

**Employer Announcement #101**  
**Senate Bill 111A Makes Out-of-State Wages**  
**Paid on and after January 1, 2020, Subject Salary**

**(For salary paid from 08/29/2003 to 12/31/2019, see Employer Announcement #92)**

Under PERS statutes, eligible employees of PERS-participating employers who are employed on and after August 28, 2003, may establish membership in the Oregon Public Service Retirement Program (OPSRP) pension and Individual Account Program (IAP). Once membership is established, the active member may be eligible for retirement benefits that are calculated based upon the salary paid to them as an active member, if it meets the definition of “salary” under Oregon law.

Prior to January 1, 2020, PERS’ “salary” definition excluded wages that were earned outside of Oregon, or by non-Oregon residents, if they were not subject to Oregon income tax. Some employers reported those wages as non-subject salary.<sup>1</sup> With many members who are residents of neighboring (or other) states working from home, their wages became non-taxable income under Oregon law. PERS presented a revision to this statute as Senate Bill 111 during the 2021 legislative session, which was adopted with revisions on June 10, 2021.

**Senate Bill 111A** (2021) amended the definition of “salary” for OPSRP members to include salary earned outside the state, retroactive to January 1, 2020. Employers who have employees affected by this change should review salary reported for out-of-state OPSRP employees that was submitted as non-subject salary on or after January 1, 2020, to determine if it should now be reported as subject salary. (For salary paid to OPSRP members before January 1, 2020, see [Employer Announcement #92](#)).

Employers will be invoiced for contributions on 2020 and 2021 salary and for prior year earnings (PYE) on 2020 salary<sup>2</sup>; these funds will be applied to affected employees’ pensions and IAP accounts.

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<sup>1</sup> The public universities were allowed special treatment for out-of-state OPSRP wages under [SB 201](#) (2017).

<sup>2</sup> Employer owed PYE for only 2020 if the correction to reported salary was completed by close of the 2021 year (March 4, 2022) and the invoice was paid on time (March 11, 2022). Otherwise, the employer owed PYE for 2021 as well.

## OPSRP Membership Requirements

An eligible employee must establish OPSRP membership to qualify for OPSRP pension benefits and establish an IAP account. These requirements were not changed with SB 111. OPSRP membership is established by:

- Being an eligible employee (i.e., working 600 hours a year or more in a qualifying position).
- Completing a waiting period of six full months of qualifying service with one employer with no break greater than 30 working days.
- Maintaining that employment at least through the contribution start date (CSD).

## General Salary Requirements

The wages paid by the PERS-participating employer must qualify as “salary” for PERS purposes as defined in ORS 238A.005(17)(a), which provides that:

*“Salary” means 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, **or would be if the member were an Oregon resident**, in the employee’s taxable income under Oregon law.*

Unless specifically excluded under revised statute ORS 238A.005(17)(c), salary paid to a public employee by a PERS employer during a period of qualifying service is used to determine the amount of PERS contributions for the OPSRP pension program or the OPSRP IAP, and to compute pension program retirement benefits.

If you have (or had) an out-of-state employee whose salary would be includable as taxable income under Oregon law if they were an Oregon resident and the salary was reported as non-subject salary from January 1, 2020, to current, you will need to adjust these wages (see **Instructions** on page 4). Because the bill is retroactive, employers will be invoiced for PERS contributions and prior-year earnings on those out-of-state employees’ salaries back to January 1, 2020 (see **Exception** for charter school and OHSU employees below).

## Exception for Charter School Employers

At the request of charter schools, this salary change has been made retroactive back to August 29, 2003. This means that an out-of-state employee’s salary will be included for contributions for periods they were continuously employed with the charter school (i.e., periods with no break of 30 days or more) back to 2003.

In addition, as of January 1, 2020, the revised definition of salary in SB 111A removes the previous charter school requirement that an employee be a resident of the United States to receive contributions.

## **2022 update**

In the 2022 legislative session, SB 1522 was introduced to clarify the charter school amendment in SB 111A. SB 1522 introduced two requirements for a charter school employee to be eligible to receive contributions for salary earned out of state during the retroactive period 2003–2019:

1. The member was informed in writing by their employer during the period of continuous employment that they were eligible to participate in PERS.
2. The employer originally made contributions to PERS on the member's behalf.

