting	Gross Investment Income (a)	Investment Expense (b)	Administrative Expenses (c)	Other Adjustments[4] (d)	Net 2022 Crediting (a+b+c+d)	Reserves After Crediting	2022 Rates
Tier One Member Regular Accounts	$2,280.9	($18.8)	($38.1)	($3.1)	$217.5	$157.5	$2,438.4	6.90%
Tier One Rate Guarantee Reserve	960.7	-	-	-	(218.5)	(218.5)	742.2	N/A
Tier Two Member Regular Accounts	1,063.9	(6.2)	(12.5)	(1.0)	(0.3)	(20.0)	1,043.9	-1.89%
Benefits In Force Reserve	18,738.0	(109.0)	(220.4)	(18.1)	(5.7)	(353.2)	18,384.8	-1.89%
Employer Reserves	42,983.9	(250.0)	(505.7)	(41.5)	(55.5)	(852.7)	42,131.2	-1.98%
Tier One/Two Employee Pension Stability Account[1]	219.0	(0.8)	(2.2)	-	(1.8)	(4.8)	214.2	-1.89%
OPSRP Pension	11,098.4	(60.7)	(121.7)	(15.5)	(10.7)	(208.6)	10,889.8	-1.88%
OPSRP Employee Pension Stability Account[2]	173.2	(0.6)	(1.6)	-	(0.9)	(3.1)	170.1	-1.88%
IAP Accounts, as a whole[3]	12,983.8	(457.0)	(112.8)	(16.2)	34.4	(551.6)	12,432.2	-4.25%
UAL Lump-Sum Pmt. Side Accounts[3]	6,314.7	(38.1)	(77.0)	(0.2)	-	(115.3)	6,199.4	Various[5]
Contingency Reserve	50.0	-	-	-	-	-	50.0	N/A
Total	$96,866.5	($941.2)	($1,092.0)	($95.6)	($41.5)	($2,170.3)	$94,696.2	

[1] Per OAR 459-007-0005 (14)(a), Tier One/Two Employee Pension Stability Account will receive the Tier Two Member rate.
[2] Per OAR 459-007-0005 (14)(b), OPSRP Employee Pension Stability Account will receive the OPSRP Pension rate.
[3] Informational only. Not affected by Board reserving or crediting decisions.
[4] Primarily due to Tier One Rate Guarantee Reserve transfer to credit the assumed rate to the Tier One member regular account, defined benefit commingled earnings transfer, and the earnings credited to mid-year retirements. Also, includes CY2022 administrative expenses paid from employer contributions.
[5] The preliminary earnings rate for the pre-2022 Side Accounts is -1.79%

Note: The actual market returns for private equity investments are reported on a three-month lag as additional time is needed to value these non-public assets and returns. Private equity returns for the fourth quarter will be reflected in the following year earnings crediting.

2022 Reserve Balances
After 2022 Earnings Crediting



*Informational only. Not affected by Board reserving or crediting decisions.
IAP accounts receiving installments have already received 2022 earnings.

BOARD OPTIONS

The PERS Board may:

1. Pass a motion to “adopt the preliminary crediting of earnings as presented for calendar year 2022, subject to final adoption at the April 3, 2023, PERS Board meeting.”
2. Pass a motion preliminarily allocating 2022 earnings in an alternative proportion, subject to final adoption at the April 3, 2023, PERS Board meeting.

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

NEXT STEPS

Preliminary Earnings Crediting: Once the board makes its preliminary allocation, staff will prepare and present the required report to the Joint Legislative Committee on Ways and Means. Any comments received from the committee will be presented to the PERS Board prior to the final crediting decision at its meeting on April 3, 2023.

This preliminary action and the resulting report to the Legislature do not prohibit the PERS Board from changing its final decision, such as if new information becomes available. If the board makes a significant change from its preliminary decision, staff will report the PERS Board’s actions to the Legislature.

