

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING

Friday
January 29, 2010
1:00 P.M.

PERS
11410 SW 68th Parkway
Tigard, OR

	ITEM	PRESENTER
A. Administration – 1:00 P.M.		
1.	November 20, 2009 Board Meeting Minutes	CLEARY
2.	Director's Report	
	a. Forward-Looking Calendar	
	b. OIC Investment Report and Asset/Liability Study	SCHMITZ
	c. Budget Report	
	d. Benefit Payments Division Update	
	e. 2010 Legislative Session Update	
	f. Six-Year Strategic Outlook Review	
B. Consent Items		
1.	Notice of Divorce Rules	RODEMAN
C. Action and Discussion Items		
1.	Equal to or Better Than Study Process Update	MERCER
2.	2009 Preliminary Earnings Crediting and Reserving	ORR/RODEMAN
3.	2011- 13 Employer Rate Setting Options	MERCER/RODEMAN
D. Executive Session Pursuant to ORS 192.660(2)(f), (h), and/or ORS 40.225		
1.	Litigation Update	LEGAL COUNSEL

Note: If you have a disability that requires any special materials, services or assistance, call (503) 603-7575 at least 48 hours before the meeting.

James Dalton, Chair * Thomas Grimsley, Vice-Chair * Eva Kripalani * Mike Pittman * Brenda Rocklin
Paul R. Cleary, Executive Director

Level 1 - Public

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OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

Item A.1.a.

PERS Board Meeting
November 20, 2009
Tigard, Oregon
MINUTES

Board Members:

James Dalton, Chair
Tom Grimsley, Vice-Chair
Eva Kripalani
Brenda Rocklin
Mike Pittman

Staff:

Donna Allen
Helen Bamford
Paul Cleary
Jon DuFrene
Joe DeLillo
Yvette Elledge
Brian Harrington
Jeff Marecic
Dale Orr
Susan Riswick

Steve Rodeman
Jason Stanley
Stephanie Vaughn

Others:

Bruce Adams
Ardis Belknap
Cathy Bloom
Jim Brown
C. Lance Colley
Sue Cutsogenye
Myrnie Daut
Mike Eliason

Linda Ely
Marc Feldesman
Richard Gilmore
Frank Goulard
Greg Hartman
Phil Keisling
Keith Kutler
Brad Larsen
Steve Manton
Elizabeth McCann
Julia Miller
P. Peg
Bill Robertson
Carol Samuels
Bob Tiernan
Jason Toi

Deborah Tremblay
Pat West
Brenda Wilson
Scott Winkels
John Witherell
Pat Witherell
Denise Yunker

Chair James Dalton called the meeting to order at 1:00 P.M.

ADMINISTRATION

A.1. BOARD MEETING MINUTES OF SEPTEMBER 25, 2009

The Board unanimously approved the minutes from the September 25, 2009 Board meeting.

A.2. DIRECTOR'S REPORT

Director Paul Cleary presented the Board's 2010 forward-looking calendar and key agenda items beginning with the first meeting on January 29, 2010. Cleary announced that following the January 27, 2010 Oregon Investment Council (OIC) morning meeting, there is a tentative joint OIC/PERS Board meeting planned to initiate the 2010 asset/liability study. The meeting will include OIC investment consultants and PERS actuaries.

Cleary presented the OIC investment returns for September and October 2009. Cleary reported that the regular account had year-to-date returns of 13%, with the variable account returning approximately 27% through October 31, 2009. Cleary said the fund net asset value had increased to almost \$50 billion from the March 31, 2009 low of \$41.5 billion.

Cleary presented the 2007-09 Budget Report noting the biennium will close-out with a \$3.4 million positive variance. Cleary said there would be a 2007-09 final report at the January Board meeting. Cleary described a preliminary positive variance of \$5.7 million in the 2009-11 PERS operating budget, noting that several key expenditures had yet to be programmed into the biennial variance estimate.

Cleary provided an update on the Employer Reporting and Outreach Program and discussed staffs' efforts with various accounts receivable.

Cleary described the Six-Year Strategic Outlook review as the initial step in the 2011-13 agency budget development process. Cleary explained how the agency utilizes the review to promote continuous process improvement, develop standards, and increase customer satisfaction levels. Cleary requested that the Board review the Six-Year Strategic Outlook template and noted staff will return in January with specific strategies and key indicators for each of the proposed strategic outcomes.

CONSENT ITEMS

B.1. ADOPTION OF REEMPLOYMENT OF RETIRED MEMBERS RULE

Deputy Director Steve Rodeman presented the Adoption of Reemployment of Retired Members Rule noting that the rule complies with Senate Bill 112 that was adopted during the 2009 legislative session.

It was moved by Mike Pittman and seconded by Tom Grimsley to adopt modifications to OAR 459-017-0060, Reemployment of Retired Members, as presented. The motion passed unanimously.

B.2. REPEAL OF WORKERS' COMPENSATION OFFSET RULES

Rodeman presented the Repeal of Workers' Compensation Offset Rules to comply with House Bill 2704 from the 2009 legislative session. Rodeman said that no policy issues or concerns have been identified and requested that the Board repeal the rules to conform to the new legislative changes.

It was moved by Tom Grimsley and seconded by Brenda Rocklin to repeal the Workers' Compensation Offset Rules, OAR 459-015-0060 and OAR 459-076-0060 as presented. The motion passed unanimously.

B.3. ADOPTION OF ACTUARIAL EQUIVALENCY FACTORS

Rodeman presented Mercer's analysis and recommendations for the new actuarial equivalency factor (AEF) tables that will be used to calculate retirement and other benefits starting January 1, 2010.

It was moved by Mike Pittman and seconded by Brenda Rocklin to adopt the new AEF tables as presented. The motion passed unanimously.

ACTION AND DISCUSSION ITEMS

C.1. EQUAL TO OR BETTER THAN STUDY PROCESS

Matt Larrabee of Mercer discussed the Equal to Or Better Than (ETOB) study process for those police and fire employers who do not participate in PERS that are required to provide retirement benefits that are “equal to or better.” In accordance with the 2007 legislative changes, Mercer will conduct new tests of those employer funded benefits to determine their compliance with the revised ETOB requirements. Larrabee noted that the ETOB rules require the Board to establish a “Valuation Date” for the tests.

It was moved by Tom Grimsley and seconded by Brenda Rocklin to approve December 31, 2008 as the Valuation Date for the new ETOB tests. The motion passed unanimously.

C.2. EMPLOYER RATE SETTING OPTIONS FOR 2011-13

Larrabee presented various actuarial considerations involved in recovering the shortfall created by the 2008 investment losses. The presentation also updated Mercer’s earlier financial projections to reflect 2009’s improved market conditions. Larrabee described the current base rate collaring method and projected 2011-13 employer rates, and stated that any side account offsets will be reduced considerably because of 2008 investment losses. Larrabee stated that net employer rates will increase for most employers on July 1, 2011 regardless of the improved 2009 returns.

Rodeman reviewed various options for 2011-13 employer rate setting and detailed the projected rate increases for state agencies, school districts, and other employers. Rodeman also reported preliminary feedback from PERS’ Legislative Advisory Committee (LAC). Rodeman said that additional analysis of the options would be completed and presented at the January 29, 2010 Board meeting.

Bob Tiernan, Oregon Republican Party Chairman, asked that the Board review member retirement benefits and determine if more changes need to be made to benefit formulas.

Greg Hartman, representing the PERS Coalition, said the Coalition had not yet adopted a formal position on the various rate setting options. Hartman said that because the system was built on long-term funding, the financial market plays an important role and asked that the Board make wise decisions based on long-term trends rather than short-term events.

Steve Manton, City of Portland and LAC member, said he understood the Board had a difficult decision to make in balancing the various interests and objectives, and looked forward to further analysis of the various options.

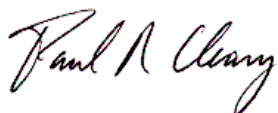
Phil Keisling, private citizen, reviewed past actuarial practices and asked that the Board take the time to consider prior actuarial method decisions and fully evaluate all the potential costs and consequences of revising those decisions.

Pat West, representing Oregon Firefighter's Council and Oregon PERS Retirees, Inc., said that the PERS program is designed to accommodate market volatility over time, with a history of some good years and some bad years. West asked that the Board not over-react by raising rates too high; he asked that they consider a stable rate that could be maintained over multiple market cycles.

Each Board member provided some preliminary observations on the 2011-13 rate setting policy options and related stakeholder feedback. Staff were instructed to work with Mercer on completing the additional analysis and to share that analysis with stakeholders and other interested parties prior to the January 29, 2010 Board meeting.

Chair Dalton adjourned the meeting at 3:10 PM.

Respectfully submitted,

A handwritten signature in black ink that reads "Paul R. Cleary". The signature is written in a cursive, flowing style.

Paul R. Cleary
Executive Director

PERS Board Meeting Forward-Looking Calendar

March 29, 2010

Adoption of Divorce Rules
Notice of Effective Date of Withdrawal Rules
Notice of Date of Injury and Granted Service Rules
Notice of Distribution in Event of Death Rule (Repeal)
Notice of Employer Remitting of Employee Contributions
2011 Session Preliminary Legislative Concepts
2009 Final Earnings Crediting
Audit Committee

May 21, 2010

Adoption of Effective Date of Withdrawal Rules
Adoption of Date of Injury and Granted Service Rules
Adoption of Distribution in Event of Death Rule (Repeal)
Adoption of Employer Remitting of Employee Contributions
2011 –13 Preliminary Agency Request Budget

July 23, 2010

2009 Valuation Results
2011 –13 Final Agency Request Budget Approval
Audit Committee

September 24, 2010

2011 –13 Employer Rate Adoption

November 19, 2010

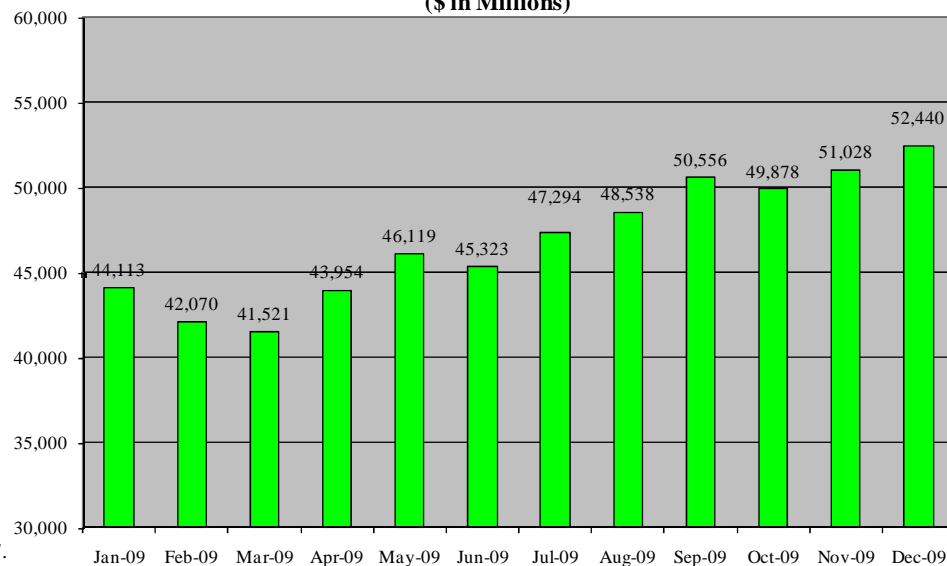
2011 Session Legislative Concept Approval
Audit Committee

OPERF	Regular Account			Historical Performance (Annual Percentage)						
	Policy ¹	Target ¹	\$ Thousands ²	Actual	Year-To-Date ³	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS
Public Equity	41-51%	46%	\$ 21,967,623	42.7%	36.91	36.91	(11.33)	(5.05)	0.44	2.64
Private Equity	12-20%	16%	9,846,874	19.1%	(4.36)	(4.36)	(6.58)	3.15	6.16	12.85
Total Equity	57-67%	62%	31,814,497	61.8%						
Opportunity Portfolio			1,036,473	2.0%	37.47	37.47	1.64	2.10		
Total Fixed	22-32%	27%	13,224,817	25.7%	25.73	25.73	6.46	5.92	5.90	5.45
Real Estate	8-14%	11%	5,386,640	10.5%	(9.40)	(9.40)	(11.52)	(4.80)	2.37	7.81
Cash	0-3%	0%	9,169	0.0%	2.37	2.37	1.81	3.00	3.51	3.43
TOTAL OPERF Regular Account		100%	\$ 51,471,596	100.0%	19.41	19.41	(6.61)	(1.48)	2.47	4.53
OPERF Policy Benchmark					15.51	15.51	(5.72)	(0.59)	3.07	4.39
Value Added					3.90	3.90	(0.89)	(0.89)	(0.60)	0.14
TOTAL OPERF Variable Account			\$ 968,784		35.56	35.56	(11.16)	(7.12)	(2.05)	(0.21)

Asset Class Benchmarks:

Russell 3000 Index	28.34	28.34	(10.30)	(5.42)	(0.53)	0.76
MSCI ACWI Ex US IMI Net	43.61	43.61	(11.72)	(2.99)	3.80	6.33
MSCI ACWI IMI Net	36.41	36.41	(11.32)	(4.38)	1.40	3.35
Russell 3000 Index + 300 bps--Quarter Lagged	(0.99)	(0.99)	(9.94)	(1.00)	2.40	5.41
BC Universal--Custom FI Benchmark	7.97	7.97	5.43	5.73	5.49	4.99
NCREIF Property Index--Quarter Lagged	(22.11)	(22.11)	(9.45)	(1.29)	3.13	6.16
91 Day T-Bill	0.21	0.21	1.13	2.40	3.01	3.02

TOTAL OPERF NAV
 (includes variable fund assets)
 One year ending December 2009
 (\$ in Millions)



¹OIC Policy 4.01.18, as revised September 2007.

²Includes impact of cash overlay management.

³For mandates beginning after January 1 (or with lagged performance), YTD numbers are "N/A". Performance is reflected in Total OPERF.



Oregon

Theodore R. Kulongoski, Governor

Item A.2.c.

Public Employees Retirement System

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January 29, 2010

TO: Members of the PERS Board
FROM: Kyle J. Knoll, Business Operations Manager
SUBJECT: January 2010 Budget Report

2007-09 BUDGET - FINAL REPORT

The Agency expended a total of \$77,385,163, or 95.79 % of PERS' 2007-09 operating budget.

- The Agency's ending positive budget variance for the 2007-09 biennium was \$3,403,799, of which \$727,855 was RIMS Conversion Project (RCP) budget.

2009-11 BUDGET UPDATE

Operating expenditures for the months of October, November and December 2009 were \$2,641,549, \$2,736,930 and \$2,813,485 respectively.

- To-date, through the first six months (25%) of the 2009-11 biennium, the Agency has expended a total of \$15,789,601, or 19.7 % of PERS' 2009-11 operating budget.
- The Agency's positive budget variance for this biennium is currently projected at \$3,088,111, of which \$456,026 is RIMS Conversion Project (RCP) budget.

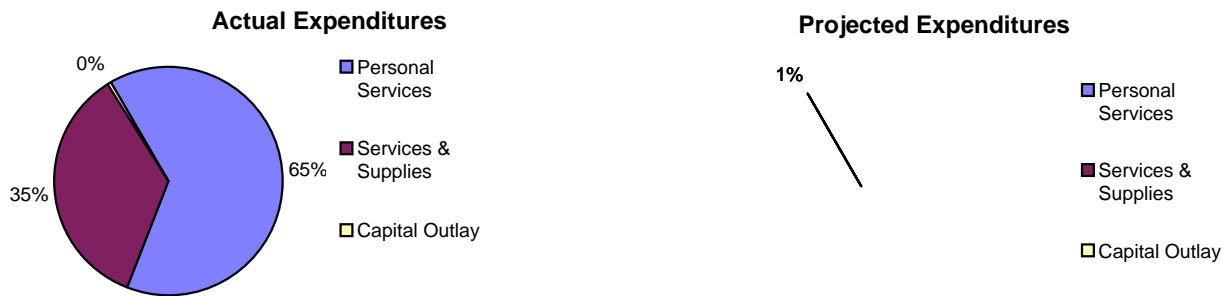
**2007-09 Agency-wide less RCP - Budget Execution
Summary Budget Analysis
For the Month of: June 2009**

Biennial Agency-wide Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2007-09 LAB	Variance
Personal Services	49,613,038		49,613,038	53,288,261	3,675,223
Services & Supplies	27,421,160		27,421,160	26,553,000	(868,160)
Capital Outlay	350,966		350,966	947,701	596,735
Special Payments					
Total	77,385,163		77,385,163	80,788,962	3,403,799

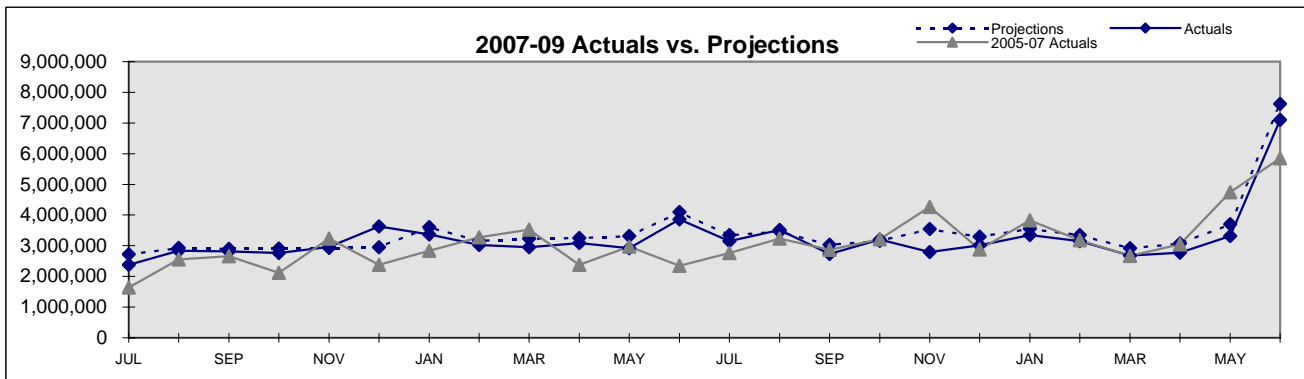
Less RCP projected variance: **727,855**

