



Oregon

Tina Kotek, Governor

Public Employees Retirement System

Headquarters

11410 S.W. 68th Parkway, Tigard, OR

Mailing Address:

P.O. Box 23700

Tigard, OR 97281-3700

888-320-7377

TTY (503) 603-7766

www.oregon.gov/pers

December 1, 2023

TO: Members of the PERS Board

FROM: Anne Marie Vu, Research Policy Coordinator, Policy Analysis and Compliance Section
Stephanie Vaughn, Manager, Policy Analysis and Compliance Section

SUBJECT: Adoption of Reemployment of a Retired Member of the OPSRP Pension Program Rule

OAR 459-075-0300 *Reemployment of a Retired Member of the OPSRP Pension Program*

OVERVIEW

- Action: Adoption of changes to Reemployment of a Retired Member of the OPSRP Pension Program Rule.
- Reason: Provide clarification on impact of early retirees exceeding work after retirement restrictions.
- Policy Issue: None identified.

BACKGROUND

This rule provides guidance on PERS administration when retired members of the Oregon Public Service Retirement Plan (OPSRP) Pension Program return to work for a PERS-participating employer. PERS continues to operate under the simplified current “work after retirement” framework created by Senate Bill 1049 (2019) that allows most retirees in all programs to work unlimited hours for PERS-participating employers during calendar years 2020-2024, while continuing to receive their retirement benefits. However, to comply with federal regulations, PERS carves out an exception for early retirees that only allows them to work unlimited hours if they have a bona fide retirement.¹

The rule already explains that an early retiree who does not have a bona fide retirement may not be employed in a qualifying position or work 600 hours or more in a calendar year within six months of their effective retirement date. However, it does not clearly explain the consequences if an early retiree fails to comply with these restrictions. These proposed rule amendments provide such clarification.

Section (2)(c) of the rule clarifies that if an early retiree returns to active membership within six months of their effective retirement date, PERS will cancel their retirement retroactively, as if it had not occurred. The member will reestablish active membership effective the date of hire into the qualifying position. The active member will have to repay all retirement benefits that they

¹ An early retiree is a member who retires before they reach normal retirement age, usually on a reduced service retirement allowance.

received. This requirement is already provided in the corresponding administrative rule for Tier One and Tier Two retirees in OAR 459-017-0060.

Section (2)(b) of the rule clarifies that if the early retiree returns to active membership after six months or more have passed from their effective retirement date, their retirement will only be canceled effective the first of the month in which the member was hired into the qualifying position. They will be allowed to keep retirement benefits paid before the calendar month in which the member was hired into the qualifying position.

Other amendments include removing the word “net” from section (7) of the rule to be consistent with how the term “contribution” is used in OAR 459-009-0070 and updating the sunset provisions to comply with House Bill 2296 (2023), which extends Senate Bill 1049’s work after retirement allowances through calendar year 2034.

CHANGES MADE SINCE NOTICE

The previous version of the rule presented at the September PERS Board meeting had proposed removing the language from section (8) because it was already addressed in section (9). However, PERS received public comment requesting that the language be retained. To accommodate the public comment concerns and streamline the rule, sections (8) and (9) were consolidated for clarity.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely on October 24, 2023, at 2:00 p.m. The public comment period ended October 31, 2023, at 5:00 p.m. As mentioned above, public comment was submitted by Margaret Olney on behalf of the PERS Coalition requesting section (8) not be removed.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Benefit: These amendments provide early retirees with notice of the potential financial consequences of returning to active membership within six months of their effective retirement date.

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

RULEMAKING TIMELINE

September 29, 2023	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
September 29, 2023	PERS Board notified that staff began the rulemaking process.

October 1, 2023	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice was sent to employers, legislators, and interested parties. Public comment period began.
October 24, 2023	Rulemaking hearing was held remotely at 2:00 p.m.
October 31, 2023	Public comment period ended at 5:00 p.m.
December 1, 2023	Board may adopt the rule modifications.

BOARD OPTIONS

The PERS Board may:

1. Pass a motion to “adopt changes to Reemployment of a Retired Member of the OPSRP Pension Program Rule, as presented.”
2. Direct staff to make other changes to the rule or explore other options.

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

- B.2. Attachment 1 – OAR 459-075-0300 *Reemployment of a Retired Member of the OPSRP Pension Program*
B.2. Attachment 2 – *PERS Coalition Comments 23.10.30*