C.4. Attachment 1: ORS 238.670 – *Reserve Accounts in Fund*

C.4. Attachment 2: OAR 459-007-0005 – *Annual Earnings Crediting Rule*

C.4. Attachment 3: ORS 238.610 – *Administrative Expenses of System, Rules*

238.670 Reserve accounts in fund.

(1) At the close of each calendar year in which the earnings on the Public Employees Retirement Fund equal or exceed the assumed interest rate established by the Public Employees Retirement Board under ORS 238.255, the board shall set aside, out of interest and other income received through investment of the Public Employees Retirement Fund during that calendar year, such part of the income as the board may deem advisable, not exceeding seven and one-half percent of the combined total of such income, which moneys so segregated shall remain in the fund and constitute therein a reserve account. The board shall continue to credit the reserve account in the manner required by this subsection until the board determines that the reserve account is adequately funded for the purposes specified in this subsection, but the board may not credit further amounts to the reserve account if the amounts in the reserve account exceed $50 million. Such reserve account shall be maintained and used by the board to prevent any deficit of moneys available for the payment of retirement allowances, due to interest fluctuations, changes in mortality rate or, except as provided in subsection (3) or (4) of this section, other contingency. In addition, the reserve account may be used by the board for the following purposes:

(a) To prevent any deficit in the fund by reason of the insolvency of a participating public employer. Reserves under this paragraph may be funded only from the earnings on employer contributions made under ORS 238.225.

(b) 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.

(2) At the close of each calendar year, the board shall set aside, out of interest and other income received during the calendar year, after deducting the amounts provided by law and to the extent that such income is available, a sufficient amount to credit to the reserves for pension accounts and annuities varying percentage amounts adopted by the board as a result of periodic actuarial investigations. If total income available for distribution exceeds those percentages of the total accumulated contributions of employees and employers, the reserves for pensions and annuities shall participate in such excess.

(3) The board may set aside, out of interest and other income received through investment of the fund, such part of the income as the board considers necessary, which moneys so segregated shall remain in the fund and constitute one or more reserve accounts. Such reserve accounts shall be maintained and used by the board to offset gains and losses of invested capital. The board, from time to time, may cause to be transferred from the reserve account provided for in subsection (1) of this section to a reserve account provided for in this subsection such amount as the board determines to be unnecessary for the purposes set forth in subsection (1) of this section and to be necessary for the purposes set forth in this subsection.

(4) The board may provide for amortizing gains and losses of invested capital in such instances as the board determines that amortization is preferable to a reserve account provided for in subsection (3) of this section.

(5) At least 30 days before crediting any interest and other income received through investment of the Public Employees Retirement Fund to any reserve account in the fund, the board shall submit a preliminary proposal for crediting to the appropriate legislative review agency, as defined in ORS 291.371

(1), for its review and comment. [Formerly 237.281; 2001 c.945 §5; 2017 c.746 §11]

OAR 459-007-0005

Annual Earnings Crediting

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

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

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

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

(5) Member variable accounts. Earnings on the Variable Annuity Account shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238.260(6). If the annual earnings from the Variable Annuity Account are insufficient to pay for the pro rata share of administrative expenses, those administrative expenses shall be paid from earnings on other accounts within the Public Employees Retirement Fund (PERF), if available. If earnings from those accounts within the PERF are insufficient to pay for the administrative expenses, those expenses shall be paid from employer accounts as required by ORS 238.610. All remaining earnings or losses attributable to the Variable Annuity Account shall be credited to the participants of that account, as provided under 238.260(6) and (7)(b).

(6) Individual Account Program accounts. Earnings on the Individual Account Program accounts established under ORS 238A.350 shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238A.350(1). Losses on Individual Account Program target date funds shall be increased by a pro rata share of administrative expenses. After administrative expenses, each Individual Account Program account established under ORS 238A.350 shall be credited with the earnings or losses of the specific target date fund to which the account is allocated, except for account balances allocated to the retirement installments fund, which shall be credited with earnings or losses on a monthly basis.