Net projected Agency-wide variance less RCP: 2,675,943



Monthly Summary less RCP

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Projected Expenditures
Personal Services	1,867,040	2,326,370	459,329	2,029,426	
Services & Supplies	2,232,398	1,990,802	(241,596)	655,788	
Capital Outlay	47,328	49,490	2,162	5,395	
Special Payments					
Total	4,146,766	4,366,662	219,895	2,690,609	



2005-07 Biennium Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2005-07 LAB	Variance
Personal Services	42,804,552		42,804,552	46,875,869	4,071,317
Services & Supplies	31,107,541		31,107,541	27,460,026	(3,647,515)
Capital Outlay	534,468		534,468	679,533	145,065
Special Payments					
Total	74,446,561		74,446,561	75,015,428	568,867

**2009-11 Agency-wide less RCP - Budget Execution
Summary Budget Analysis
For the Month of: December 2009**

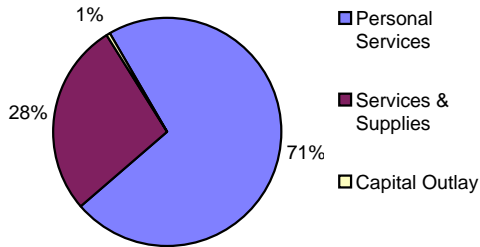
Biennial Agency-wide Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2009-11 LAB	Variance
Personal Services	11,350,745	40,331,657	51,682,402	52,559,956	877,554
Services & Supplies	4,350,700	20,241,359	24,592,059	27,007,084	2,415,025
Capital Outlay	88,156	709,900	798,056	593,588	(204,468)
Special Payments					
Total	15,789,601	61,282,916	77,072,517	80,160,628	3,088,111

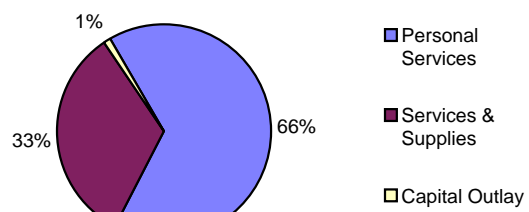
Less RCP projected variance: 456,026

Net projected Agency-wide variance less RCP: 2,632,085

Actual Expenditures

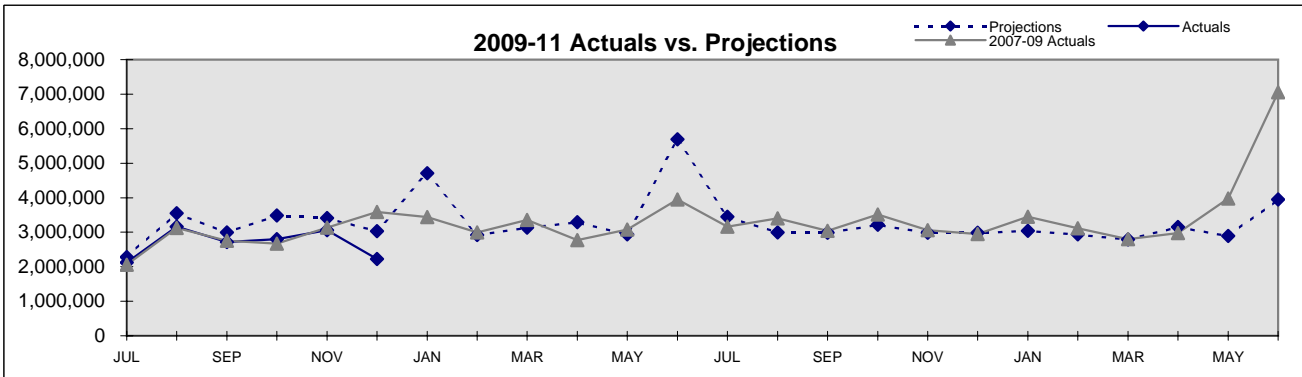


Projected Expenditures



Monthly Summary less RCP

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Projected Expenditures
Personal Services	2,026,569	2,212,289	185,721	1,891,791	2,240,648
Services & Supplies	723,716	773,654	49,938	604,416	854,853
Capital Outlay	63,200	6,200	(57,000)	14,693	39,439
Special Payments					
Total	2,813,485	2,992,143	178,658	2,510,899	3,134,939



2007-09 Biennium Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2007-09 LAB	Variance
Personal Services	48,706,234		48,706,234	52,446,639	3,740,405
Services & Supplies	15,738,908		15,738,908	14,448,629	(1,290,279)
Capital Outlay	129,484		129,484	355,301	225,817
Special Payments					
Total	64,574,626		64,574,626	67,250,569	2,675,943



Oregon

Theodore R. Kulongoski, Governor

Item A.2.d.

Public Employees Retirement System

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January 29, 2010

TO: Members of the PERS Board
FROM: Brian Harrington, Benefit Payments Division (BPD) Administrator
SUBJECT: Benefit Payments Division Update

RETIREMENT APPLICATIONS

PERS received 1,003 retirement applications for December 1, 2009 from Tier One and Tier Two members. Updated actuarial equivalency factors (AEFs) effective January 1, 2010 and some employers incentivizing employees to retire before the end of the year likely contributed to the four-fold increase in December 1 retirements compared to prior years. BPD is partnering with Customer Service and employers to handle this workload increase.

TAX WITHHOLDING TABLES

Every January, BPD works with the Fiscal Services Division, the Policy, Planning, and Legislative Analysis Division, and the Information Services Division to coordinate changes to tax withholding tables as mandated by the Internal Revenue Service (IRS). The IRS made changes to all tax tables and one broad ranging bracket was broken down into three brackets. All monthly benefit recipients will see a change in their tax withholding unless they have elected not to have tax withheld. Updates to state tax withholding tables are expected in March.

VARIABLE ANNUITY ADJUSTMENT

The 11,138 retirees who elected to participate in the Variable Annuity Program after retirement will see an increase in their monthly benefit starting February 1, 2010. This annual adjustment is based on the variable account's 12-month period of gains or losses as of the preceding October 31 (e.g. November 1, 2008 to October 31, 2009). Members who retired before January 1, 1978, will receive a 16.89 percent increase in the variable portion of their monthly benefit. Members who retired between January 1, 1978 and May 31, 1992, will receive a 15.25 percent increase in the variable portion of their monthly benefit. Members who retired on or after June 1, 1992 and before November 1, 2009 will have the variable portion of their benefit increased by 14.18 percent.

COST-OF-LIVING ADJUSTMENT (COLA)

Each March, PERS determines the annual benefit COLA (with a maximum of 2 percent) based on the Consumer Price Index (CPI) for Portland (defined by All Items, All Urban Consumers, Portland- Salem, OR-WA, Annual Average) as published by the U.S. Department of Labor. BPD is monitoring and proactively planning for the 2010 PERS benefit COLA that will be effective July 1 and payable beginning August 1.



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January 29, 2010

TO: Members of the PERS Board
FROM: Susan Riswick, Administrator, PPLAD
SUBJECT: Legislative Session Update – February 2010

2010 SPECIAL SESSION

February 1st begins the 2010 Special Session for the 75th Oregon Legislative Assembly. In preparation for the short session, the Capitol is already busy with pre-session activities and actions. There will be a limited number of bills filed this session with one allowed for each Representative, and two allowed for each Senator. House and Senate Committees will be allowed to introduce bills, but those numbers are limited as well. Agencies are not allowed to introduce any new legislation this session.

SESSION SCHEDULE AND DEADLINES

There are a series of deadlines for chamber bills to be scheduled and heard in committee, with February 22nd established as the final day for action on bills in any committee. The month of February will see possible floor sessions on Saturdays and/or Sundays with Friday, February 26 targeted as the session's final day. If needed, however, the Legislature is notifying its members they may be committed to holding floor sessions on the final weekend in February.

The draft Legislative Calendar for January and February is attached. Please note that the Revenue Forecast is expected on February 9th, and the Capitol will be open for all legislative business on President's Day, February 15th.

PERS-RELATED BILLS

In advance of February's session, legislative member bills will be pre-session filed during the month of January. PERS staff will prepare informational memos on any PERS-related bills and provide a walk-in packet at the January 29th Board meeting for any bills made available before that date. Staff will also keep the Board informed of any PERS-related bills during the session, and hope to utilize the Board's legislative subcommittee and Legislative Advisory Committee if needed during the session.

Attachment – Legislative Calendar



Oregon

Theodore R. Kulongoski, Governor

Item A.2.f.

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January 29, 2010

TO: Members of the PERS Board
FROM: Paul R. Cleary, Executive Director
SUBJECT: Strategic Outlook Review

As first reported to you at November's meeting, we have already begun the development process on the Agency Request Budget for the 2011-13 biennium. As always, our objective is to continue to align our budget initiatives and priorities with the agency's long-term strategic outlook.

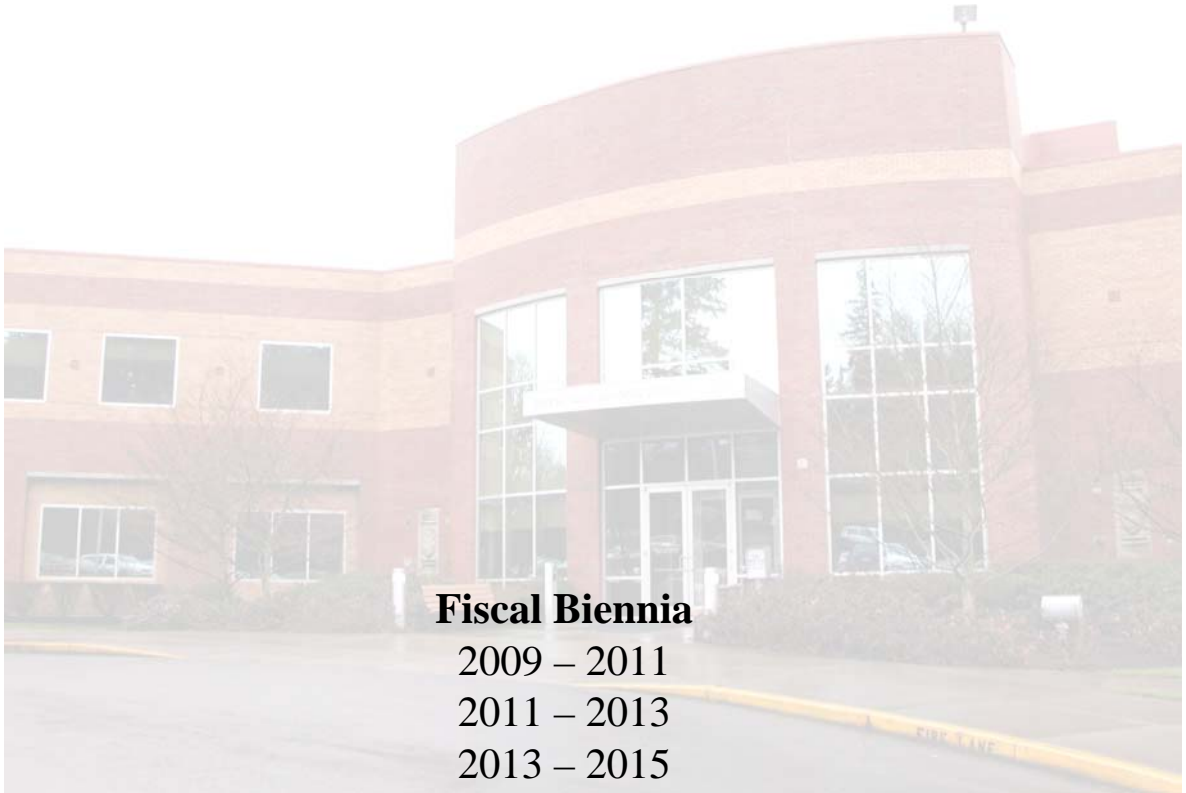
The starting point to refining that long-term outlook is the agency's Mission Statement and Guiding Principles, which the PERS Board adopted in 2004. Thank you for taking the time to review these again after the last meeting. Using these precepts, my Executive Team has updated the attached Six Year Strategic Outlook to refine our Strategies and Key Indicators in the seven areas listed. Also, this document has been updated with the agency's Key Performance Measures as approved by the 2009 Oregon Legislature.

Based on these materials, staff will use the Strategies and Key Indicators for each of the Strategic Objectives as the foundation for any recommended changes to our Essential Budget Level or any Policy Option Packages in the 2011-13 Agency Request Budget. The budget development process will conclude with your approval of the final elements of the 2011-13 biennium agency request budget, currently targeted for the July 23, 2010 board meeting.

A.2.f. Attachment: Updated PERS Six-Year Strategic Outlook – 2009 to 2015



Six – Year Strategic Outlook



Fiscal Biennia

2009 – 2011

2011 – 2013

2013 – 2015

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Introduction

This document describes the high-level strategic goals and objectives of the Oregon Public Employees Retirement System (PERS) over the six-year strategic planning period of FY 2009 – 2015.

Mission and Guiding Principles

The strategic outlook is focused on outcomes that align with the Agency's Mission and Guiding Principles established by the PERS Board in 2004.

Mission Statement

We are a well-respected organization that serves our members by enabling informed retirement and health benefit decisions and delivering retirement and health benefits, effectively and efficiently.

Guiding Principles

1. Trustworthy – We build trust internally and with all stakeholders.
2. Transparent – Our work is transparent, direct, and open.
3. Member Focused – We care about our members. We assure that members receive their legitimate benefits. We seek to understand and meet member needs.
4. Inclusive – We uphold our stakeholders’ right to provide input into decisions that affect them.
5. Objective – We administer the plan objectively, not subject to political pressure or improper influence.
6. Straightforward – We strive for simplicity. We aim to make our benefits and services easy to understand, straightforward to administer, and efficient to implement.
7. Accountable – We do what we say we’ll do. We make and keep commitments.
8. Data-quality/integrity – We maintain and improve the integrity of data through our processes, business rules, decision-making, and data fixes.
9. Aligned – We’re focused on our objectives. We keep strategy and resources aligned, and deliver results, even as priorities change.
10. Clear – Our communications are clear, consistent, concise, and meet stakeholder needs.
11. Courageous – We’re willing to make hard decisions to implement our strategy and to deliver according to the character of the organization.
12. Competitive – We understand the financial implications of all our decisions and aim to operate competitively.
13. Careful – We anticipate and manage risks to support financial stability for members, employers, and taxpayers.

Key Performance Measures Changes from 2007-09

Working with the Oregon Progress Board, PERS contributes to the Annual Performance Progress Reports (APPR) provided to the Oregon Legislature, using key performance measure data to describe the agency's progress toward its mission and goals.

For 2009-11, PERS continues to use the eight approved Key Performance Measures with modest refinements that will improve the consistency of the data tracking process.

Certain targets have been indexed to better reflect the measurement of continuous performance improvements.

Legislatively Adopted 2009-11 Key Performance Measures

2009-11 KPM #	Legislative KPM for 2009-2011	Changes to 2007-09	Target 2010	Target 2011
1	TIMELY RETIREMENT PAYMENTS: Percent of initial service retirements paid within 45 days from retirement date	No Change	80%	80%
2	TOTAL BENEFIT ADMINISTRATION COSTS: Total benefit administration cost per member	Target Indexed For Inflation	\$125	\$125
3	MEMBER TO STAFF RATIO: Ratio of members to FTE staff	New Presentation	925:1	935:1
4	AVERAGE DOLLARS DEFERRED: Average monthly deferral per state employee deferred compensation participant	Target Indexed By 5%	\$450	\$472
5	LEVEL OF PARTICIPATION: Percent of state employees participating in deferred compensation program	Target Indexed By 1%	40%	41%
6	CUSTOMER SERVICE: Percent of members and employers rating their satisfaction with agency's customer service as "good" or "excellent". Overall customer service, timeless, accuracy, helpfulness, expertise and availability of information	No Change	80%	80%
7	TIMELY BENEFIT ESTIMATES: Percentage of benefit estimates processed within 30 days	No Change	95%	95%
8	BOARD OF DIRECTORS BEST PRACTICES: Percent of total practices criteria met by the PERS Board	No Change	100%	100%

Strategic Outcomes

1. Produce timely and accurate payment of all PERS benefits
2. Deliver high quality customer service
3. Agency organized to optimize effectiveness and efficiency
4. Business processes are efficient and cost effective
5. Agency staff has the skill set to support strategic outcomes
6. Provide a secured information environment
7. Agency communications are clear, concise, and accurate

1

Produce timely and accurate benefit payments

STRATEGIES:

- Coordinate benefit payments for all PERS programs
- Automate remaining functionality not currently contained in payment system of record, unless very low volume or one offs
- Pay estimated benefits, as needed, to minimize cash flow disruptions for newly retired members
- Continue to strengthen quality assurance and benefit payment review and verification processes
- Improve working relationships with employers to facilitate quality and timeliness of data reporting
- Work with employers to improve separation from employment process
- Implement data quality life cycle process to expose, verify and clean data
- Strengthen employer responsibility for tracking and reporting accurate data
- Pursue Continual Process Improvement

Key Indicators

- System calculations are automated within design expectations
- 80% of final benefits are paid within 45 days of effective retirement date
- No more than 1% of retiring members challenge Notice of Entitlements data
- Audits confirm 99% of final benefit calculations are accurate within \pm \$5.00

Division Facilitator: Benefit Payments

2

Deliver high quality customer service

STRATEGIES:

- Use agency-wide approach to deliver customer service
- Provide members the ability to view and update account information via online member services
- Enhance the retirement/withdrawal application intake process to include tracking and quality review of applications
- Promote PERS Health Insurance and the Oregon Savings Growth Plan in all PERS education presentations
- Use customer service satisfaction surveys to better understand service expectations and deliver value to customers
- Strengthen communication and partnership with employers and member stakeholder groups to enhance customer service
- Continuously promote, evaluate, and maintain the Retirement Application Assistance Session program

Key Indicators

- Accurate benefit estimates produced within 30 days of request
- Members can create benefit estimates via online member services
- Telephone calls, emails, and correspondence answered within defined performance standards
- Customer satisfaction surveys show 80% or more of members and employers rate their satisfaction with agency services as “good” or “excellent”
- PERS staff can determine current status of any member inquiry

