



Oregon

Tina Kotek, Governor

Public Employees Retirement System

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February 3, 2023

TO: Members of the PERS Board

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

SUBJECT: Notice of Rulemaking for 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 specify 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 will be incorporated before the rules are 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

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| 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 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*