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

(8) Contingency Reserve.

(a) In any year in which total earnings on the Fund equal or exceed the assumed rate, an amount not exceeding seven and one-half percent of remaining earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two regular accounts, judge member regular accounts, the OPSRP Pension Program reserve, Employee Pension Stability Accounts, the Benefits-in-Force Reserve, employer contribution accounts, the Capital Preservation Reserve and the Contingency Reserve shall be credited to the Contingency Reserve to the level at which the Board determines it is adequately funded for the purposes specified in ORS 238.670(1).

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

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

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

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

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

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

(14) Employee Pension Stability Account (EPSA). All remaining earnings or losses attributable to the EPSAs shall be credited to all active and inactive EPSAs under ORS 238A.353. For administrative expenses:

(a) EPSA accounts of Tier One and Tier Two members will be treated as Tier Two funds.

(b) EPSA accounts of OPSRP members will be treated as OPSRP Pension Program Reserve funds.

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

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

(17) Employer contribution accounts. All remaining earnings attributable to employer contribution accounts shall be credited to employer contribution accounts.

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

Statutory/Other Authority: ORS 238.650 & 238A.450

Statutes/Other Implemented: ORS 238 & 238A.350

History:

PERS 1-2022, amend filed 01/31/2022, effective 01/31/2022
PERS 9-2020, amend filed 06/23/2020, effective 06/23/2020
PERS 9-2019, amend filed 12/06/2019, effective 12/06/2019
PERS 2-2018, amend filed 02/02/2018, effective 02/02/2018
PERS 7-2017, temporary amend filed 12/01/2017, effective 12/01/2017 through 05/29/2018
PERS 9-2012, f. & cert. ef. 5-24-12
PERS 4-2009, f. & cert. ef. 4-6-09
PERS 1-2006, f. & cert. ef. 2-1-06
PERS 18-2005(Temp), f. & cert. ef. 10-26-05 thru 4-19-06
PERS 8-2004, f. & cert. ef. 4-15-04

238.610 Administrative expenses of system; rules.

(1)(a) The administrative expenses of the Public Employees Retirement System shall be paid from interest earned by the Public Employees Retirement Fund; provided, that if such interest be insufficient the expense in excess thereof shall be paid from the contributions which this chapter and ORS 238A.220 and 238A.240 require participating employers to pay into the Public Employees Retirement Fund. The Public Employees Retirement Board by rule may establish procedures for recovering administrative costs from members for services provided in estimating retirement benefit amounts and processing payments if the board determines that the services requested by an individual member result in extraordinary costs to the system.

(b) The board may adopt rules establishing procedures for recovering administrative costs from participating public employers for providing to those employers information or services needed to report in compliance with generally accepted accounting principles. Administrative costs recovered under this paragraph may be recovered only from interest earned on employer contributions made under ORS 238.225 or 238A.220.

(2) In order to facilitate financing the establishment and administration of the system the board may designate fiscal periods and may provide that extraordinary expenses incurred during one such period, such as expenses for equipment and actuarial studies, may, for purposes of equitably distributing part of the burden of the expenses, be apportioned to subsequent fiscal periods in such manner as to the board seems equitable.

(3) For each fiscal period designated by the board there shall be deducted from the interest earned by the fund, the administrative expenses of the system for that period; provided, that if such interest be insufficient for such purpose, the excess expense shall be paid by deducting from the account of each employer participating in the system that fraction of the administrative expense of the system for that period which the employer’s total contribution to the fund for the period is of the sum of all the employers’ contributions to the fund for the period.

(4) Amounts payable as refunds and retirement allowances shall not for any purpose be deemed expenses of the board and shall not be included in its biennial departmental budget.