Division Facilitator: Customer Service

3

Agency organized to optimize effectiveness and efficiency

STRATEGIES:

- For clarity of mission and clear ownership of processes, better organize and focus on three core business operational functions:
 - DATA [collect data from employer]
 - ELIGIBILITY [determine if members are eligible for requested benefit, maintain legacy data]
 - BENEFITS [pays benefits to members]
- Develop business-driven workflows with business process owners for all major functions
- Utilize project management staff and quality assurance staff as agency-wide resources
- Establish agency-wide quality assurance process
- Develop call center into agency-wide information and communication resource with access to all member information and fully utilize the call center capabilities and technologies

Key Indicators

- Three core business operational functions providing clear ownership of data, eligibility, and benefit calculations
- Valid, accurate, and complete data is available in timely manner
- Workflows are supporting major functions and continuous process improvement
- Quality assurance standards established for major business processes
- All major business assisted by project management office
- New business activities and capabilities are integrated continuously, rapidly, and cost effectively

Division Facilitator: Deputy Director

4

Business processes are efficient and cost effective

STRATEGIES:

- Optimize and refine the technology leverage enhanced by the functionality provided with the new ORION system
- Simplify business processes to reduce or eliminate redundant requirements on forms and maximize efficiencies proved by automated workflows
- Create the right mix of process standardization and flexibility to accommodate change from many sources, and create value through that change
- Speed the posting of funds and reduce processing costs
- Continually re-examine and report progress and successes
- Effectively use internal audits to audit, test, and improve agency processes

Key Indicators

- ORION achieves full functionality and provides improved efficiency and accuracy
- Continued reductions in prior year adjustments beyond the annuals closing period
- Establish and meet predictable statistical parameters around workflow activity
- More transactions being processed per FTE
- Maintain the trend of increasing the number of members to staff ratio
- 99% of final benefit calculations are accurate and 80% of final benefit payments commence within 45 days of the member's effective retirement date
- Audits confirm improving agency efficiency and cost effectiveness

Division Facilitator: Fiscal Services

5

Agency staff has the competencies to support strategic outcomes

STRATEGIES:

- Develop organizational bench strength through staff development and succession planning
- Assess organizational needs and capabilities – hire and train to fill capability gaps
- Use performance management system to evaluate performance, create development plans and career paths for employees
- Implement a unified staff training and development strategy that addresses agency-wide as well as division-specific needs
- Equip and train agency workforce to serve a diverse membership
- Ensure recruitment strategies attract and retain key talent
- Communicate and engage employees in PERS strategic outcomes
- Use a collaborative leadership model and shared vision to manage change through agency staff
- Partner with the union to identify competencies and areas of improvement

Key Indicators

- Agency does not suffer from “key person” syndrome
- Staff can obtain core training through agency resources
- Outside training opportunities are identified and used when cost effective
- No more than 5% of new hires removed from trial service annually
- Agency workforce fully serves a diverse membership
- Labor/Management Committee recommends areas for competency development.
- Annual turn-over rate for Agency is below 10%
- Staff see how they contribute to the Agency’s mission and help make change happen on a day-to-day basis

Division Facilitator: Human Resources

6

Provide a secured information environment

STRATEGIES:

- Implement enterprise risk management program
- Strengthen and maintain information security initiatives
- Ensure all staff and contractors are aware of and follow data security policies, processes, and procedures
- Maintain robust internal audit function
- Regularly monitor for compliance with related information security laws and regulations, statewide standards, and effectiveness of internal controls
- Develop and implement appropriate information security measures to track the effectiveness of the information security program.

Key Indicators

- 95% of staff are up to date on security policy training
- Periodic assessments of PERS compliance with related legal requirements and effectiveness of internal controls are performed
- No significant information security related findings on annual Secretary of State audit
- Internal/external audits reveal no significant information security breaches
- Information security metrics show continual improvement or sustained acceptable levels

7

Agency communications are clear, concise and accurate

STRATEGIES:

- Maintain agency website to ensure accessibility and usability
- Have all communication materials reviewed internally for consistency, readability, and design—remove jargon
- Improve key forms, such as the Benefits Estimate Form, and provide explanations to ensure understanding by the recipient
- Continuously train staff to provide consistent answers to member and employer inquiries
- Develop communication strategies and informational materials for members, retirees, employers, and stakeholders related to significant PERS events
- Communicate to staff and stakeholders prior to trigger events and mass communications
- Involve stakeholder groups in delivery of information to members and employers
- Survey members and employers on the effectiveness of the website, forms, and communication materials

Key Indicators

- Requests for clarification of information already provided by PERS decrease
- PERS websites are easy to navigate and information easy to read and understand
- Members receive the same answer from all agency sources
- Staff provided with consistent, accurate, complete, and current information to respond to member and employer inquires
- Customer satisfaction indicators continue to improve
- Communication materials are continually refined to respond to customer needs and feedback

Division Facilitator: Policy and Planning



Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System

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January 29, 2010

TO: Members of the PERS Board

FROM: Steven Patrick Rodeman, Deputy Director

SUBJECT: Notice of Rulemaking for Divorce Rules:
459-045-0000, *Authority and Purpose*
459-045-0001, *Definitions*
459-045-0010, *Chapter 238 Tier One/Tier Two Division of Benefits*
459-045-0012, *OPSRP Pension Program Division of Benefits*
459-045-0014, *Individual Account Program (IAP) Division of Benefits*
459-045-0020, *Court Orders*
459-045-0030, *General Administration for Chapter 238 Tier One/Tier Two*
459-045-0032, *General Administration for OPSRP Pension Program*
459-045-0034, *General Administration for Individual Account Program (IAP)*
459-045-0040, *Requesting Information from PERS*
459-045-0050, *Application Requirements for Alternate Payees*
459-045-0060, *General Rules for Calculating Benefits*
459-045-0080, *PERS Notifications*
459-045-0090, *PERS Administrative Fee*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Create new rules to address domestic relations orders for members of Chapter 238A OPSRP Pension Program and Individual Account Program (IAP); modify existing rules to reference Chapter 238A and PERS divorce forms; edit for clarity.
- Subject: Domestic Relation Orders.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

ORS 238.465 provides for an award to an alternate payee of a portion of the benefits of a PERS member due to annulment, separation, divorce, or a property settlement, pursuant to a court order. By reference, this provision applies to benefits provided under both ORS Chapter 238 and 238A. In 2008, PERS received 1,017 court orders; processed 683 retirement calculations for members/alternate payees; provided 695 divorce related estimates; and split 324 accounts.

PERS reviews all court orders to determine if its provisions can be administered under PERS laws and rules. Many court orders are not clear as to how PERS is to determine the alternate payee award and must be returned for clarification, meaning the member and alternate payee may have to obtain an amended court order. The rules in this division are intended to provide

direction and clarity so practitioners can more readily develop court orders that can be administered. Further, the Divorce Unit, to simplify processes and provide better service, has created divorce forms to be completed and attached as exhibits to a court order. The forms are designed for the specific programs and provide all the information needed by PERS to administer a final court order. The use of these forms should reduce the need for PERS to reject final court orders as not administrable, thereby reducing the need for members and alternate payees to obtain an amended the order.

The agency's rules in this area had not been updated since the addition of the OPSRP Pension Program and the Individual Account Program (IAP) under Chapter 238A. This rulemaking involves two new rules to address the division of benefits for the OPSRP Pension Program and IAP and two new rules to address the general administration for each program as well. All the other rule modifications were edits for clarity; to eliminate repetitive language; and to add references to the Chapter 238A programs. Substantive changes to the rules are detailed below.

459-045-0000, *Authority and Purpose*

This rule is being repealed as it is redundant.

459-045-0001, *Definitions*

Deleted definitions of terms that were either defined elsewhere in statute or rule, or that were removed from the modified rules. New definitions were added for “Administrable,” “Deduction,” “Married time ratio,” “PERS divorce forms,” and “Reduction.” Section (9) was edited to be more specific to what an alternate payee account is, not when it’s payable. Section (10) was changed to “Award” instead of “Alternate Payee Award” and the wording that says an award may include a separate account was deleted. The definitions were then alphabetized.

459-045-0010, *Chapter 238 Tier One/Tier Two Division of Benefits*

A new section (1) was added with references to PERS divorce forms, and the subsequent sections were renumbered and edited for clarity.

459-045-0012, *OPSRP Pension Program Division of Benefits*

This new rule provides the methods for dividing the benefits of an OPSRP Pension Program member.

459-045-0014, *Individual Account Program (IAP) Division of Benefits*

This new rule provides the methods for dividing the IAP account of a member.

459-045-0020, *Court Orders*

This rule was rewritten to incorporate new terminology, correct statutory references, and clarify the procedure to review court orders in light of the requirement to submit forms with the order.

459-045-0030, *General Administration for Chapter 238 Tier One/Tier Two*

This rule was renamed to be specific to the Tier One/Tier Two program and substantially rewritten in light of its specific application to that program.

459-045-0032, *General Administration for OPSRP Pension Program*

This new rule provides general administration for the OPSRP Pension Program.

459-045-0034, *General Administration for Individual Account Program (IAP)*

This new rule provides general administration for the IAP program.

459-045-0040, *Requesting Information from PERS*

Sections (1), (2), (3), and (5) were deleted. PERS has not provided estimates to be used in divorce proceedings for several years, but instead provides general or specific information after receiving a member release, alternate payee release, or subpoena.

459-045-0050, *Application Requirements for Alternate Payees*

Section (1) was edited to exclude references to specific forms as forms may change or become obsolete. Sections (2), (3) and (5) were reworded for clarity. Section (4) was deleted as it was redundant. The rule was renamed to better reflect the content of the rule.

459-045-0060, *General Rules for Calculating Benefits*

Section (1) was edited for clarity. Section (2) was deleted as the rewording in section (1) covers it. Section (4) was deleted as it is covered in 459-045-0050. Sections (3) and (5) were deleted as redundant. The rule was renamed because PERS uses actual information, not assumptions, when calculating benefits.

459-045-0080, *PERS Notifications*

Sections (6), (7), (8), and (9) were deleted as redundant or unnecessary.

459-045-0090, *PERS Administrative Fee*

Sections (2) and (3) were deleted as they were essentially procedures for applying the statute. The statute is now referenced in section (1). Section (4) was deleted as it was unnecessary.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held on December 22, 2009 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended, and no public comments have been received to date. The public comment period ends on February 24, 2010 at 5:00 p.m.

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: Yes in part. No existing rules provide for the administration of domestic relations orders for the OPSRP Pension Program and Individual Account Program.

Impact: Members, their attorneys, employers, and staff will benefit from clear and consistent rules that address the complexities of the different programs when it comes to administering a domestic relations order.

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

RULEMAKING TIMELINE

October 14, 2009 Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.

November 1, 2009	<i>Oregon Bulletin</i> published the Notice. Notice was mailed to employers, legislators, and interested parties. Public comment period began.
December 22, 2009	Rulemaking hearing held at 2:00 p.m. in Tigard.
January 29, 2010	PERS Board notified that staff began the rulemaking process.
February 24, 2010	Public comment period ends at 5:00 p.m.
March 29, 2010	Staff will propose adopting the permanent rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

The public comment period ends on February 24, 2010 at 5:00 p.m. The rules are scheduled to be brought before the PERS Board for adoption at the March 29, 2010 Board meeting.

- B.1. Attachment 1 – 459-045-0000, *Authority and Purpose*
- B.1. Attachment 2 – 459-045-0001, *Definitions*
- B.1. Attachment 3 – 459-045-0010, *Chapter 238 Tier One/Tier Two Division of Benefits*
- B.1. Attachment 4 – 459-045-0012, *OPSRP Pension Program Division of Benefits*
- B.1. Attachment 5 – 459-045-0014, *Individual Account Program (IAP) Division of Benefits*
- B.1. Attachment 6 – 459-045-0020, *Court Orders*
- B.1. Attachment 7 – 459-045-0030, *General Administration for Chapter 238 Tier One/Tier Two*
- B.1. Attachment 8 – 459-045-0032, *General Administration for OPSRP Pension Program*
- B.1. Attachment 9 – 459-045-0034, *General Administration for Individual Account Program (IAP)*
- B.1. Attachment 10 – 459-045-0040, *Requesting Information from PERS*
- B.1. Attachment 11 – 459-045-0050, *Application Requirements for Alternate Payees*
- B.1. Attachment 12 – 459-045-0060, *General Rules for Calculating Benefits*
- B.1. Attachment 13 – 459-045-0080, *PERS Notifications*
- B.1. Attachment 14 – 459-045-0090, *PERS Administrative Fee*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS**

1 *[459-045-0000*

2 *Authority and Purpose*

3 *(1) In accordance with ORS 238.465(3), the provisions of ORS 238.465 (Oregon Laws*
4 *1993, Chapter 715) shall be administered by the Public Employees Retirement System and*
5 *under the policies and procedures established by the Public Employees Retirement Board. To*
6 *this end, the Board and the staff shall:*

7 *(a) Provide for the administration of a separate account in PERS in the name of an*
8 *alternate payee when so ordered by the court.*

9 *(b) Establish criteria to determine whether or not domestic relations orders, judgments of*
10 *dissolution, divorce decrees, and marital property agreements comply with ORS 238.465.*

11 *(c) Establish definitions and procedures for the effective and efficient administration of*
12 *ORS 238.465.*

13 *(2) The rules of this division are intended to provide a clear and complete description of*
14 *the division of benefits payable under PERS and on how those divided benefits may be paid as*
15 *provided for in ORS 238.465.*

16 *(3) PERS is a defined benefit plan and benefits are attributable to both employee and*
17 *employer contributions.*

18 *(4) The rules contained in division 045 pertain to PERS benefits covered in ORS Chapter*
19 *238, and not to the State's Deferred Compensation plan addressed in ORS Chapter 243.*

20 *Stat. Auth.: ORS 238.465(3) & 238.650*

21 *Stats. Implemented: ORS 238.465]*

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS**

1 **459-045-0001**

2 **Definitions**

3 The words and phrases used in this division *[shall]* have the same meaning given
4 them in ORS Chapters 238 and 238A. Specific and additional terms for purposes of this
5 division are defined as follows unless context requires otherwise.

6 (1) “Administrable” means that the language in a final court order that outlines
7 an alternate payee award can be administered within the provisions of ORS
8 Chapters 238, 238A, and this division.

9 (2) “Alternate payee” means a spouse or former spouse of a PERS member who
10 is awarded a portion of the member’s PERS benefits by a court.

11 (3) “Alternate payee account” means a court-ordered separate account created
12 under ORS 238.465 in the name of an alternate payee.

13 (4) “Alternate payee release” means a written statement that is signed by the
14 alternate payee and received by PERS authorizing the release of information, and
15 directing to whom and where the information is to be sent pertaining to:

16 (a) The alternate payee’s interest in the member’s account(s) or member’s
17 vested interest in the Fund;

18 (b) The alternate payee’s account and benefit information if a separate account
19 has been created in the name of the alternate payee; or

20 (c) Benefit information applicable to either subsection (a) or (b) of this section.

21 (d) Award information contained in any draft or final court order in regard to
22 the alternate payee on record with PERS.

1 (5) “Award” means the portion of a member’s account(s) or of the member’s
2 benefits under ORS Chapter 238 or 238A awarded to an alternate payee by a final
3 court order.

4 (6) “Court order” means a court decree or judgment of dissolution of marriage,
5 separation, annulment, or marital property settlement agreement, incident to any
6 court decree or judgment of dissolution of marriage, separation, or annulment,
7 which includes the content of any PERS divorce forms attached as exhibits.

8 (7) “Deduction” means an alternate payee’s award is subtracted from the
9 member’s benefit(s) after tax.

10 (8) “Draft court order” means an order for dividing a PERS account(s) or
11 benefits that has been prepared but not approved or signed by the court or filed
12 with the court clerk, which includes the content of any PERS divorce forms attached
13 as exhibits.

14 (9) “Final court order” means a court order that has been signed by a judge
15 and shows the stamp of the court clerk or trial court administrator indicating the
16 order is a certified copy of the original record that is on file with the court.

17 (10) “Joint and survivor annuity” means any retirement annuity option under
18 which a monthly lifetime annuity is payable to a surviving beneficiary of a member.

19 (11) “Married time ratio” means the fraction in which the numerator is the
20 years and months of creditable service time or retirement credit accrued by the
21 member while married to the alternate payee as provided in the court order and the
22 denominator is the member’s total creditable service time or retirement credit
23 accrued by the member at the time of retirement.

1 (12) “Member” means a person described in ORS 238.005(12), 238.500(3), or
2 238A.005(10), who is the current or former spouse of an alternate payee.

3 (13) “Member release” means a written statement that is signed by a member
4 and received by PERS authorizing the release of information, and directing to
5 whom and where information is to be sent pertaining to:

6 (a) The member’s account(s);

7 (b) The member’s interest in the Fund; or

8 (c) Benefit information applicable to either subsection (a) or (b) of this section.

9 (d) Award information contained in any draft or final court order in regard to
10 the member on record with PERS.

11 (14) “PERS divorce forms” means the forms provided by PERS that must be
12 completed to describe a court order’s provisions relating to administration of a
13 member’s benefit that is subject to that order.

14 (15) “Reduction” means an alternate payee’s award is subtracted from the
15 member’s benefit(s) before tax.

