



Oregon

John A. Kitzhaber, M.D., Governor

Public Employees Retirement System

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January 30, 2015

TO: Members of the PERS Board
FROM: Steven Patrick Rodeman, Executive Director
SUBJECT: Formation of the Employer Advisory Group

BACKGROUND

PERS Board member Michael Jordan and I recently met with a few employer representatives at their request to discuss formation of an Employer Advisory Group. The Group was proposed as a sounding board to improve the agency's administration of the PERS Plan on behalf of employers. Having access to a diverse and engaged group as described in the charter can only improve our effective and efficient administration.

GROUP CHARTER

A charter for the Employer Advisory Group was drafted to establish membership, roles and responsibilities, and decision making authority of the Group. Participants were solicited from the employer associations, as described in the charter.

As the Employer Advisory Group is being formed, clarifying its role as distinct from the Legislative Advisory Committee is important. The LAC is formed by statute and comprised equally of representatives from member and employer organizations. The LAC's role is to support the PERS Board as policy advisors to the Oregon Legislature; therefore, the LAC will continue to have purview over the analysis and positions, if any, on proposed changes to the PERS Plan by the legislature (e.g., ORS Chapters 238 and 238A).

In contrast, the Employer Advisory Group will, as the charter states, be responsible for reviewing and, when relevant, contributing to the discussion of plan administration issues as they are developed for the PERS Board (or staff if the issue is being addressed without involving the Board). Perhaps this distinction is best illustrated by describing how these two entities may address a current issue.

"CONTRIBUTION START DATE" IMPLEMENTATION

At the Employer Advisory Group's first meeting, held on January 23, 2015, they discussed a letter that the Association of Oregon Counties sent to the PERS Board. That letter (attached) raised concerns with PERS' guidance on when to start contributions after an employee gains membership status. This issue involves both member and employer contributions, which have been inconsistently administered since the creation of OPSRP in 2004. This inconsistency has arisen through changes in the understanding of the statute by PERS and certain employers, and is further complicated by the variety of pay schedule structures that employers use.

As mentioned in the AOC letter, they are seeking a statutory solution to resolve this inconsistency. We expect that the LAC will consider whether a policy recommendation on the matter should come from the PERS Board. From an administrative standpoint, that consideration

may be informed by the perspective of the Employer Advisory Group through the employer representatives on the LAC.

Regardless of the statutory solution, however, the issue of cleaning up the inconsistent application of the Contribution Start Date over the prior years still needs to be addressed. PERS is continuing discussions with the Employer Advisory Group on resolving disparities due to the inconsistent administration of the current statute. Should that resolution involve an administrative policy decision, such as tapping the Contingency Reserve for costs of the contributions or earnings, agency staff will be able to work with the Employer Advisory Group to present their input on that decision, just as we have worked with the PERS Coalition to refine the members' perspective on such matters.

As stated in the charter, the Employer Advisory Group should, "ensure alignment of comprehension and execution as to policy decisions by participating employers and full understanding of the issues when policy questions are presented to the PERS Board for resolution." On behalf of the PERS staff, we welcome this Group's dedication and commitment to more effective and efficient administration of the PERS Plan.

Attachments

Employer Advisory Group Charter

Association of Oregon Counties December 1, 2014 Letter to Board



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January 23, 2015

TO: Members of the PERS Employer Advisory Group
FROM: Yvette Elledge, Customer Services Division Administrator
SUBJECT: OPSRP Contribution Start Date Issue

Background

A misunderstanding about the differences between Tier One/Tier Two and OPSRP membership has affected member account contributions for pay periods immediately following the OPSRP member's contribution start date. The problem, intensified by the use of work periods by some employers, poses financial implications and needs to be resolved.

This issue was identified in an internal audit report in January 2014 and highlighted the inconsistent reporting of contributions among employers on the first payroll following a member's contribution start date, noting that some employers were correctly paying OPSRP Pension Program and IAP contributions while other employers were not. The internal audit report identified the OPSRP contributions issue as a "High" risk and recommended that the agency clarify and enforce the statutory requirements.

It appears that the issue was further complicated when PERS began capturing "earned when earned" salary information for final average salary (FAS) purposes due to the passage of HB 3262. PERS added programming in EDX to allow local governments to report work periods but it is also preventing local government employers from correctly paying contributions for new OPSRP members in accordance with the statute.

Discussion:

- How do we resolve the problem prospectively?
 - Possible legislative solution?
 - Consider impact to all employer groups.
- How do we correct the problem retroactively?
 - Due to the inconsistent past reporting and complexities of the different employer groups and an employer's pay periods, the financial impact on employers will vary.
- Who is responsible for the cost of the retroactive corrections?
- What additional information is needed by the Employer Advisory Group to discuss this?

References

General Definitions		
	PERS Chapter 238 (Tier One/Tier Two)	PERS Chapter 238A (OPSRP Pension Program)
Salary	"...the remuneration paid an employee in cash out of the funds of a public employer in return for services to the employer, plus the monetary value, as determined by the Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and other advantages the employer furnishes the employee in return for services." ORS 238.005 (26)(a)	"... the remuneration paid to an active member in return for services to the participating public employer, including remuneration in the form of living quarters, board or other items of value, to the extent the remuneration is includable in the employee's taxable income under Oregon law." ORS 238A.005 (17)(a)
Membership	"No person may become a member of the system unless that person is in the service of a public employer and has completed six months' service uninterrupted by more than 30 consecutive working days during the six months' period. Every employee of a participating employer shall become a member of the system at the beginning of the first full pay period of the employee following the six months' period." ORS 238.015 (1)	"...an eligible employee...becomes a member of the pension program on the first day of the month after the employee completes six full calendar months of employment. The six-month requirement may not be interrupted by more than 30 consecutive working days." ORS 238A.100

Contribution Start Date for New Members		
	PERS Chapter 238 (Tier One/Tier Two), including Chapter 238 Member Account (Pre-2004)	PERS Chapter 238A (OPSRP Pension Program)
Pension Program	"Contributions for new members shall first be made for those wages that are attributable to services performed by the employee during the first full pay period following the six months' period." ORS 238.015 (1)	"... on the first day of the month after the employee completes six full calendar months of employment." ORS 238A.100
Individual Account Program	ORS 238A.330 (1) requires all IAP members to make employee contributions of six percent of their salary to their IAP account. The required contribution is based upon salary paid to a member, regardless of when the salary was earned . (This is a clarification and not a direct statute quote.)	

HB 3262 Section 33 (2005). The definition of FAS for Tier Two and OPSRP Pension Program members who are not employed by a local government employer was changed to salary "earned when **paid**" rather than "earned when **earned**." This was retroactive to November 4, 2005 and impacted retirements as of December 1, 2005. This was updated in statute in 238.435(2)(a) for non-local government employers and 238.435(4)(a) for local government employers.