[Formerly 237.291; 2003 c.105 §5; 2003 c.733 §56; 2014 c.105 §1]

February 3, 2023
PERS Board Meeting Agenda

Action and discussion items

1. Legislative update
2. Modernization Program update
3. Senate Bill 1566 Reporting Requirements
4. Preliminary 2022 Earnings Crediting and Reserving
5. Milliman response to Secretary of State Actuarial Review Findings
6. Verbal update reflecting on earnings through December 31, 2022

OREGON PERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

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January 25, 2023

Public Employees Retirement Board
Oregon Public Employees Retirement System

Re: Response to Oregon Secretary of State Independent Actuarial Review Report

Dear Board Members:

This letter provides our comments on the November 16, 2022 report *An Independent Actuarial Review of the Oregon Public Employees Retirement System* that was issued by Gabriel, Roeder, Smith & Company (GRS) at the request of the Oregon Secretary of State's office. We are available to discuss this comment letter if it would be helpful to the Board.

The review provided by GRS addressed two areas:

- **Review of actuarial valuation report technical soundness**: They performed a detailed evaluation of the reasonableness and soundness of the work performed as part of the December 31, 2021 actuarial valuation and confirmed that, in their professional opinion, the valuation is reasonable for its intended purposes.
- **Recommendations for potential enhancements or modifications**: Throughout their report, GRS included recommendations that could be considered by Oregon PERS and/or Milliman for future valuations. Such recommendations range from minor modifications to actuarial methods the Board could consider with the next experience study to possible format changes to the system-wide and/or individual employer actuarial valuation reports.

We appreciate the independent confirmation of the reasonableness of our actuarial valuation work by GRS as well as the outside perspective they provided with their recommendations. Throughout the review process, we coordinated with the GRS actuaries to ensure they had the information they needed to conduct the review. We found them to be engaged, responsive, and well-informed, and we appreciated the professionalism and thoroughness of their review.

The remainder of this letter separately addresses the two areas of their report noted above. We first provide a few comments regarding the validation of technical soundness before summarizing specific recommendations GRS provided in the report along with initial thoughts on the merits, materiality and approach to considering these recommendations.

Review of actuarial valuation report technical soundness

In the summary of their review, GRS stated that "*we believe the December 31, 2021 actuarial valuation for PERS is reasonable for the purpose of assessing the financial condition of PERS and determining the employer contribution rates*."

In our opinion, the most important outcomes of an actuarial audit are to receive an external validation of:

- The correctness of the technical actuarial work
- The actuarial soundness of the contribution rate calculation policy, and
- The reasonableness and appropriateness of the actuarial assumptions

Throughout their report, GRS provided confirmation of these elements of Milliman's Oregon PERS actuarial valuation. A few key points are summarized below, following the structure of the GRS report sections:

Actuarial Assumptions

- Regarding the 2020 Experience Study that reviewed and updated actuarial assumptions, GRS stated: "*Overall, it appears that the current demographic assumptions are reasonable for valuation the liabilities and assessing the contributions based on the December 31, 2021 actuarial valuation. The study itself was thorough and was clearly performed by an actuary with a deep understanding of the PERS actuarial valuation."*
- They included a nearly identical statement regarding economic assumptions.

Actuarial Methods

- GRS discussed actuarial methods in detail and summarized that: *"We believe the actuarial methods are appropriate and the rate collaring procedure is a very well-developed method that will serve PERS and the stakeholders well in the future."*
- Their most noteworthy suggestion was to consider reintroducing an adjustment for the timing lag between when contributions are calculated and when rates go into effect. We discuss this recommendation in the next section.

Actuarial Valuation Results

- GRS described their detailed review of the three elements of the actuarial valuation: the data preparation and review process, liability calculations, and contribution rate calculations. They noted they were able to "*closely match the liabilities*" and that all three elements "*appear to be reasonable and appropriate*."

Content of the Valuation Report

- The review noted that in the reviewer's professional opinion the valuation report complies with Actuarial Standards of Practice (ASOPs). The review also offered GRS's input on potential future enhancements to consider, and those recommendations are discussed further below.