16 *[(1) “Board” shall have the same meaning as the Public Employees Retirement*
17 *Board as defined in ORS 238.630.]*

18 *[(2) “PERS” shall have the same meaning as the Public Employees Retirement*
19 *System as defined in ORS 238.600.]*

20 *[(3) “Fund” shall have the same meaning as the Public Employees Retirement Fund*
21 *in ORS 238.660.]*

22 *[(4) “Staff” means the employees of the Public Employees Retirement System as*
23 *provided in ORS 238.645.]*

1 *[(5) “Member” means a person described in ORS 238.005(12) and 238.500(3), and*
2 *who is the current or former spouse of an alternate payee.]*

3 *[(6) “Alternate payee” means a spouse or former spouse of a PERS member, who is*
4 *awarded a portion of the member’s PERS benefits by a court.]*

5 *[(7) “Member’s PERS account” means:]*

6 *[(a) The member’s individual account in the Fund as defined in ORS 238.250; and]*

7 *[(b) The member’s account in the Variable Annuity Account in the Fund as defined*
8 *in ORS 238.260.]*

9 *[(c) The accounts described in subsections (a) and (b) of section consist of:]*

10 *[(A) Member before-tax contributions paid to PERS under ORS 238.200;]*

11 *[(B) Member after-tax contributions paid to PERS under ORS 238.205; and]*

12 *[(C) Interest and earnings credited to each of the accounts described in paragraphs*
13 *(A) and (B) of this subsection.]*

14 *[(d) Shall apply only to an active or an inactive member, and shall not apply to a*
15 *retired member.]*

16 *[(8) “PERS funds” means the member’s PERS account [as defined in section (7) of*
17 *this rule] and the member’s vested interest in employer contributions paid into the Fund*
18 *in accordance with ORS 238.225, but shall not include:]*

19 *[(a) Employer contributions for police and fire benefit units pursuant to ORS*
20 *238.440.]*

21 *[(b) Employer contributions paid into the Fund that the member is not vested in*
22 *pursuant to ORS 238.265.]*

1 *[(9) “Alternate Payee Account” means a court-ordered separate account created*
2 *under ORS 238.465 in the name of an alternate payee, and established as of the award*
3 *date stated in the court order. The award date shall be before, or at the time refund,*
4 *death, service or disability retirement benefits become payable to the member or the*
5 *member’s beneficiary.]*

6 *[(10) “Alternate payee’s award” is the portion of a member’s PERS account or of*
7 *the member’s PERS funds awarded to an alternate payee by a court order, and may*
8 *include the creation of a separate account in the Fund in the name of the alternate*
9 *payee.]*

10 *[(11) “Member Release” means a written statement that is signed by a member and*
11 *received by staff authorizing the release of information, and directing to whom and where*
12 *information is to be sent:*

13 *(a) Pertaining to the member’s PERS account;*

14 *(b) Pertaining to the member’s interest in the Fund; or*

15 *(c) Pertaining to benefit information applicable to either subsection (a) or (b) of this*
16 *section.*

17 *(d) Pertaining to award information contained in any draft or final court order in*
18 *regard to the member on record with PERS.]*

19 *[(12) “Alternate Payee Release” means a written statement that is signed by the*
20 *alternate payee and received by staff authorizing the release of information, and*
21 *directing to whom and to where the information is to be sent:*

22 *(a) Pertaining to the alternate payee’s interest in the member’s PERS account or*
23 *member’s vested interest in the Fund;*

1 ***(b) Pertaining to the alternate payee’s account and benefit information if a separate***
2 ***account has been created in the name of the alternate payee; or***

3 ***(c) Pertaining to benefit information applicable to either subsection (a) or (b) of this***
4 ***section.***

5 ***(d) Pertaining to award information contained in any draft or final court order in***
6 ***regard to the alternate payee on record with PERS.]***

7 ***[(13) A “Member Release” and an “Alternate Payee Release” shall include a valid***
8 ***subpoena or court order requiring PERS to provide information to someone other than***
9 ***the member or the alternate payee.]***

10 ***[(14) “Vested” has the same meaning as provided in ORS 239.005(24). Whether or***
11 ***not a member is considered to be vested shall be determined solely by ORS 238.265***
12 ***regardless of any language that may be contained in any type of court order received by***
13 ***PERS.]***

14 ***[(15) “Separation from service” means the member separates from PERS covered***
15 ***employment due to death, service retirement, disability retirement, or termination of***
16 ***employment for which the requirements set forth in ORS 238.265 have been met.]***

17 ***[(16) “Service retirement” shall have the same meaning as provided in ORS***
18 ***238.300.]***

19 ***[(17) “Disability retirement” shall have the same meaning as provided in ORS***
20 ***238.320.]***

21 ***[(18) “Joint and survivor annuity” shall mean any retirement annuity option under***
22 ***which a monthly lifetime annuity is payable to a surviving beneficiary of a member. The***

1 *current joint and survivor annuities payable under PERS are Options 2, 2A, 3, and 3A*
2 *described in ORS 238.305, and 238.325.]*

3 *[(19) “Integration” shall have the same meaning as provided in ORS 238.035,*
4 *238.680 and 238.690.]*

5 *[(20) “Estimate” means a projection of benefits prepared by staff of a service or*
6 *disability retirement allowance, a death or a refund payment. An estimate is not a*
7 *guarantee or promise of actual benefits that eventually may become due and payable and*
8 *PERS is not bound by any estimates it provides.]*

9 *[(21) “The earliest date the member would be eligible to receive retirement” shall*
10 *have the same meaning as provided in ORS 238.005(6), or 238.280, or the date the*
11 *member is approved for disability retirement prior to reaching earliest service retirement*
12 *eligibility.]*

13 *[(22) “PERS Plan Year” means a calendar year beginning January 1, and ending*
14 *December 31.]*

15 *[(23) “PERS Administrative Fee” means the fee, not to exceed \$300, that shall be*
16 *charged in accordance with ORS 238.465(9) to the member and/or alternate payee for*
17 *actual and reasonable administrative cost incurred by PERS for establishing benefits for*
18 *an alternate payee.]*

19 *[(24) “Fraction of the benefit” used to allocate expenses and costs under ORS*
20 *238.465(9) means the percentage or ratio of a member’s PERS account or member’s*
21 *vested interest in the Fund that is awarded by court decree or order to the alternate*
22 *payee and the member as of the date of divorce, separation or annulment.]*

1 *[(25) “Court Order” means a court decree or judgment of dissolution of marriage,*
2 *separation, or annulment, or the terms of any court order or court approved marital*
3 *property settlement agreement, incident to any court decree or judgment of dissolution of*
4 *marriage, separation, or annulment.]*

5 *[(26) “Final Court Order” means a court order or judgment that has been signed by*
6 *a judge, and which shows the stamp of the court clerk or trial court administrator*
7 *indicating the order is a certified copy of the original record that is on file with the*
8 *court.]*

9 *[(27) “Draft Court Order” means an order for dividing a PERS account or benefits*
10 *has been prepared but not approved or signed by the court or filed with the court clerk*
11 *that contains proposed language on how PERS benefits are to be divided.]*

12 Stat. Auth.: ORS 238.465[(3) &], 238.650 [& 238A.450](#)

13 Stats. Implemented: ORS 238.465

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 **459-045-0010**

2 **Chapter 238 Tier One / Tier Two Division of Benefits**

3 **(1) A final court order that provides for a division of benefits must use a**
4 **method described in this rule.**

5 **(a) The method must be identified on PERS divorce forms.**

6 **(b) The PERS divorce forms must be attached as exhibits to the court order,**
7 **and incorporated by reference in the court order.**

8 **(2) Award of Alternate Payee Account (Non-Retired Member). If a final court**
9 **order provides an award of an alternate payee account, the court order must**
10 **provide:**

11 **(a) The date of annulment, separation, divorce, or property settlement.**

12 **(A) The separate account will be established as of December 31 of the calendar**
13 **year before this date unless:**

14 **(i) A prior year is provided in the court order, or**

15 **(ii) The date is December 31.**

16 **(b) That a separate account be established in an alternate payee's name.**

17 **(c) The method by which the award is to be calculated. One of the following**
18 **methods must be used:**

19 **(A) A percentage, expressed in whole numbers; or**

20 **(B) A dollar amount.**

21 **(d) Whether an alternate payee is awarded matching employer dollars.**

1 (e) That an alternate payee may elect to receive the award at any time after the
2 member's earliest retirement eligibility.

3 (3) Award of Payment from Member's Monthly Benefit (Non-Retired Member).

4 If a final court order awards an alternate payee a reduction or deduction amount
5 from the monthly service or disability retirement benefit that shall be paid in the
6 future to the member, the court order must provide:

7 (a) The date of annulment, separation, divorce, or property settlement.

8 (b) Whether the award is a reduction or deduction from the member's benefit.

9 If the award is a reduction, the court order must provide whether the alternate
10 payee is eligible to elect a separate benefit option at any time after the member
11 reaches earliest retirement eligibility.

12 (c) The method by which the monthly award is to be calculated. One of the
13 following methods must be used:

14 (A) A percentage, expressed in whole numbers only; or

15 (B) A dollar amount; or

16 (C) A percentage of the married time ratio. The court order must provide:

17 (i) The percentage, expressed in whole numbers; and

18 (ii) The years and months of creditable service time accrued by the member
19 while married to the alternate payee.

20 (d) If there is a specific end date or dollar amount limit to the award, and what
21 that date or limit is.

22 (e) Whether the award applies to service retirement benefits, disability
23 retirement benefits, or withdrawal benefits.

1 (f) Whether the member is restricted from withdrawing as a member under
2 ORS 238.265.

3 (g) Whether the member must select a specific benefit payment option at
4 retirement.

5 (h) Whether the member is required to designate the alternate payee as a
6 beneficiary:

7 (A) Before retirement.

8 (B) At retirement.

9 (i) Whether an alternate payee award continues after the death of:

10 (A) The member.

11 (B) The alternate payee.

12 (3) Award of Monthly Benefit (Retired Member). If a final court order awards
13 an alternate payee an amount payable from a retired member's monthly service or
14 disability retirement benefit, the court order must provide:

15 (a) The date of annulment, separation, divorce, or property settlement.

16 (b) Whether an alternate payee award is a reduction or deduction from the
17 member's monthly benefit.

18 (c) The method by which the monthly award is to be calculated. One of the
19 following methods must be used:

20 (A) A percentage, expressed in whole numbers; or

21 (B) A dollar amount.

22 (d) If there is a specific end date or dollar amount limit to the award, and what
23 that date or limit is.

1 (e) Whether the member may or must change their beneficiary designation. If
2 the member's beneficiary designation is changed, the member's monthly benefit
3 must be recalculated.

4 (f) Whether a member who elected Option 2A or 3A under ORS 238.305(1) is
5 allowed to receive the Option 1 benefit under ORS 238.305(6).

6 (g) Whether an alternate payee award continues after the death of:

7 (A) The member.

8 (B) The alternate payee.

9 *[The purpose of this rule is to describe methods for determining an alternate payee's*
10 *award from a member's PERS account and PERS Funds, which are administrable by*
11 *PERS.]*

12 *[(1) Pre Retirement Division Method: A final court order or judgment which*
13 *establishes a separate account in the Fund in the name of the alternate payee at the time*
14 *of the award.]*

15 *[(a) The court order must be received by the Divorce Decree Unit at the PERS*
16 *Portland Headquarters office prior to the issue date of any payment to, or on behalf of a*
17 *member, of a service or disability retirement, refund, or death benefit.]*

18 *[(b) The Pre Retirement Division Method shall not be used if a court order allows*
19 *any option for a member to subsequently buy out the alternate payee's interest in the*
20 *member's PERS funds.]*

21 *[(c) The court order must include a specific percentage or dollar amount, either*
22 *directly or pursuant to a formula resulting in a percentage or dollar amount to be*
23 *awarded to the alternate payee.]*

1 *[(d) The court order must direct PERS to transfer the amount of the award from the*
2 *member's account and to deposit it in a separate account in the Fund in the name of the*
3 *alternate payee as of a court provided date.]*

4 *[(e) The court order shall specify a date between January 1, and through December*
5 *31, on which to base the transfer of the alternate payee's award from the member's PERS*
6 *account. If a court order directs PERS to transfer a certain percentage to the alternate*
7 *payee, it shall be converted into a dollar amount. The converted dollar amount or the*
8 *dollar amount stated in the court order that is awarded to the alternate payee shall be*
9 *applied against the last audited PERS member account balance on record as of the end*
10 *of the plan year (December 31) on or immediately preceding the award date specified in*
11 *the court order and then it shall be deposited into a separate account in the name of the*
12 *alternate payee.]*

13 *[(f) If a date is not given in a court order on which PERS is to base the transfer of an*
14 *alternate payee's award from a member's PERS member account then PERS shall use the*
15 *date the court order was signed by the court and base the transfer as of the end of the*
16 *plan year (December 31) immediately preceding the date the order was signed by the*
17 *court. If the date the order was signed by the court is December 31 then the last audited*
18 *account balance as of December 31 of the plan year in which the order was signed shall*
19 *be used.]*

20 *[(g) A percentage award that is due an alternate payee shall be applied against the*
21 *member's individual account, and in the Variable Annuity Account in the Fund. Specific*
22 *dollar amounts awarded to an alternate payee shall be applied against the member's*

1 *individual account, and in the Variable Annuity Account in the Fund on a pro-rata*
2 *basis.]*

3 *[(h) Once the value of the alternate payee's award is established, the portion of the*
4 *award that is attributable to the member's account in the Variable Annuity Account in the*
5 *Fund shall be transferred to the separate account established in the name of the alternate*
6 *payee, which shall earn a regular or fixed interest rate as established by the Board, from*
7 *the transfer date to the date benefits are effective for the alternate payee.]*

8 *[(i) Interest on a separate alternate payee account after the division and transfer*
9 *takes place shall be credited in accordance with OAR chapter 459, division 007.]*

10 *[(j) Under the Pre Retirement Division Method an alternate payee would be eligible*
11 *for benefits based on the member's eligibility for benefits regardless of whether or not the*
12 *member elects to begin receiving benefits.]*

13 *[(2) At Time of Payment Division Method: a court order that awards an alternate*
14 *payee a portion of future benefits that become due and payable by PERS to a member,*
15 *expressed as a percentage:]*

16 *[(a) The court order awards an alternate payee a percentage of the total PERS funds*
17 *that were accrued during the marriage.]*

18 *[(b) The award is computed using either formula (A) which uses years and months,*
19 *or formula (B), which uses member contributions and interest credited to the member's*
20 *PERS account. Each of these formulas is then multiplied by a subsequent percentage as*
21 *described in sub-paragraph (C). Any court order that PERS receives that utilizes the*
22 *ratio method must spell out in full the formula that is to be used for determining the*
23 *alternate payee's award.]*

1 *[(A) The numerator is the creditable service time accrued as an active member*
2 *during the marriage, (MCS). The denominator is the total of the member's total*
3 *creditable service, (TCS) as defined in ORS 238.005(5), at the time benefits become due*
4 *and payable to either the member or the alternate payee, expressed as the equation:]*

5 *[MCS = Ratio of benefits accrued during the marriage.*

6 *TCS]*

7 *[(i) Example: Assume a member had 12 years and 3 months of creditable service*
8 *accrued during the marriage, the numerator would equal 147 months.]*

9 *[(ii) Assume further that the member has 25 years and 8 months of total creditable*
10 *service as of the date the member and/or alternate payee applies for payment, then the*
11 *denominator would equal 308 months.]*

12 *[(iii) 147 divided by 308 equals 47.7273 percent.]*

13 *[(B) The numerator is the amount of the contributions and the interest credited to the*
14 *member's PERS account during the marriage, (married account = MA). The denominator*
15 *is the total of the member's PERS account (total account as determined by PERS = TA) at*
16 *the time benefits become due and payable to either the member or the alternate payee,*
17 *expressed as the equation:]*

18 *[MA = Ratio of benefits accrued during the marriage.*

19 *TA]*

20 *[(i) Example: Assume a member has a PERS member account of \$23,511.82 as of*
21 *the end of the plan year (December 31) immediately preceding the date of marriage then*
22 *the numerator would equal \$23,511.82.]*

1 *[(ii) Assume further that the total member PERS account as of the end of the plan*
2 *year (December 31) immediately preceding the date of divorce or date an alternate payee*
3 *elects to begin receiving payment, equals \$45,650.33. The denominator then would equal*
4 *\$45,650.33.]*

5 *[(iii) \$23,511.82 divided by \$45,650.33 equals 51.5042 percent.]*

6 *[(C) Court orders may direct that the ratio in either paragraphs (A) or (B) of this*
7 *subsection be multiplied by another percentage and the result equals the alternate*
8 *payee's award, expressed as the equation:]*

9 *[(i) Ratio from paragraphs (A) or (B) multiplied by (C) of this subsection equals*
10 *amount of alternate payee's award.]*

11 *[(ii) 147 months divided by 308 months equals 47.7273 percent multiplied by court*
12 *awarded percentage of 50 percent equals 23.8637 percent due the alternate payee when*
13 *benefits become payable.]*

14 *[(c) The alternate payee's award is not computed until the member or member's*
15 *beneficiaries elect to receive funds due to refund, service or disability retirement, or*
16 *death.]*

17 *[(3) A court order that uses the Division Methods described in Sections (1) and (2)*
18 *of this rule may include language that would allow:]*

19 *[(a) An alternate payee to elect to receive his or her award in the form of retirement*
20 *payment option on or after the member's earliest eligibility for service retirement*
21 *benefits, regardless of whether or not the member actually retires, and/or the member or*
22 *the member's beneficiaries elects to begin receiving benefits.]*

1 *[(b) An alternate payee to elect to have a separate account established in the Fund*
2 *in the name of the alternate payee.]*

3 *[(c) If an alternate payee elects to have a separate account established in the fund in*
4 *his or her name regular or fixed interest shall be credited and posted up until the*
5 *alternate payee elects to receive his or her award in accordance with OAR chapter 459,*
6 *division 007.]*

7 *[(d) When an alternate payee exercises the election under paragraph (2)(d)(A) or*
8 *(B) of this rule pursuant to a court order that utilizes the formula described in paragraph*
9 *(2)(b)(A) of this rule, the total creditable service that shall be used for the denominator*
10 *shall be based as if a member who is active had terminated as of the date payments are*
11 *effective for the alternate payee. If a member is inactive and has already terminated on*
12 *some other date prior to the alternate payee's election, then the inactive member's total*
13 *actual creditable service time shall be used as the denominator.]*

14 *[(e) When an alternate payee exercises the election under paragraph (2)(d)(A) or*
15 *(B) of this rule pursuant to a court order that utilizes the formula described in paragraph*
16 *(2)(b)(B) of this rule, the denominator that shall be used for an active or an inactive*
17 *member shall be the total member's PERS account as of December 31 of the year prior to*
18 *the date payments are effective for the alternate payee. If a member is retiring at the*
19 *same time an alternate payee is exercising an election under paragraph (2)(c)(A) of this*
20 *rule, then the actual total member PERS account shall be used as the denominator.]*