**Notes:** In some cases, at the time those contributions were submitted, the member's out-of-state salary did not meet the definition of subject salary (i.e., it was not Oregon taxable income); therefore, PERS reversed these contributions and returned them to the employer. If both requirements (above) are met, employers need to correct the employee's record and re-submit contributions for those time periods.

## **Exception for OHSU Employers**

At the request of OHSU, this salary change has been made retroactive back to August 29, 2003. This means that an out-of-state employee's salary will be included for contributions for the time they were continuously employed with OHSU (i.e., periods with no break of 30 days or more) back to 2003.

## Instructions

To change an employee's wages from non-subject salary to subject salary:

1. Submit a negative-adjustment DTL2 wage record to back out wages from non-subject salary.

Detail 2 - Wage and Service:	
SSN:	<input type="text"/>
First Name:	<input type="text"/>
Last Name:	<input type="text"/>
Pay Date: (MM/DD/YYYY)	<input type="text" value="01/31/2020"/>
Work Period Begin Date: (MM/DD/YYYY)	<input type="text"/>
Work Period End Date: (MM/DD/YYYY)	<input type="text"/>
Hours Worked: (Regular)	<input type="text" value="80"/>
Hours Worked: (Overtime)	<input type="text"/>
Reported Wage Code:	<input type="text" value="06 - Negative Adjustment"/> ▼
Subject Salary, Regular	<input type="text"/>
Subject Salary, Overtime	<input type="text"/>
Non-Subject Salary	<input type="text" value="2500.00"/>
Lump-sum Payoff	<input type="text"/>
Lump-sum Vacation Payoff	<input type="text"/>
Gross Salary	<input type="text" value="2500.00"/>
Member Paid After-Tax Contribution (MPAT)	<input type="text"/>
Member Paid Pre-Tax Contribution (MPPT)	<input type="text"/>
Unit Contribution	<input type="text"/>
Employer Paid Pre-Tax Contribution (EPPT)	<input type="text"/>
Optional Employer IAP Percentage	<input type="text" value="0%"/> ▼
Optional Employer IAP Contribution	<input type="text"/>
PERS Job Class Code	<input type="text"/> ▼
Average Overtime Hours	<input type="text"/> ▼
Employer Site Distribution Code	<input type="text"/>
Non PERS Data Memo	<input type="text"/>
<input type="button" value="Save"/> <input type="button" value="Cancel"/>	

2. Submit a positive-adjustment DTL2 record to report those wages as subject salary.

Detail 2 - Wage and Service:	
SSN:	<input type="text"/>
First Name:	<input type="text"/>
Last Name:	<input type="text"/>
Pay Date: (MM/DD/YYYY)	<input type="text" value="01/31/2020"/>
Work Period Begin Date: (MM/DD/YYYY)	<input type="text"/>
Work Period End Date: (MM/DD/YYYY)	<input type="text"/>
Hours Worked: (Regular)	<input type="text" value="80"/>
Hours Worked: (Overtime)	<input type="text"/>
Reported Wage Code:	<input type="text" value="05 - Positive Adjustment"/>
Subject Salary, Regular	<input type="text" value="2500.00"/>
Subject Salary, Overtime	<input type="text"/>
Non-Subject Salary	<input type="text"/>
Lump-sum Payoff	<input type="text"/>
Lump-sum Vacation Payoff	<input type="text"/>
Gross Salary	<input type="text" value="2500.00"/>
Member Paid After-Tax Contribution (MPAT)	<input type="text"/>
Member Paid Pre-Tax Contribution (MPPT)	<input type="text" value="150.00"/>
Unit Contribution	<input type="text"/>
Employer Paid Pre-Tax Contribution (EPPT)	<input type="text"/>
Optional Employer IAP Percentage	<input type="text" value="0%"/>
Optional Employer IAP Contribution	<input type="text"/>
PERS Job Class Code	<input type="text"/>
Average Overtime Hours	<input type="text"/>
Employer Site Distribution Code	<input type="text"/>
Non PERS Data Memo	<input type="text"/>
<input type="button" value="Save"/> <input type="button" value="Cancel"/>	

## For Support

[Contact your ESC representative.](#)