Consideration of recommendations for potential enhancements or modifications

Throughout their discussion in the report, GRS made several recommendations to consider for potential additions or enhancements to elements of the valuation process. As GRS noted, some or even many of their recommendations may not ultimately be adopted for future valuations. We understand this would not necessarily be of concern to GRS. This is because the reviewer recognizes that some of their recommendations may have been previously considered and that there could be reasons that the review's recommendations are not viewed as preferable to current practice. In any event, we appreciate the thoughtful consideration GRS put into the recommendations and intend to work with PERS staff and the PERS Board as appropriate to consider each recommendation individually in the upcoming Experience Study this summer.

Our discussion below first addresses in detail the recommendation to consider incorporating a time lag adjustment in contribution rate calculations. We then summarize the remainder of the GRS recommendations by topic, and Milliman's initial response to each recommendation.

<u>Contribution lag adjustment</u>

As part of the rate-setting process timeline that is routinely discussed with the Board, there is a time lag of 18 months between the actuarial valuation "snapshot" date of a rate-setting actuarial valuation report and when the contribution rates from that valuation first take effect. For example, the contribution rates from the December 31, 2021 rate-setting actuarial will first be paid by employers on July 2023 employer payroll.

GRS noted that currently there is no adjustment in the contribution rate calculation process for this 18-month "contribution lag" period and suggested that such an adjustment be considered for inclusion in future valuations. Their report noted:

- The recently revised Actuarial Standard of Practice No. 4 (ASOP 4) specifically addresses the concept of a contribution lag and indicates that "*the actuary should consider reflecting the passage of time between the measurement date and the expected timing of actual contributions.*"
- While they recommend considering adjusting for the lag, GRS also states: "*we do not believe addressing the timing lag will have a significant impact on the long-term contribution effort of the PERS employers*" and "*we acknowledge that this enhancement to the process would further complicate a very complex process…*"

We appreciate and respect GRS's perspective and agree that the issue of adjusting for a contribution lag is a trade-off between the complexity and precision of the theoretical basis of the rate calculations and the understandability of those calculations. We also agree that the presence or absence of an adjustment for the contribution lag is not expected to materially affect the long-term costs of the plan.

We would note that the revised ASOP 4 noted above states the actuary should "*consider reflecting*" the contribution lag but stops short of stating that the actuary "*should reflect*" the contribution lag. This important distinction between "*should consider*" and "*should reflect*" in the standard of practice recognizes that there may be situations where a system or an actuary views the benefit of increased theoretical precision as not outweighing the cost of additional complexity and reduced understandability for users of the valuation report.

While the recently revised ASOP 4 was not yet effective for the valuation in question, we do believe our actuarial valuation reports already satisfy the "*should consider*" requirement of the standard of practice. Specifically, our 2020 Experience Study report included a discussion of the contribution lag that reads, in part:

> *While the practice of adjusting for a delay period has intuitive appeal, previous experience for Oregon PERS led to the elimination of such (an) adjustment in the past. Given the complexities of a system with several hundred employers receiving individually determined contribution rates that reflect various combinations of pooling and individual employer experience, a delay adjustment would not be one simple calculation for the system. Our understanding is the prior experience with such an approach led to persistent differences in contribution rate components paid by employers in the same pool, difficulty for stakeholders in reconciling rate changes from biennium to biennium, and increased difficulty for employers to understand how their rates were determined. Based on that understanding, we do not currently recommend adopting a delay adjustment methodology as part of the rate calculation policy.*

While our conclusion in the 2020 Experience Study was to not recommend an adjustment for the contribution lag, we intend to revisit the pros and cons with PERS staff during the Experience Study to be performed this year. In particular, we want to consider potential approaches that may provide reasonable approximation of a lag adjustment without leading to issue of contribution rates differing within rate pools or diminishing the understandability of the contribution rate calculations for participating employers. Attempting to incorporate a contribution lag adjustment into the current rate collaring procedure, which GRS described as a "*very well-developed method*", would cause additional technical complexity in calculations.

We will discuss this topic with the Board further when we present recommended methods and assumptions in the June and July Board meetings.