21 *[(4) The Payment Division Deduction Method: This method can be used in regard to*
22 *a member prior to retirement, or in regard to a member who has retired and has started*
23 *receiving payment. A court order provides an award, which is stated as a flat or set*

1 *dollar amount, or as a percentage, either directly or pursuant to a formula, that is to be*
2 *paid to an alternate payee from the service or disability retirement benefit that shall be*
3 *paid in the future to a member, or that is presently being paid by PERS to a retired*
4 *member.]*

5 *[(a) The flat or set dollar amount or percentage that is awarded to the alternate*
6 *payee shall be deducted out of the retired member's gross monthly benefit.]*

7 *[(b) Under this method an alternate payee's award shall not be based on the*
8 *alternate payee's age or life expectancy.]*

9 *[(c) A court order may direct that a member select a specific payment option and*
10 *designate the alternate payee as the primary beneficiary, if the member has not retired as*
11 *of the date PERS receives a final court order. If a court order provides for this type of an*
12 *award, payment to the member at the time the member retires shall be based on the age*
13 *difference between the member and the alternate payee. The alternate payee award shall*
14 *then be deducted from the member's gross monthly benefit, at the time the member*
15 *retires.]*

16 *[(d) If a member has retired and has been receiving payment for more than the time*
17 *period allowed in ORS 238.305(1) PERS shall not allow a change of payment option*
18 *from what was originally selected by the member, regardless of any direction to the*
19 *contrary that may be contained in a court order.]*

20 *[(e) If a member has retired and been receiving payment for more than the period*
21 *allowed in ORS 238.305(1) PERS shall only allow a change in the beneficiary*
22 *designation if the option originally selected by the member allows for a change of*

1 *beneficiary, regardless of any direction to the contrary that may be contained in a court*
2 *order.]*

3 *[(f) An alternate payee cannot convert their award to their own separate payment*
4 *option independent from the member's.]*

5 *[(g) PERS shall continue to send a separate check in the name of the alternate payee*
6 *for as long as there is a benefit being paid by PERS to a member or a member's*
7 *beneficiary.]*

8 *[(5) A division of benefits must be in accordance with one of the methods described*
9 *in this rule.]*

10 *[(6) For the purposes of this rule, benefits paid by PERS to a member are:]*

11 *[(a) "Retirement benefits" means benefits payable on retirement under PERS law for*
12 *service or disability.]*

13 *[(b) "Refund" means a refund of a member's PERS account, and includes payment*
14 *made due to loss of membership under ORS 238.095.]*

15 *[(c) "Death benefits" means benefits that are payable to a beneficiary pursuant to*
16 *ORS 238.390 and 238.395.]*

17 Stat. Auth.: ORS 238.465~~[(3)]~~ & 238.650

18 Stats. Implemented: ORS 238.465

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 459-045-0012

2 OPSRP Pension Program Division of Benefits

3 (1) A final court order that provides for a division of pension benefits or
4 disability benefits must use a method described in this rule.

5 (a) The method must be identified on PERS divorce forms.

6 (b) The PERS divorce forms must be attached as exhibits to the court order, and
7 incorporated by reference in the court order.

8 (2) Award of Pension Benefits (Non-Retired Member). If a final court order
9 awards an alternate payee a reduction or deduction amount from the monthly
10 pension benefit that shall be paid in the future to the member, a court order must
11 provide:

12 (a) The date of annulment, separation, divorce, or property settlement.

13 (b) Whether the award is a reduction or deduction from the member's monthly
14 pension. If the award is a reduction, the court order must provide whether the
15 alternate payee is eligible to elect a separate benefit option at any time after the
16 member reaches earliest retirement eligibility.

17 (c) The method by which the monthly award is to be calculated. One of the
18 following methods must be used:

19 (A) A percentage, expressed in whole numbers only; or

20 (B) A dollar amount; or

21 (C) A percentage of the married time ratio. If this method is used, the court
22 order must provide:

1 (i) The percentage, expressed in whole numbers; and

2 (ii) The years and months of retirement credit accrued by the member while
3 married to the alternate payee.

4 (d) If there is a specific end date or dollar amount limit to the award, and what
5 that date or limit is.

6 (e) Whether the member must select a specific benefit payment option at
7 retirement.

8 (f) Whether the member must designate the alternate payee as beneficiary.

9 (g) Whether the alternate payee and any minor children are awarded a
10 percentage of any pre-retirement death benefit pursuant to ORS 238A.230.

11 (h) Whether the alternate payee award continues or ends after the member
12 retires if:

13 (A) The member dies before the alternate payee and the member's beneficiary is
14 not the alternate payee.

15 (B) If the alternate payee dies before the member.

16 (3) Award of Pension Benefits (Retired Member). If a final court order awards
17 an alternate payee an amount to be paid from a retired member's monthly pension,
18 the court order must provide:

19 (a) The date of annulment, separation, divorce, or property settlement.

20 (b) Whether the award is a reduction or deduction from the member's monthly
21 pension.

22 (c) The method by which the monthly award is to be calculated. One of the
23 following methods must be used:

24 (A) A percentage, expressed in whole numbers only; or

1 (B) A dollar amount.

2 (d) If there is a specific end date or dollar amount limit to the award, and what
3 that date or limit is.

4 (e) Whether the member may or must change their beneficiary designation. If the
5 member's beneficiary is changed, the member's pension must be recalculated.

6 (f) Whether a member, who elected to receive their pension under ORS
7 238A.190(1)(b) or (d), is allowed to receive the higher pension benefit under ORS
8 238A.190(2)(b).

9 (g) Whether the alternate payee will be the sole beneficiary or any remaining
10 share not awarded to the alternate payee shall be paid to the member's secondary
11 beneficiary if the member dies before the alternate payee and the alternate payee was
12 the member's beneficiary.

13 (h) Whether an alternate payee award continues or ends if:

14 (A) The member dies before the alternate payee and the member's beneficiary is
15 not the alternate payee.

16 (B) The alternate payee dies before the member.

17 (4) Award of Disability Benefits. If a final court order awards an alternate payee
18 an amount to be paid from the monthly disability benefit that is being paid or may be
19 paid in the future to the member, the court order must provide:

20 (a) The date of annulment, separation, divorce, or property settlement.

21 (b) Whether the award is a reduction or deduction from the member's monthly
22 disability benefit.

23 (c) A percentage, expressed in whole numbers only, of the member's monthly
24 disability benefit that is awarded to the alternate payee.

1 [Stat. Auth.: ORS 238.465, 238.650 & 238A.450](#)

2 [Stats. Implemented: ORS 238.465](#)

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS**

1 **459-045-0014**

2 **Individual Account Program (IAP) Division of Benefits**

3 **(1) A final court order that provides for a division of benefits must use a**
4 **method described in this rule.**

5 **(a) The method must be identified on PERS divorce forms.**

6 **(b) The PERS divorce forms must be attached as exhibits to the court order,**
7 **and incorporated by reference in the court order.**

8 **(2) Award of IAP Alternate Payee Account (Non-Retired Member). If a final**
9 **court order provides an award of an alternate payee account to be established from**
10 **the account balance of a member, the court order must provide:**

11 **(a) The date of annulment, separation, divorce, or property settlement.**

12 **(A) The separate account will be established from the member's account**
13 **balance as of December 31 of the calendar year before this date unless:**

14 **(i) A prior year is provided in the court order; or**

15 **(ii) The date is December 31.**

16 **(B) If the date in subsection (a) of this section is other than December 31,**
17 **contributions made during that calendar year will not be included in the calculation**
18 **of the alternate payee's award.**

19 **(b) That the separate account be established in an alternate payee's name.**

20 **(c) The method by which the award is to be calculated. One of the following**
21 **methods must be used:**

22 **(i) A percentage, expressed in whole numbers, or**

1 (ii) A dollar amount.

2 (d) Whether the member may change their pre-retirement beneficiary

3 designation, if the alternate payee was named as beneficiary.

4 (3) Award of IAP Alternate Payee Account (Retired Member). If a final court
5 order provides an award of an alternate payee account to be established from the
6 remaining account balance of a retired member receiving installment payments, to
7 be effective on the date that PERS establishes the alternate payee account, the court
8 order must provide:

9 (a) The date of annulment, separation, divorce, or property settlement.

10 (b) That a separate account be established in an alternate payee's name.

11 (A) The effective date of the alternate payee account shall be as soon as
12 administratively feasible after PERS receives and approves a final court order as
13 administrable.

14 (B) The alternate payee will be notified when the account has been established.

15 (C) The alternate payee account shall be distributed in a lump sum payment.

16 (D) Any installment payments paid to the member before the alternate payee
17 account is established will not be included in the award.

18 (c) The award as a percentage, expressed in whole numbers.

19 (d) Whether the member may or must change their beneficiary designation.

20 Stat. Auth.: ORS 238.465, 238.650 & 238A.450

21 Stats. Implemented: ORS 238.465

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 459-045-0020

2 Court Orders

3 (1) A final court order must be received by PERS and approved as
4 administrable before an alternate payee award can be established.

5 (a) PERS shall provide a written response as to whether a final court order is
6 administrable to the member, the alternate payee, and their attorneys.

7 (b) Award information shall be provided to attorneys or other representatives
8 of a member or an alternate payee only if a member release or an alternate payee
9 release has been received by PERS.

10 (2) In the absence of a final court order, a restraining order or stay must be
11 filed with PERS to prevent the distribution of any funds to a member.

12 (3) PERS shall establish an alternate payee award as soon as administratively
13 feasible on a prospective basis only. Court orders that purport to award retroactive
14 benefits or benefits to be paid before the final court order was received by PERS
15 cannot be administered.

16 (4) If a final court order is received by PERS after a member has withdrawn
17 from PERS under ORS 238.265, 238.545, 238A.120 or 238A.375, the final court
18 order will be rejected as unadministrable since the member would no longer have a
19 benefit to be paid that could be awarded.

20 *[(1) A final court order or judgment must clearly specify the amount awarded to an*
21 *alternate payee from the member's account and the member's PERS funds, and the*

1 *language must be administrable under ORS Chapter 238 and OAR Chapter 459, Division*
2 *045.]*

3 *[(2) If a court order is unclear or silent as to whether or not an alternate payee is*
4 *entitled to all portions of the member's PERS funds, PERS shall not approve the court*
5 *order until a court order is received that gives complete detail on what comprises the*
6 *alternate payee's award. PERS shall not include as part of the alternate payee's award*
7 *those benefits an alternate payee is not eligible for as described in OAR 459-045-*
8 *0030(3), (5), (6), (7), (8), (9), (10), (11), regardless of whether or not a court order does*
9 *or does not award them.]*

10 *[(3) A court order shall also address any award an alternate payee is to receive*
11 *from a member's voluntary purchase of service credits, and/or additional service credits*
12 *allowed by law due to a member's retirement for disability.]*

13 *[(4) In the absence of a final court order, a restraining order or stay must be filed*
14 *with PERS, in order to prevent the distribution of any funds to a member,*
15 *notwithstanding ORS 238.455. A subsequent court order shall be required in order to*
16 *allow future distributions.]*

17 *[(5) PERS shall not divide a member's PERS account, or make a payment to or on*
18 *behalf of an alternate payee upon receipt of a draft court order by PERS, until PERS*
19 *Divorce Decree Unit has received a subsequent:*

20 *(a) Certified copy of a final court order, that specifies what PERS is to do in regard*
21 *to an alternate payee award. All certified copies must be subsequently reviewed and*
22 *approved by staff as administrable pursuant to ORS 238.005 to ORS 238.715, and OAR*
23 *Chapter 459, Division 045, before PERS will make a payment to anyone. Staff shall*

1 *provide a written response as soon as practicable, on whether or not a final court order*
2 *can be administered by PERS to both the member and the alternate payee, as well as to*
3 *their attorneys. Case-specific award information shall be provided to attorneys or other*
4 *representatives of a member or an alternate payee only if a member release or an*
5 *alternate payee release has been received by PERS, as described in 459-045-0005(11)*
6 *and (12).*

7 *(b) A written and notarized confirmation signed by both the member and the*
8 *alternate payee, stating that divorce actions have been dropped and that no final decree*
9 *or court order will be forth-coming, if no restraining order is previously on file with*
10 *PERS.*

11 *(c) If PERS does not receive a final court order within 12 months from the date a*
12 *draft court order was received by PERS, then PERS shall consider that no award was*
13 *made to an alternate payee from the member's PERS funds. There shall be no further*
14 *obligation or responsibility on PERS to correspond or communicate with any person*
15 *other than the member and no payment shall be distributed to anyone other than the*
16 *member or the member's beneficiary(s).]*

17 *[(6) If a court order states that another court order shall follow, a certified copy of*
18 *the subsequent court order must be received and approved by staff before any payment*
19 *shall be made pursuant to the court order.]*

20 *[(7) PERS upon request, may review draft court orders that contain language on*
21 *how to divide a member's PERS account or the member's PERS funds, that the member is*
22 *or may become entitled to. Staff shall provide a written response as soon as practicable*

1 *to both the member and the alternate payee on whether or not a draft court order can be*
2 *administered by PERS, as well as to their attorneys.]*

3 *[(8) Final court orders must be received by the PERS Divorce Decree Unit, either by*
4 *mail, or delivered in person, before PERS will commence paying benefits to or on behalf*
5 *of an alternate payee. PERS at its discretion may accept a legible photocopy of a final*
6 *court order, either by mail or in person, as long as PERS can confirm it was filed with*
7 *the court.]*

8 *[(9) All court orders, whether draft or final, that are received by PERS are*
9 *microfilmed and the document that was received is discarded. PERS staff cannot modify,*
10 *return, or sign and return, any document that is received by PERS.]*

11 *[(10) PERS at its discretion may accept or reject any court order, or accept or reject*
12 *any portion thereof, in regard to a specific member. PERS shall provide a written*
13 *response as soon as practicable, of any rejection to both the member and the alternate*
14 *payee, as well as to their attorneys.]*

15 *[(11) A court approved modification may be required in order for PERS to comply*
16 *with the parties' intent and in order to administer according to PERS retirement law.]*

17 *[(12) If PERS has already generated benefit checks for the first of the month*
18 *following the date the final court order was received by PERS, then PERS shall:*

19 *(a) Pay benefits to the member, notwithstanding the court order.*

20 *(b) Make payment of future benefits to an alternate payee as soon as*
21 *administratively feasible.]*

22 *[(13) If a final court order is received by the PERS Divorce Decree Unit after a*
23 *service or disability retirement benefit has been generated, the benefit payment shall be*

1 *deemed by PERS as received by the member. PERS shall establish an alternate payee's*
2 *award on a prospective basis only and shall not pay retroactive benefits of any kind.]*

3 *[(14) If a final court order is received by PERS after a member has received a*
4 *refund of his or her member PERS account no funds shall be distributed to an alternate*
5 *payee by PERS, and PERS shall not invoice the member for any funds that may have*
6 *been awarded to the alternate payee.]*

7 Stat. Auth: ORS 238.465[(3) &] ; 238.650 & 238A.450

8 Stats. Implemented: ORS 238.465

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 459-045-0030

2 General Administration for Chapter 238 Tier One / Tier Two

3 (1) Alternate payee account.

4 (a) A percentage award will be applied against the member's regular account
5 and if applicable, Variable Annuity Account. A dollar award will be applied
6 proportionately against the member's regular account and if applicable, Variable
7 Annuity Account.

8 (A) Once the amount of an alternate payee's award is determined, funds will be
9 transferred to an alternate payee account.

10 (B) An alternate payee may not participate in the Variable Annuity Account
11 program.

12 (C) Earnings and losses on the alternate payee's account will be based on
13 regular account earning rates in accordance with OAR chapter 459, division 007
14 after the transfer.

15 (b) At the time of the alternate payee's death, if the provisions of ORS 238.395
16 are met by the member, the alternate payee's beneficiary will receive matching
17 employer dollars regardless of whether a final court order awarded matching
18 employer dollars.

19 (c) An alternate payee is not entitled to matching employer dollars if the
20 alternate payee elects to receive their award in the form of a withdrawal, regardless
21 of whether a final court order awarded matching employer dollars.

1 (d) At retirement, an alternate payee may elect one of the following options, as
2 described in ORS 238.305:

3 (A) Refund Annuity.

4 (B) Option 1.

5 (C) Option 4 (15 Year Certain).

6 (D) Lump-sum Option 1.

7 (E) Total lump-sum option.

8 (e) An alternate payee has 60 days from the date of their first actual payment to
9 change their retirement option, except that the designation of beneficiary under the
10 Refund Annuity or Option 4 (15 Year Certain) may be changed at any time before
11 an alternate payee's death.

12 (f) An alternate payee whose total benefit is less than \$200 per month under
13 Option 1 shall receive a one time lump-sum payment as provided under ORS
14 238.315.

15 (2) If a retired member changes their beneficiary designation pursuant to a
16 final court order, the member's monthly benefit must be recalculated.

17 (a) The benefit recalculation shall be effective the first of the month after the
18 month in which PERS receives a written request from the member to change their
19 beneficiary.

20 (b) The request must provide the full name, a copy of proof of birth, and the
21 relationship of the new beneficiary to the member.

1 (3) If a final court order provides that a retired member may elect to receive the
2 Option 1 benefit pursuant to ORS 238.305(6), in order to make that election the
3 member must submit a written request to PERS.

4 (4) A member is released from any retirement option restriction:

5 (a) If the alternate payee award is a reduction, and

6 (b) The alternate payee is eligible to elect a separate benefit option at any time
7 after the member's earliest retirement eligibility and elects to do so.

8 (5)(a) PERS shall provide to the alternate payee a written summary of the
9 information used in calculating the alternate payee's retirement allowance or
10 benefit. An alternate payee may dispute the accuracy of the information used in
11 making the calculation of the retirement allowance or benefit by filing a written
12 notice by the later of:

13 (A) The 30th day after the date on which the calculation and information is
14 provided to the alternate payee; or

15 (B) The 30th day after the issue date of the first actual payment of a retirement
16 allowance or benefit to the alternate payee.

17 (b) Upon receiving a notice described above, PERS shall determine the
18 accuracy of the disputed information and make a written decision either affirming
19 the accuracy of the original information and calculation or changing the calculation
20 using corrected information. PERS shall provide the alternate payee a copy of the
21 decision and a written explanation of any applicable statutes and rules. The
22 alternate payee is entitled to request judicial review of the decision as provided in
23 ORS 183.484.