<u>Remainder of recommendations</u>

Topic	**Summary of GRS recommendation**	**Milliman response**
Count-weighted vs. benefit-weighted assumption development	Review the retirement and termination assumptions in the experience study by salary or benefit weighting in addition to count weighting to see if a different weighting approach produces meaningly different assumption recommendations.	Milliman will review as part of the 2022 Experience Study.

State of residency assumption for lump sum benefits	Do not apply the assumption that only 85% of future retirees who elect to receive lump sums will be eligible for SB 656/HB 3349 benefit adjustments, based on the auditor's expectation that "*virtually all*" such members would be living in Oregon when they receive a lump sum.	The benefits affected by this assumption are very limited, since the assumption only applies if a Tier 1/Tier 2 active elects a partial lump sum distribution. Currently 2% of such actives are assumed to elect a partial lump sum, and that lump is less than half the overall value of the benefit when elected. Further, even this change would affect only a subset of those 2% of Tier 1/Tier 2 actives – those who are eligible for SB 656/HB 3349. We will review this in the Experience Study, but it is likely this assumption does not warrant further refinement given the limited scope and associated lack of materiality.
System-specific data related to system payroll growth assumption	In addition to the current discussion in the Experience Study report, add system-specific data to validate the national economic information used in the Experience Study analysis.	Milliman will review as part of the 2022 Experience Study. In the past, relevant system-specific data has been discussed at Board presentation but not necessarily further documented in the formal Experience Study report. Historical system-specific data has further validated the Board's selected assumptions in this area.
Additional technical details in actuarial valuation report appendix	Recommendation that more specifics about how assumptions are applied in the actuarial valuation software – such as decrement timing, the use of non-correlated independent probabilities, and the service basis for different decrement assumptions – are detailed in the actuarial valuation report.	Milliman does not typically list that level of technical detail in our formal reports as we feel that level of technical detail goes beyond the requirement for disclosure under Actuarial Standards of Practice and generally is only potentially relevant to an actuary

		conducting a replication audit. (In such audit situations we provide this and additional information to the auditing actuary.) We can discuss with PERS staff whether including this detail would be beneficial to any intended non-actuary users of the report.
Additional Actuarial Standard of Practice No. 56 (ASOP 56) disclosures	GRS stated they did not identify statements in the report meant to address ASOP 56 disclosures regarding: • Reliance of models developed by others • Material inconsistencies, if any, among assumptions • Unreasonable output from aggregation of assumptions, if material • Any other material limitations and known weakness	There are not statements about these items in our valuation report because none of them apply to that work product. We did not rely on models developed by others, as that concept is defined in our interpretation of the ASOP. In situations where we do rely on models developed by others (such as capital market assumptions) we disclose that in the relevant work product. Similarly, the ASOP requires disclosure of material inconsistencies and limitations when they exist. It does not require an affirmative statement confirming their absence. We can discuss with PERS whether additional affirmative statements on these topics would be helpful to intended users.

One-page summary	Add a one-page summary of key values to beginning of the executive summary of the system-wide valuation report for ease of reference.	We will discuss with PERS staff when preparing the December 31, 2022 actuarial valuation report whether this would be helpful and what information, if any, they would like to see in such an exhibit. While not in the formal valuation report, high-level concise summaries of valuation results are included in Milliman's presentations to the Board.
Add remaining period to UAL (unfunded actuarial liability) amortization base exhibits	Add disclosure of the remaining period for each individual amortization base to the relevant tables in both system-wide and individual employer actuarial valuation reports.	Milliman will add this disclosure into its December 31, 2022 actuarial valuation reports.

As noted at the start of this letter, we would be happy to discuss our comments if it would be helpful to the Board.

Sincerely,

Matt Larrabee, FSA, EA, MAAA
Principal and Consulting Actuary

Scott Preppernau, FSA, EA, MAAA
Principal and Consulting Actuary

MRL:SDP

cc: Kevin Olineck

Action and discussion items

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