1 **(c) The filing of a notice under this section extends the time allowed for election**
2 **of an optional form of retirement allowance or benefit until the 30th day after the**
3 **conclusion of the dispute proceeding and any judicial review if the proceeding or**
4 **review results in a change in the calculation of the retirement allowance or benefit.**

5 **(d) This section does not affect any authority of PERS, on its own initiative, to**
6 **correct an incorrect calculation of any retirement allowance or benefit.**

7 *[(1) An alternate payee's award is payable to the alternate payee if the member*
8 *would be eligible to receive benefits upon separation from service. The member is not*
9 *required to be separated from service.]*

10 *[(2) A court order may restrict an alternate payee's award to be payable only when*
11 *the member applies for and receives benefits.]*

12 *[(3) Unless prohibited by court order, an alternate payee who requests a withdrawal*
13 *shall receive an additional 50 percent of the alternate payee award as of the effective*
14 *date of withdrawal if:*

15 *(a) The alternate payee's effective date of withdrawal is on or after July 1, 2004, and*
16 *before June 30, 2006; and*

17 *(b) As of the alternate payee's effective date of withdrawal, the member has met the*
18 *requirements of OAR 459-010-0055(4), or would meet them except that the member has*
19 *not withdrawn that portion of the member account that may be withdrawn.]*

20 *[(4) Under no circumstance may an alternate payee withdraw less than the entire*
21 *alternate payee award.]*

22 *[(5) The alternate payee may revoke the request for withdrawal if PERS receives a*
23 *written request to revoke before the date of distribution.]*

1 *[(6) The separate account in the name of the alternate payee shall be credited with*
2 *earnings in accordance with OAR chapter 459, division 007 to the earlier of:*

3 *(a) The date of distribution of the separate account; or*

4 *(b) The date a non-vested member ceases to be a member as provided in ORS*
5 *238.095(2).]*

6 *[(7) An alternate payee who is awarded a separate account in the Fund in the*
7 *alternate payee's own name shall not be allowed to participate in the Variable Annuity*
8 *Account in the Fund, as described in ORS 238.260, regardless of whether the member*
9 *participated in the Variable Annuity Account in the Fund. Once a separate account is*
10 *established for the alternate payee, those funds shall no longer receive variable annuity*
11 *account earnings.]*

12 *[(8) At the time of the division and establishment of the alternate payee accord, the*
13 *alternate payee account shall be administered under Tier One pursuant to ORS 238.250*
14 *and 238.255 if:*

15 *(a) The member established membership in PERS or performed any period of service*
16 *for a participating public employer that is credited to the six month period of employment*
17 *required of an employee under ORS 238.015 before January 1, 1996; or*

18 *(b) The member ceased to be a member of PERS under the provisions of ORS*
19 *238.095 or 238.105, but restored part or all of the forfeited creditable service from*
20 *before January 1, 1996, under the provisions of ORS 238.115 or 238.105, after January*
21 *1, 1996.].*

22 *[(9) At the time of the division and establishment of the alternate payee account, the*
23 *alternate payee account shall be administered under Tier Two pursuant to ORS 238.250*

1 *and 238.435, if the provisions of section (8)(a) and (b) of this rule are not applicable to*
2 *the member.]*

3 *[(10) The provisions of this rule do not apply to judge members under ORS 238.500*
4 *to 238.585.]*

5 *[(11) The provisions of this rule do not apply to the benefits provided by the Oregon*
6 *Public Service Retirement Plan Pension Program under ORS Chapter 238A.]*

7 *[(12) An alternate payee who elects to begin receiving an award pursuant to a court*
8 *order that uses the Division Methods described in OAR 459-045-0010(1) and (2), may*
9 *select any retirement payment option available to the member, other than a joint and*
10 *survivor annuity, but only if a court order allows the alternate payee to make any*
11 *elections. The retirement payment to an alternate payee must be:*

12 *(a) Contingent on the member's eligibility for retirement benefits, regardless of*
13 *whether the member actually retires;*

14 *(b) Separate and independent from the member's payment date and payment option;*
15 *and*

16 *(c) Actuarially computed based on the age and life expectancy of the alternate*
17 *payee.]*

18 *[(13) The alternate payee's may elect to convert the Refund Annuity Option as*
19 *described in ORS 238.300 to one of the following optional forms:*

20 *(a) Option 1, as described in ORS 238.305(1);*

21 *(b) Option 4, as described in ORS 238.305(1); or*

22 *(c) The lump-sum payment option, as described in ORS 238.305(2)(a) and (b) and*
23 *238.305(3).]*

1 *[(14) Alternate payees are provided 60 days from the date of their first payment to*
2 *change the option or designation of beneficiary, except that the designation of*
3 *beneficiary under the Refund Annuity Option or Option 4 may be changed by the*
4 *alternate payee at any time before the alternate payee's death.]*

5 *[(15) An alternate payee whose total award is less than \$200 per month under*
6 *Option 1, defined in ORS 238.305(1), shall receive in lieu of any and all allowances or*
7 *other benefits or form of payment described in section (13) of this rule, a one time lump-*
8 *sum payment equal to the actuarial value as of the effective date of the alternate payee's*
9 *retirement, as is the case for a member under ORS 238.315.]*

10 *[(16)(a) PERS shall provide to the alternate payee a written summary of the*
11 *information used in making a retirement computation. An alternate payee may dispute*
12 *the accuracy of the factual information used by PERS in making the computation of the*
13 *retirement allowance or benefit by filing a written notice of dispute with PERS not later*
14 *than the later of:*

15 *(A) The 30th day after the date on which the computation and information is*
16 *provided to the alternate payee under this section; or*

17 *(B) The 30th day after the date on which the retirement allowance or benefit to*
18 *which the alternate payee is entitled first becomes payable.*

19 *(b) The filing of a notice of dispute under this section extends the time allowed for*
20 *election of an optional form of retirement allowance or benefit until the 30th day after the*
21 *conclusion of the dispute proceeding or review results in a change in the computation of*
22 *the retirement allowance or benefit.*

1 (c) Upon receiving a notice of dispute under this section, PERS shall determine the
2 accuracy of the disputed information and make a written decision either affirming the
3 accuracy of the information and computation based thereon or changing the computation
4 using corrected information. PERS shall provide to the member a copy of the decision
5 and a written explanation of any applicable statutes and rules.

6 (d) This section does not affect any authority of PERS, on its own initiative, to
7 correct an incorrect computation of any retirement allowance or benefit.]

8 [(17) An alternate payee may not receive any cost of living increase under ORS
9 238.360, or special ad-hoc increase that may be granted by the Legislature under
10 238.365 or 238.385, or any other type of increase that may be granted to PERS retirees
11 until benefits are first paid by PERS to or on behalf of the member.]

12 [(18) An alternate payee is not entitled to health insurance benefits under ORS
13 238.410, 238.415, and 238.420 regardless of whether a court order awards these benefits
14 to an alternate payee.]

15 [(19) An alternate payee is not entitled to any benefits derived from the optional
16 purchase of police officer and fire fighter unit benefits under 238.440 regardless of
17 whether a court order awards these benefits to an alternate payee.]

18 [(20) If an alternate payee begins receiving a payment before the member, the
19 alternate payee is not entitled to any further increases in retirement credit that the
20 member may earn or become entitled to before the member's actual retirement due to
21 continued employment, earnings, or other benefits earned as a member participating in
22 PERS.]

1 *[(21) Alternate payee court awards made after a member has retired under ORS*
2 *238.300 or 238.320 must be paid as deductions from the retired member's retirement*
3 *allowance or lump-sum benefit or from the member's beneficiary's retirement allowance*
4 *or lump sum payment. No alternate payee account shall be established.]*

5 *[(22) A court order may require a member who retired under ORS 238.300 or*
6 *238.320 to change the designated beneficiary outside the time frame allowed under ORS*
7 *238.305(5) or 238.325(2). The retirement allowance shall be adjusted based on the new*
8 *beneficiary's age to ensure the value of the benefits is not greater than the allowance the*
9 *member is otherwise eligible to receive.]*

10 *[(23) Members who retire for disability under ORS 238.320 or 238.325 are*
11 *considered retired members and all the provisions of sections (12) through (21) of this*
12 *rule apply to the alternate payee.]*

13 *[(24) Death benefits payable from an alternate payee account are as follows:*

14 *(a) If an alternate payee dies before payout or retirement, the alternate payee award*
15 *is payable to the alternate payee's designated beneficiary or estate as provided by ORS*
16 *238.390 and 238.395. No employer death benefits are payable under ORS 238.395 unless*
17 *the member would have been eligible for employer death benefits had the member died*
18 *on the same date as the alternate payee.*

19 *(b) If an alternate payee has begun receiving retirement benefits or dies after the*
20 *first payment is due, the benefits due the designated beneficiary or estate, if any, shall be*
21 *based on the option selected by the alternate payee.*

22 *(c) If an alternate payee dies after applying for a monthly retirement benefit but*
23 *before the first of the month following the effective retirement date, the account shall be*

1 *treated as if the alternate payee died before retirement and benefits shall be paid under*
2 *subsection (a) above.*

3 *(d) If the alternate payee is awarded a percentage of a benefit, as long as the award*
4 *is payable the award shall continue to be paid to the alternate payee's designated*
5 *beneficiary, unless the court decree specifies otherwise.]*

6 *[(25) If the member predeceases the alternate payee, the benefits payable to the*
7 *alternate payee are as follows:*

8 *(a) The alternate payee who has a separate account becomes eligible to withdraw*
9 *his or her account in the form of a death benefit under ORS 238.390 and 238.395 (if*
10 *eligible). If the alternate payee elects a death benefit under ORS 238.390 and 238.395 (if*
11 *eligible), the death benefit shall be in lieu of any withdrawal, service or disability*
12 *retirement or any other benefit. If the alternate payee does not elect a death benefit, the*
13 *alternate payee shall be eligible to withdraw the separate account, or to leave the*
14 *account in the Fund and elect to draw benefits under one of the optional retirement*
15 *choices described in section (13) of this rule, any time on or after the date the member*
16 *would have reached earliest retirement age.*

17 *(b) If the alternate payee is awarded a percentage of a benefit, as long as the award*
18 *is payable the award shall be paid according to the decree of divorce or separation or*
19 *annulment unless the court decree provides for no alternate payee death benefits from the*
20 *member's account.]*

21 *[(26) Benefit payments to either the member or the alternate payee, or to both*
22 *simultaneously, that exceed the allowable limits set forth in Section 415 of the Internal*
23 *Revenue Code (IRC) shall be deducted from the benefit payment(s) to the member or the*

1 *alternate payee, or both. Unless a final court order specifies the allocation of the*
2 *deduction for benefits that exceed the limits in IRC Section 415, PERS shall pro rate the*
3 *amount that exceed those limits in the same proportions that benefits were awarded to the*
4 *member and the alternate payee as specified in a final court order.]*

5 *[(27) Distributions of benefits under OAR chapter 459, division 045 must not*
6 *jeopardize the status of the programs as being part of a tax-qualified governmental plan.]*

7 Stat. Auth.: ORS 238.465 & 238.650

8 Stats. Implemented: ORS 238.450, 238.465[, *OL 2007 Ch. 53*]

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 459-045-0032

2 General Administration for OPSRP Pension Program

3 (1) If a retired member changes their beneficiary designation pursuant to a
4 final court order, the member’s monthly benefit must be recalculated.

5 (a) The benefit recalculation shall be effective the first of the month after the
6 month in which PERS receives a written request from the member to change their
7 beneficiary.

8 (b) The request must provide the full name, a copy of proof of birth, and the
9 relationship of the new beneficiary to the member.

10 (2) If a final court order provides that a retired member may elect to receive the
11 higher benefit pursuant to ORS 238A.190(2), in order to make that election the
12 member must submit a written request to PERS.

13 (3) A member is released from any retirement option restriction:

14 (a) If the alternate payee award is a reduction, and

15 (b) The alternate payee is eligible to elect a separate benefit option at any time
16 after the member’s earliest retirement eligibility and elects to do so on or before the
17 member’s effective retirement date.

18 (4) An alternate payee award of a member’s disability benefit must end when
19 the member is no longer eligible for a disability benefit pursuant to ORS
20 238A.235(4).

1 (5) An alternate payee award of a pre-retirement death benefit is payable only
2 if, at the time of the member's death, a benefit would be otherwise payable under
3 ORS 238A.230(1).

4 (6)(a) PERS shall provide to the alternate payee a written summary of the
5 information used in calculating the alternate payee's pension or benefit. An
6 alternate payee may dispute the accuracy of the information used in making the
7 calculation by filing a written notice with PERS by the later of:

8 (A) The 30th day after the date on which the calculation and information is
9 provided to the alternate payee under this section; or

10 (B) The 30th day after the issue date of the first actual payment of a pension or
11 benefit to the alternate payee.

12 (b) Upon receiving a notice as described above, PERS shall determine the
13 accuracy of the disputed information and make a written decision either affirming
14 the accuracy of the original information and calculation or changing the calculation
15 using corrected information. PERS shall provide the alternate payee a copy of the
16 decision and a written explanation of any applicable statutes and rules. The
17 alternate payee is entitled to request judicial review of the decision as provided in
18 ORS 183.484.

19 (c) This section does not affect any authority of PERS, on its own initiative, to
20 correct an incorrect computation of any retirement allowance or benefit.

21 Stat. Auth.: ORS 238.465 & ORS 238A.450

22 Stats. Implemented: ORS 238.450, 238.465, 238A.450

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 459-045-0034

2 General Administration for Individual Account Program (IAP)

3 (1) A percentage award will be applied against the member's account(s) to the
4 extent the member is vested in the account(s). A dollar amount will be applied on a
5 pro-rata basis against the member's account(s) to the extent the member is vested in
6 the account(s).

7 (2) An alternate payee account shall be credited with earnings and losses in
8 accordance with OAR chapter 459, division 007.

9 (3)(a) At the time of distribution to the alternate payee, PERS shall provide the
10 alternate payee a written summary of the information used in making the
11 calculation for the distribution of benefits. An alternate payee may dispute the
12 accuracy of the information used in making the calculation of the distribution of
13 benefits by filing a written notice with PERS by the later of:

14 (A) The 30th day after the date on which the information and calculation is
15 provided to the alternate payee under this section; or

16 (B) The 30th day after the issue date of the first distribution of benefits to the
17 alternate payee.

18 (b) Upon receiving a notice as described above, PERS shall determine the
19 accuracy of the disputed information and make a written decision either affirming
20 the accuracy of the original information and calculation or changing the calculation
21 using corrected information. PERS shall provide the alternate payee with a copy of
22 the decision and a written explanation of any applicable statutes and rules. The

1 alternate payee is entitled to request judicial review of the decision as provided in
2 ORS 183.484.

3 (c) This section does not affect any authority of PERS, on its own initiative, to
4 correct an incorrect calculation of any benefit.

5 Stat. Auth.: ORS 238.465, 238.650 & 238A.450

6 Stats. Implemented: ORS 238.465 & 238A.450

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 **459-045-0040**

2 **Requesting Information *[for Dividing]* from PERS *[Benefits]***

3 **(1) PERS may not provide member information or alternate payee information**
4 **to anyone other than the member or alternate payee, including representatives of**
5 **the member or alternate payee, unless PERS receives:**

6 **(a) A member release.**

7 **(b) An alternate payee release.**

8 **(c) A judicial order, subpoena, or administrative order pursuant to OAR 459-**
9 **060-0030.**

10 **(2) A subpoena must be made out to the Oregon Public Employees Retirement**
11 **System and served at PERS Tigard Headquarters. Faxed subpoenas will not be**
12 **accepted. PERS reserves the right to object to any subpoena for reasons that include**
13 **but are not limited to:**

14 **(a) The subpoena fails to provide a reasonable time for preparation and travel.**

15 **(b) The subpoena is otherwise unreasonable or oppressive.**

16 **(c) That service was improper.**

17 **(3) An alternate payee with a final court order that has been received and**
18 **approved as administrable by PERS may submit a written request for an estimate**
19 **under the provisions of OAR 459-005-0250(1).**

20 ***[(1) PERS shall provide estimates for divorce purposes only upon written request***
21 ***and receipt of a member release. The estimates may be generated by computer or by***
22 ***hand depending on what staff deems most appropriate.]***

1 *[(2) An estimate is not a guarantee or a promise of actual benefits that eventually*
2 *may become due and payable, and PERS shall not be bound by any estimates it*
3 *provides.]*

4 *[(3) PERS shall not prepare or provide present value studies.]*

5 *[(4) PERS may provide estimates of future payments due an alternate payee that*
6 *were awarded to an alternate payee in a final court order only if PERS has received a*
7 *written request and a signed release from the alternate payee.]*

8 *[(5) Any and all faxed documents or information requests that are sent to PERS shall*
9 *be followed up by sending a hard copy to PERS, before PERS will provide or send out*
10 *any information.]*

11 *[(6) In the event a subpoena is necessary for domestic relations purposes, it must be*
12 *made out to the Oregon Public Employees Retirement System. PERS reserves the right to*
13 *object to any subpoena on the ground that the subpoena fails to provide a reasonable*
14 *time for preparation and travel, is otherwise unreasonable or oppressive, or that service*
15 *was improper. Faxed subpoenas are not acceptable even if they are followed up with a*
16 *hard copy. To facilitate prompt processing, copies of subpoenas should be served at the*
17 *PERS Headquarters office.]*

18 *[(7) PERS must receive a written release from the member or the alternate payee to*
19 *provide any person including a representative of the member or the alternate payee, any*
20 *information except as provided for in OAR 459-045-0020(5)(a) and (8).]*

21 Stat. Auth: ORS 238.465 *[(3) &]* , ORS 238.650, & ORS 238A.450

22 Stats. Implemented: ORS 238.465

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 459-045-0050

2 **[Filing] Application** Requirements for Alternate Payees

3 **(1) An alternate payee must apply for benefits on PERS forms.**

4 **(2) An application for benefits must be accompanied by a final court order that**
5 **is administrable by PERS, unless an administrable final court order is already on**
6 **file with PERS.**

7 **(3)(a) An alternate payee’s effective retirement date is the later of:**

8 **(A) The first day of the calendar month specified on the alternate payee’s**
9 **retirement application; or**

10 **(B) The first day of the calendar month following the date an application was**
11 **received by PERS.**

12 **(b) If a final court order allows the alternate payee to commence benefits under**
13 **ORS 238.465(2)(a), the effective retirement date can be no earlier than the first of**
14 **the month following the month in which the member reaches earliest retirement**
15 **eligibility.**

16 **(4) A request to cancel an application for benefits must be:**

17 **(a) In writing;**

18 **(b) Signed by the alternate payee; and**

19 **(c) Received by PERS no later than the day before the issue date of the first**
20 **payment.**

21 **(5) An alternate payee may not apply for alternate payee benefits due to his or**
22 **her own disability.**

1

2 **(6) Alternate payees must keep PERS informed of their current mailing address**
3 **at all times. A change of mailing address must be submitted to PERS in writing and**
4 **signed by the alternate payee.**

5 *[(1) An alternate payee is required to file for payments from PERS on PERS*
6 *approved forms. Key forms that must be received before PERS can establish payments for*
7 *an alternate payee are:*

8 *(a) An Alternate Payee Retirement Application form, completed and signed before a*
9 *notary, and*

10 *(b) An Acknowledgment of Receipt of Federal Tax Information on Service*
11 *Retirements form, completed and signed, and*

12 *(c) A Retirement Benefit Distribution Election form, or*

13 *(d) An Account Balance Refund Request Packet completed and signed before a*
14 *notary.*

15 *(e) Verification of age of the alternate payee.*

16 *(f) Verification of age of the member if required for computation of benefits.*

17 *(g) A Notice of Divorce Decree Administrative Fee form, completed and signed, and*

18 *(h) An Alternate Payee Election Request and/or Option Release form.]*

19 *[(2) A request for payments must be accompanied by acceptable court documents if*
20 *not already on file with PERS. If an order already on file states another type of order was*
21 *to follow, a certified copy of the other court order must be received by PERS. An*
22 *alternate payee account shall not be established nor shall any payments be made to an*
23 *alternate payee until PERS has accepted and approved all supporting court documents.]*

1 *[(3) An alternate payee's retirement payments shall be effective the first of the month*
2 *in which the alternate payee wants payments to start as indicated on the Alternate Payee*
3 *Retirement Application form, or the first of the month in which the member reaches*
4 *earliest service retirement age eligibility, whichever is later. The alternate payee cannot*
5 *elect a retirement date earlier than the first of the month in which the alternate payee*
6 *retirement application was received by PERS.]*

7 *[(4) If there is a delay in processing, payments that are due the alternate payee shall*
8 *be retroactive to the effective retirement date of the alternate payee. All retirement dates*
9 *for alternate payees and members shall be on the first of a month.]*

10 *[(5) Alternate payees must keep PERS aware of their current mailing address at all*
11 *times by sending it in writing to PERS whenever a change in mailing address occurs.]*

12 Stat. Auth.: ORS 238.465 *[(3) &]* ; ORS 238.650, & ORS 238A.450

13 Stats. Implemented: ORS 238.465

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS

1 459-045-0060

2 General *[Assumptions]* Rules for *[Computing]* Calculating Benefits

3 (1) If an alternate payee award is a reduction and the alternate payee elects to
4 begin receiving their benefit before the member retires, the calculation of the
5 alternate payee benefit:

6 (a) Must use creditable service or retirement credit accrued by the member as
7 of the alternate payee’s effective retirement date.

8 (b) May not include any potential increase attributable to unused sick leave
9 under ORS 238.350 or voluntary purchases of retirement credit.

10 (2) Benefit payments to either the member or the alternate payee, or to both
11 simultaneously, that exceed the allowable limits set forth in Section 415 of the
12 Internal Revenue Code (IRC) shall be deducted from the benefit payment(s) to the
13 member or the alternate payee, or both. Unless a final court order specifies the
14 allocation of the deduction for benefits that exceed the limits in IRC Section 415,
15 PERS shall pro rate the amount that exceeded those limits in the same proportions
16 that benefits were awarded to the member and the alternate payee as specified in a
17 final court order.

18 (3) If PERS determines that an alternate payee has received benefits in excess of
19 the amount to which the alternate payee is entitled, PERS shall recover any
20 overpayment in accordance with ORS 238.715.

21 (4) Payment of benefits under this division must not jeopardize the status of the
22 programs as a tax-qualified governmental plan.

1 *[(1) If a final court order allows an alternate payee to elect to begin receiving*
2 *payment based on the member's earliest eligibility for retirement benefits, the alternate*
3 *payee's payments shall be computed in accordance with the following assumptions*
4 *regardless of whether or not the member separates from service and retires:*

5 *(a) If the formula in the court order refers to the date of retirement total creditable*
6 *service, the date that shall be used shall be the date the alternate payee elects to begin*
7 *receiving benefits. All PERS retirement effective dates are the first of each calendar*
8 *month.*

9 *(b) For calculation purposes, any final average salary computations shall be based*
10 *on the three high calendar year salaries of the member prior to the date of the alternate*
11 *payee's retirement election, if the member has not separated from the service of all*
12 *participating PERS employers.*

13 *(c) For calculation purposes, any final salary computations shall be based on the*
14 *greater of the average salary per calendar year paid by a public employer to an*
15 *employee who is an active member of the system for the three calendar years the member*
16 *was paid the highest salary, or the total salary paid by a public employer to an active*
17 *member of the system in the last 36 calendar months of active membership before the*
18 *effective date of retirement for the member, provided the member has actually separated*
19 *from all PERS covered employment and has filed for retirement benefits.*

20 *(d) Alternate payees shall receive no credit for accumulated unused sick leave hours*
21 *belonging to the member or for any voluntary purchases a member may have available to*
22 *them if the member is not retiring at the same time the alternate payee elects to begin*

1 *receiving payment, as these additional retirement credits can only be computed at the*
2 *time a member actually retires.]*

3 *[(2) If a court order allows an alternate payee to elect to begin receiving payment*
4 *on or after the member's earliest eligibility for retirement benefits, PERS shall allocate*
5 *the cost and the increase resulting from a purchase between an alternate payee and a*
6 *member only if specific language regarding the division of any voluntary purchases that*
7 *may be available to the member is contained in the final court order and only if:*

8 *(a) The effective date of payments is the same for both the alternate payee and the*
9 *member, and*

10 *(b) The final court order is explicit in its direction on how PERS is to allocate the*
11 *cost of any purchase and increased payment resulting from a purchase between the*
12 *alternate payee and the member.*

13 *(c) If the final court order submitted to PERS does not contain specific language on*
14 *how PERS is to allocate the cost of any purchase and the increased benefit payment as a*
15 *result of either a single or multiple purchase between the member and the alternate*
16 *payee, PERS shall not allocate, or pro-rate, the cost of any purchase or purchases, or the*
17 *resulting increase in benefit payment between the member and the alternate payee. In the*
18 *absence of any language to the contrary in regard to purchases, the full cost and amount*
19 *that is due in regard to a purchase shall be billed solely to the member and the full*
20 *increase in any benefit payment resulting from a single or multiple purchase shall be*
21 *paid entirely to the member by PERS.]*

22 *[(3) An alternate payee who is allowed to select his or her own form of payment*
23 *option may elect to change from the initial option that was chosen to another form of*

1 *payment option described in OAR 459-045-0030(8), if the election to change options is*
2 *made in writing and received by PERS within 60 days from the issue date of the first*
3 *payment made under the initial option that was selected by the alternate payee.]*

4 *[(4) The alternate payee may not cancel the election to receive benefits once the first*
5 *payment has been generated.]*

6 *[(5) The alternate payee may not apply for benefits due to his or her own disability.]*

7 *[(6) If PERS determines that the payment being made to an alternate payee is in*
8 *excess of the amount the alternate payee is entitled to PERS shall recover any*
9 *overpayment in accordance with ORS 238.715, as is the case for any excess payment that*
10 *is made to a member.]*

11 Stat. Auth.: ORS 238.465[(3) &], ORS 238 .650, & ORS 238A.450

12 Stats. Implemented: ORS 238 .465

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS**

1 **459-045-0080**

2 **PERS Notifications**

3 (1) PERS is *[a]* separate *[entity]* from other public employer retirement plans and
4 deferred compensation plans and notification to other plans does not constitute notice to
5 PERS. *[Similarly,]* PERS is not responsible for notifying other plans of member or
6 alternate payee changes in address, changes in eligibility, *[or that an]* application for
7 *[retirement or refund]* benefits *[have been received]*, or *[that a PERS member or an*
8 *alternate payee has died]* death.

9 (2) PERS shall send a written notification acknowledging receipt of a final court
10 order to the submitting party. *[and]* PERS shall send a copy of the acknowledgment to
11 the other persons named in the court order only if those persons' mailing addresses are
12 provided to PERS [if mailing addresses are provided].

13 (3) *[PERS shall notify an alternate payee of his or her eligibility for payments [when*
14 *a member terminates all PERS covered employment before retiring or upon the death of*
15 *a member prior to retirement. It is the alternate payee's responsibility to contact PERS in*
16 *order to begin receiving payment on or after the date the member has reached earliest*
17 *retirement age.]* PERS will notify an alternate payee of an event described in ORS
18 238.465(2)(a)(B), unless the alternate payee has already commenced receiving
19 alternate payee benefits.

20 (4) PERS shall issue the applicable tax reporting forms directly to the recipient of
21 any funds that are issued by PERS pursuant to a final court order *[for domestic relations*
22 *purposes]*.

1 (5) PERS shall notify the member, *[and /]* or the alternate payee, or both of any
2 *[reduction in]* benefit payments *[payable to the member and/or the alternate payee]* that
3 are reduced *[is made]* by PERS pursuant to Section 415 of the Internal Revenue Code
4 *[as provided in OAR 459-045-0030(15)]*.

5 *[(6) PERS shall process deductions from alternate payee payments for federal and*
6 *state taxes and other support obligations provided for in ORS 238.445.]*

7 *[(7) PERS shall allocate a member's after tax contributions (member cost) between*
8 *the member and the alternate payee in accordance with IRC Section 72(m)(10) in the*
9 *same proportion that benefits are divided between the member and the alternate payee as*
10 *specified in the final court order.]*

11 *[(8) All alternate payees who are awarded a separate account in the Fund in their*
12 *own name shall receive an annual statement on their account until they have received a*
13 *refund payment or started receiving retirement or death benefit payments. PERS shall*
14 *make a reasonable attempt to send the alternate payee an annual statement of account by*
15 *May 31, for the prior calendar year's activity.]*

16 *[(9) Alternate payees who are awarded payments other than by separate account*
17 *may request information about their award by sending their request in writing to PERS.*
18 *Staff shall make a reasonable attempt to provide written information about the award*
19 *within 90 days of receiving the written request.]*

20 Stat. Auth.: ORS 238.465 *[(3) &]*, ORS 238.650, & ORS 238A.450

21 Stats. Implemented: ORS 238.465

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDERS**

1 **459-045-0090**

2 **PERS Administrative Fee**

3 *[(1)]* The Board has determined that actual and reasonable administrative expenses
4 incurred by PERS for obtaining data and making calculations to administer an alternate
5 payee award will always exceed \$300.00. At the time of benefit payment, PERS shall
6 allocate the administrative fee under the provisions of ORS 238.465(9). *[when PERS*
7 *establishes a separate alternate payee account[under the Pre Retirement Division*
8 *method or the At The Time of Payment Division method, or when establishing payment*
9 *for an alternate payee or a member pursuant to a court order that uses the At The Time*
10 *of Payment Division method]. Therefore, PERS shall charge an administrative fee of*
11 *\$300.00 for the costs related to establishing a separate account in the Fund in the name*
12 *of the alternate payee, or for establishing payment for an alternate payee or a member*
13 *pursuant to a court order that uses the Pre Retirement Division or At The Time of*
14 *Payment Division methods].*

15 *[(2) If a court order awards a separate account to an alternate payee [pursuant to*
16 *the [Pre Retirement Division Method, then PERS shall allocate expenses and costs under*
17 *the provisions of ORS 238.465(9), and OAR 459-045-0001(23) and (24)].*

18 *[(3) If a final court order uses the At The Time Of Payment Division method for*
19 *determining an alternate payee's award, PERS shall allocate the fraction of the benefit*
20 *awarded to the member and the alternate payee under the provisions of ORS 238.465(9),*
21 *and OAR 459-045-0001(23). The fraction of the administrative fee that is owed by the*

1 *alternate payee and the member shall be calculated at the time the alternate payee elects*
2 *to have a separate account established, or elects to begin receiving a monthly payment.*

3 *(a) If the At The Time Of Payment Division Method used the years and months*
4 *formula described in OAR 459-045-0010(2)(b)(A) then the numerator shall be the*
5 *creditable service time accrued by the member during the marriage, and the denominator*
6 *shall be the total creditable service accrued by the member at the time benefits become*
7 *due and payable to either the member or the alternate payee. To determine the fee owed*
8 *by the alternate payee, this fraction shall then be multiplied by the percentage awarded*
9 *to the alternate payee under the final court order, as described in OAR 459-045-*
10 *0010(2)(b)(C). The remainder of the \$300 administrative fee shall be allocated to the*
11 *member. Amounts owed by the parties for the administrative fee shall be deducted from*
12 *the respective parties' benefits when those benefits become payable.*

13 *(b) If the At the Time of Payment Division method used the member contributions*
14 *and interest formula described in OAR 459-045-0010(2)(b)(B) then the numerator shall*
15 *be the contributions and interest that accrued during the marriage, and the denominator*
16 *shall be the contributions and interest in the member account balance as of December 31*
17 *immediately prior to the alternate payee election date, or the actual member account*
18 *balance if the member elects to receive benefits at the same time as the alternate payee.*
19 *To determine the percentage of the fee owed by the alternate payee, this fraction shall*
20 *then be multiplied by the percentage awarded to the alternate payee under the final court*
21 *order, as described in OAR 459-045-0010(2)(b)(C). The remainder of the \$300*
22 *administrative fee shall be allocated to the member. Amounts owed by the parties for the*

1 *administrative fee shall be deducted from the respective parties' benefits when those*
2 *benefits become payable.]*

3 *[(4) The fee that shall be charged for dividing a PERS member's account or benefits*
4 *shall not be contingent on the number of days it takes for PERS to complete its review of*
5 *any type of court order that is received by PERS.]*

6 Stat. Auth.: ORS 238.465 *[(9) &]*, ORS 238.650, [& ORS 238A.450](#)

7 Stats. Implemented: ORS 238.465



Oregon

Theodore R. Kulongoski, Governor

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January 29, 2010

TO: Members of the PERS Board
FROM: Steven Patrick Rodeman, Deputy Director
SUBJECT: ETOB Study Process Update

On January 29, 2010, Matt Larrabee of Mercer will present an update on the status of the Equal To or Better Than (ETOB) testing process. These tests are proceeding based on the new administrative rules adopted by the PERS Board last year (copy attached). Mr. Larrabee's presentation will provide an update on the progress of gathering information about the employers' plans that will be subjected to the testing. He will also have a recommendation on one aspect of that testing: the method to be used to determine the "risk-free" rate of return specified in OAR 459-030-0025(3) that will be used to value aspects of the plans' benefits.

Mr. Larrabee will be asking the PERS Board to approve a methodology to determine the risk-free rate to be used in the ETOB testing process.

C.1. Attachment 1 – Division 30, Local Public Employer Retirement Plans for Police Officers and Fire Fighters

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

DIVISION 30

LOCAL PUBLIC EMPLOYER RETIREMENT PLANS FOR POLICE OFFICERS AND FIRE FIGHTERS

459-030-0009

Contents of the Petition

(1) A petition for exemption of a public employer shall contain the following information:

(a) The name of the public employer;

(b) For current affected police officers and fire fighters; a list of the names, ages, sex, dates of employment and plan participation, annual employee contributions (withheld or picked up) to the employer's plan for each year of participation beginning in 1973 with total current account balances of employee contributions, if applicable, and total gross salaries paid in each of the three most recent calendar years;

(c) A copy of the plan including each written trust agreement, contract or insurance policy providing retirement benefits to the public employer's police officers and fire fighters;

(d) Such additional information as will assist an actuary retained by the Board in reviewing the retirement benefits to be provided the police officers and fire fighters.

(2) Information provided in the petition shall be current as of the valuation date.

Stat. Auth.: [ORS 237](#)

Stats. Implemented:

Hist.: PER 4-1978, f. & ef. 11-2-78; PER 13-1981, f. & ef. 11-23-81; PERS 1-1989, f. & cert. ef. 12-4-89

459-030-0011

"Equal To or Better Than" Exemption

(1) A public employer that provides retirement benefits to its police officers and firefighters pursuant to ORS 237.620(2) is exempt from participation in PERS for such employees.

(2) An exemption under this division will continue until the Board, upon review of the public employer's retirement plan, determines that the plan no longer meets the required standard.

(3) Whenever a change in benefits in the public employer's retirement plan is adopted, the public employer must petition the Board for review of the employer's plan within 60 days.

(4) Whenever a change in benefits in the PERS Plan is adopted, the Board will determine if the change increases benefits such that the public employer's retirement plan must be reviewed.

(5) In any event, at least once every 12 years the Board will determine, pursuant to section (2) of this rule, whether an employer's exemption should continue.

(6) The Board may delegate the determination of whether such an employer's plan qualifies for an exemption to the PERS Executive Director.

Stat. Auth.: ORS 238.650

Stat. Implemented: ORS 237.620, 237.635 & 237.637

Hist.: PER 4-1978, f. & ef. 11-2-78; PERS 1-1989, f. & cert. ef. 12-4-89, Renumbered from 459-030-0020; PERS 9-2005, f. & cert. ef. 2-22-05; PERS 2-2009, f. & cert. ef. 2-12-09

459-030-0015

Actuarial Review

(1) Upon the filing of a petition, the Board shall schedule an actuarial review of the public employer's retirement plan to be conducted by an actuary retained by the Board at the expense of the public employer.

(2) An actuary retained by the Board may require the public employer to provide such additional information as the actuary considers necessary. Failure to provide the actuary with the requested information on a timely basis shall constitute sufficient ground for the Board to dismiss the petition with prejudice.

Stat. Auth.: [ORS 237](#)

Stats. Implemented:

Hist.: PER 4-1978, f. & ef. 11-2-78; PER 14-1981, f. & ef. 11-23-81; PERS 1-1989, f. & cert. ef. 12-4-89

459-030-0025

Standards for Review of Police Officers and Firefighters Retirement Plans

(1) A determination whether a public employer provides retirement benefits to its police officers and firefighters that are equal to or better than the benefits that would be provided to them by PERS will be made as of the valuation date. The “valuation date” is the date set by the Board as of which the retirement benefits under the public employer’s retirement plan and the retirement benefits under the PERS Plan shall be compared.

(2) The Board will consider the aggregate total actuarial present value of all retirement benefits accrued up to the valuation date and projected to be accrued thereafter by the group of police officers and firefighters employed on the valuation date by the public employer. The Board will compare the retirement benefits provided under the public employer’s retirement plan for each of the following classes of employees to the retirement benefits provided to the equivalent class of employees participating in the PERS Plan:

(a) Police officers or firefighters who would have established membership in the system before January 1, 1996, as described in ORS 238.430(2), and would have been entitled to receive benefits under the PERS Plan;

(b) Police officers or firefighters who would have established membership in the system on or after January 1, 1996, as described in ORS 238.430, and before August 29, 2003, as described in ORS 238A.025, and would have been entitled to receive benefits under the PERS Plan; and

(c) Police officers or firefighters who would have established membership in the system on or after August 29, 2003, and would have been entitled to benefits under the PERS Plan.

(d) For each class of employees, the aggregate total retirement benefits provided by the public employer must be equal to or better than those provided by PERS to the equivalent class of employees.

(e) The retirement benefit for each individual employee need not be equal to or better than the particular benefit that employee would have received as a member of that employee’s equivalent class in PERS.

(f) The public employer’s retirement plan or plans must provide at least eighty percent (80%) of the actuarial present value of projected retirement benefits in each of the major categories of retirement benefits available under PERS, namely: a service retirement benefit, including post retirement health care and a disability retirement benefit, also including post retirement health care.

(3) In adopting the following methods and assumptions, to be used in conducting an actuarial review of a public employer’s retirement plan, preference has been given to the simplest, least expensive methodology consistent with ORS 237.610 to 237.620 and applicable actuarial standards:

- (a) Only employer funded benefits shall be used as the basis for the test comparison.
 - (b) The Full Formula, Money Match, Formula Plus Annuity, and OPSRP Pension benefit formulas shall be used as the basis for valuing PERS benefits.
 - (c) Prior service benefits that depend on earnings shall be valued using a risk-free earnings rate, taking into consideration guaranteed plan returns.
 - (d) Future service benefits that depend on earnings shall be valued using a risk-free earnings rate, taking into consideration guaranteed plan returns.
 - (e) Lump sum/annuity conversions shall be valued using a risk-free earnings rate.
 - (f) Benefit comparisons shall use a hypothetical PERS member data standard for each demographic group.
- (4) In conducting an actuarial review of the public employer's retirement plan, the actuary retained by the Board will use its current actuarial assumptions for police officers and firefighters of public employers participating in PERS for those employees.
- (5) The Board will consider the cost of the benefits to be provided and the proportion of the cost being paid by the public employer and the participating police officers and firefighters. Whether the benefits are provided by contract, trust, insurance, or a combination thereof shall have no effect on the Board's determination.
- (6) In considering a public employer's retirement plan provisions, the Board may not value portability of pension credits, tax advantages, Social Security benefits or participation, any worker's compensation component of a public employer's retirement plan as determined by the employer or any portion of a benefit funded by the member.
- (7) The Board may not consider benefits provided by the PERS Plan under ORS 238.375–238.387 or benefits provided by the employer's retirement plan under 237.635–237.637. The employer must identify benefits paid to comply with 237.635–237.637.
- (8) Additional actuarial assumptions needed to evaluate the public employer's retirement plan may be considered by the Board's actuary to be consistent with assumptions specified in these rules. Any disputes as to the appropriateness of additional actuarial assumptions may be resolved by the Board in its sole discretion.

Stat. Auth: ORS 238.650

Stats. Implemented: ORS 237.620

Hist.: PER 4-1978, f. & ef. 11-2-78; PER 15-1981, f. & ef. 11-23-81; PERS 1-1989, f. & cert. ef. 12-4-89; PERS 9-2005, f. & cert. ef. 2-22-05; PERS 2-2009, f. & cert. ef. 2-12-09

459-030-0030

Board Action on Petition and Review of Order

(1) The actuary will issue a written report that concludes whether a public employer's plan meets the standards for receiving an exemption under OAR 459-030-0025. After receipt of the written actuarial review report and recommendations of staff, the Board will issue an order granting or denying the petition for exemption. No order denying a petition for exemption will be issued until at least 90 days after the actuary had delivered its report to the Board. During that period, the public employer may amend its plan to comply retroactive to the valuation date or file a written request for an extension. Upon filing of that request, the Board will not enter an order denying a petition for exemption for an additional 60 days after receiving the request. If a public employer submits an amended plan before the Board adopts an order denying the exemption, the actuary will submit a supplemental report on whether the amended plan meets the required standards under 459-030-0025. The Board may adopt an order at any time after receiving the supplemental report.

(2) Within 60 days of the effective date of any order issued under this rule, the public employer, the affected public employees, or their labor representative may file a petition for rehearing or reconsideration pursuant to OAR 459-001-0010 and 459-001-0040.

Stat. Auth: ORS 238.650

Stats. Implemented: ORS 237.620, 237.635 & 237.637

Hist.: PER 4-1978, f. & ef. 11-2-78; PERS 1-1989, f. & cert. ef. 12-4-89; PERS 9-2005, f. & cert. ef. 2-22-05; PERS 2-2009, f. & cert. ef. 2-12-09



January 29, 2010

Equal to or Better (ETOB) Testing - Risk-Free Rate Assumption Oregon Public Employees Retirement System

Matt Larrabee

Introduction

- New ETOB testing is being conducted to comply with 2007 statutory changes
 - Employers that have an exemption from participating in PERS for their police and fire personnel must test their plans against PERS to confirm compliance with the updated ETOB requirement
- The Oregon Administrative Rule (OAR) governing the test requires the PERS actuary to value benefits using a “risk-free” rate
 - A risk-free rate is consistent with valuing benefits on a “value to the employee” basis
- PERB must determine if employers satisfy the ETOB test
 - As such, we are providing information to PERB to help determine a risk-free rate for ETOB test purposes
 - We ask PERB to establish the risk-free rate basis at today’s meeting
- More detail on testing requirements can be found in our February and November 2009 PERB presentations

Introduction

Status Update

- At the November Board meeting, PERB
 - Established the ETOB valuation date as December 31, 2008
 - Endorsed the concept of a Preliminary Determination approach as the initial testing step for plans that qualify
- Since then, we have:
 - Contacted all employers subject to the ETOB test
 - Described the required test and differences compared to prior ETOB testing requirements
 - Requested the plan information needed to commence testing
 - Performed background work to help develop key parameters of the test
 - Of these, the risk-free rate is the most notable example
- Once the risk-free rate is established, we will:
 - Gather the remaining information needed from employers
 - Begin actual testing, including performing Preliminary Determinations

Guiding Principles

- As an outcome of a stakeholder input process on the OAR, PERS Staff established the following principles to guide ETOB testing:
 - ***Comparability*** – the test should make an “apples to apples” comparison
 - ***Durability*** – test results should be consistent over time barring a change to provisions
 - ***Cost Effectiveness*** – an appropriate low cost method that does not compromise the validity of results should be used
- These principles are used to help guide decision making on selection of a risk-free rate

Sources of Risk-Free Rates

- Possible sources for determining risk-free rates include:
 - Yields on US Treasuries
 - Liquid market with essentially zero risk of default
 - Annuity rates from insurers
 - Very low default probability
 - Yields on corporate bond issues of very high quality
 - Higher default probability than Treasuries or insurers, but still very low
- **We suggest using Treasury yields**
 - Widely recognized risk-free standard
 - Liquid market with transparent pricing
 - Yields on annuities and corporate bonds vary from issuer to issuer, and the annuity marketplace can be quite inefficient
 - Reasonable parties can disagree on:
 - The appropriate annuity index to use
 - The “probability of default” adjustment needed to convert a corporate bond rate to a risk-free rate

Deriving a Risk-Free Rate from Treasury Yields

- If Treasuries are used for testing, two main questions must be addressed:
 - **Should a single interest rate be used, or a full yield curve?**
- **We suggest using a single rate approach**
 - A single rate is expected to achieve a substantially similar result to a full yield curve, and involves less costly testing
 - Given the risk-free rate will be used to accumulate account balances in defined contribution plans, using a yield curve would be difficult to apply in practice
 - A single rate is more understandable

Deriving a Risk-Free Rate from Treasury Yields

- If Treasuries are used for testing, two main questions must be addressed:
 - **Should the rate or rates used be an average of historical rates, long-term estimates of forward-looking rates, or a blend of the two approaches?**
- We suggest using an average of historical rates
 - Forward-looking rate models depend on subjective capital market expectations
 - The subjective nature of those expectations makes choosing a rate more difficult and increases the possibility of a disagreement about the appropriateness of the rate chosen
 - Using a historical averaging period increases durability compared to using expectations from a single point in time
 - Reduces volatility in the risk-free rate as determined from one period to the next
 - The longer the averaging period, the greater the potential durability, but also the higher the likelihood of significant differences between the average rate and the current one

Deriving a Risk-Free Rate from Treasury Yields

- In developing an average of historical rates, there are two issues to decide:
 - **What maturity of Treasury bond should be used?**
- **We suggest using 30-year constant maturity Treasury bond rates**
 - Using the longest published Treasury rate is in keeping with the very long-duration nature of benefits
 - Benefits are earned over the course of working lifetime
 - Benefits are paid for life beginning at retirement

Deriving a Risk-Free Rate from Treasury Yields

- In developing an average of historical rates, there are two issues to decide:
 - **What length averaging period should be used?**
- The length of averaging period could be approached in different ways
 - **Possible Approach:** Develop a smoothed assessment of recent Treasury rates
 - A 3 or 5 year average of yield rates could be used, for example
 - This approach reflects the market's recent assessment of the risk-free rate, but adds durability due to the smoothing period
 - **Possible Approach:** Determine a rate corresponding to the prevailing Treasury rates over the service to date of employees affected by the test
 - Risk-free rate would be determined over a similar period to the period over which currently accrued benefits were earned
 - The average police and fire member's service to date in the December 31, 2008 PERS valuation was 11 years
 - The longer averaging period would be expected to produce a more durable test but may produce a rate that differs further from current rates

Deriving a Risk-Free Rate from Treasury Yields

- To illustrate, we calculated the average yield on 30-year Treasury bonds over the 3 year, 5 year, and 11 year period prior to the ETOB valuation date
 - Calculated as the average of the end-of-month Treasury yields during the averaging period
- As of the ETOB valuation date of December 31, 2008, this methodology produces the following risk-free rates:
 - 3 year averaging: 4.6%
 - 5 year averaging: 4.7%
 - 11 year averaging: 5.1%
- In comparison, current yields on 30-year constant maturity Treasury bonds are about 4.6% (rate as of 12/31/2009)
- Based on our understanding of the testing objectives and principles, **we suggest using the 5 year averaging period**
 - Consistent with approach of determining smoothed recent rates
 - Enhances durability compared to using current rates or 3 year averaging, without significantly differing from current market conditions

Summary and Board Action

- Based on our understanding of the principles and objectives underlying the ETOB test, we suggest the following basis for determining the risk-free rate:
 - **Use a single interest rate determined as the average of yields on 30-year constant maturity Treasury bonds over a 5 year averaging period**
- At this point, we look to the Board for a decision to either:
 - Adopt this approach, or
 - Put forth any alternative considerations that would revise this direction
- Once the Board has authorized an approach for developing the risk-free rate, we can proceed with the ETOB test

Next Steps

- Assuming we receive Board direction today on the risk-free rate, our anticipated testing timeline is as follows:
 - At the March Board meeting
 - Report back on the results of all Preliminary Determination tests
 - Present recommendations for any other assumptions needed to complete testing
 - At the May Board meeting
 - Present test results for all employers requiring a full ETOB test
- The schedule described here is contingent on continued timely cooperation from the employers being tested

MERCER



MARSH MERCER KROLL
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The information contained in this document is not intended by Mercer to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code that may be imposed on the taxpayer.



Oregon

Theodore R. Kulongoski, Governor

January 29, 2010

TO: Members of the PERS Board

FROM: Dale S. Orr, Actuarial Services Manager

SUBJECT: 2009 Preliminary Earnings Crediting and Reserving

Item C.2.

Public Employees Retirement System

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OVERVIEW

- Action: Adopt 2009 preliminary earnings crediting and reserving decisions.
- 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 2009 to the PERS Fund's accounts and reserves.
- Policy Issues:
 - Is the Contingency Reserve adequately funded?

The PERS Board is charged with crediting earnings from the PERS Fund each calendar year. Some of those allocations are directed by statute or rule; the balance are at the PERS Board's discretion.

NON-DISCRETIONARY EARNINGS ALLOCATIONS

The following reserves and accounts are allocated earnings by applicable statute or rule. In compliance with these restrictions, the preliminary earnings allocation will reflect the following:

- 1. Administrative Expenses:** Administrative costs are funded by earnings when they are sufficient, as they were in 2009 (ORS 238.610(1)). Earnings allocated to administrative expenses are reflected in the rates stated below for other accounts and reserves.
- 2. 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 2009, the preliminary rate credited to these accounts would be 18.13%.
- 3. Employer Lump-Sum Payment Accounts:** These accounts are credited with actual earnings or losses less administrative expenses, as authorized by ORS 238.225(10). For 2009, the preliminary rate credited to these accounts averaged 19.02%.
- 4. Variable Annuity Account and Individual Account Program (IAP):** These accounts are credited with actual earnings or losses, less a proportional charge for administrative expenses. Preliminary variable earnings for 2009 are estimated to be 37.46%, and IAP account earnings are estimated to be 18.48% for 2009.

- 5. Tier One Rate Guarantee Reserve:** This reserve, established under ORS 238.255(1), is to be used to credit the assumed rate to Tier One member regular accounts. The reserve went into a deficit in 2008; when in deficit status, earnings on the Tier One member regular accounts that are in excess of the assumed earnings rate must be used to offset that deficit. The amount of 2009 earnings used for this offset will depend, in part, on the Board's Contingency Reserve decision.

DISCRETIONARY EARNINGS ALLOCATIONS

According to ORS 238.670(1), in those years in which earnings exceed the assumed rate, up to 7.5% of earnings can be allocated to the Contingency Reserve. The Contingency Reserve is not credited with its own earnings or losses but, instead, funds are added to or transferred from the reserve only as directed by the Board.

As 2009 earnings exceeded the assumed rate, the PERS Board must again address whether the Contingency Reserve is adequately funded. Staff has developed three options for the Board's consideration in funding this reserve (charts showing the impact of each option are attached):

Option 1: Make no additional allocation. This would leave the reserve's balance at \$653.2 million, the balance set by the Board in allocating 2007 earnings, and maintained by the Board in allocating 2008 losses.

Option 2: Increase the reserve's balance by transferring the maximum amount of 2009 earnings allowed. This would increase the reserve's balance to \$1,162.7 million, an increase of \$509.5 million.

Option 3: Reduce the reserve's balance to a new benchmark, such as 1% of Fund reserves. This funding level, for example, would reduce the reserve's balance to \$513.0 million. This option could involve establishing a benchmark by which the Board can adjust the size of the Contingency Reserve as the size of the system changes. Choosing this option would result in approximately \$140.2 million being allocated from the Contingency Reserve to the Tier One Rate Guarantee Reserve, Tier Two member regular accounts and the Employer and Benefits-in-Force reserves.

POLICY ISSUE

- *Is the Contingency Reserve adequately funded?*

In 2007, the last year in which earnings exceeded the assume earnings rate, the Board set the current balance (\$653.2 million) based on the status of ongoing litigation and the unknown impact from unsettled financial markets. Those dynamics have not changed appreciably since the PERS Board established this funding level. Staff therefore recommends that the PERS Board make no additional allocation to the Contingency Reserve, and preserve the current balance of \$653.2 million.

In addition to the Contingency Reserve allocation, the PERS Board's Annual Crediting Rule (OAR 459-007-0005) directs the crediting to the Judge and Tier Two member regular accounts, as well as the OPSRP Pension, Benefits-in-Force, and Employer reserves.

RECOMMENDED 2009 PRELIMINARY ALLOCATIONS

Staff recommends the following allocations be adopted preliminarily by the PERS Board:

1. *Non-Discretionary Allocations*

Credit administrative expenses, health insurance accounts, employer lump sum accounts, variable annuity account, and accounts in the Individual Account Program at the rates described above. Credit Tier One member Regular Accounts with the assumed earnings rate (8%) and credit the remainder of Tier One member Regular Account earnings to the Tier One Rate Guarantee Reserve.

2. *Funding of Contingency Reserve*

Credit zero percent of available 2009 earnings to the Contingency Reserve (Option 1), and preserve the current balance of \$653.2 million.

3. *Judge Member Accounts*

Credit Judge Member Accounts with the assumed earnings rate (8%).

4. *Tier Two Member Regular Accounts, Benefits-In-Force and Employer Reserves*

Credit Tier Two member regular accounts and the Benefits-In-Force and Employer reserves evenly with the remaining available earnings. Under this recommendation, the preliminary 2009 rate credited to these accounts and reserves would be 19.13%.

BOARD OPTIONS

The Board may:

1. **Adopt Staff's Recommendation:** Pass a motion to "adopt the staff's recommended preliminary crediting of earnings for calendar year 2009, subject to final adoption at the March 29, 2010 PERS Board meeting."
2. **Adopt an Optional Policy Position:** Pass a motion to "adopt the staff's recommended preliminary crediting of earnings for calendar year 2009, subject to final adoption at the March 29, 2010 PERS Board meeting," but amending that recommendation as follows:
 - Increase the Contingency Reserve by 7.5% of Regular Account earnings (Option 2);
 - Reduce the Contingency Reserve balance to 1% of Fund reserves (Option 3); or
 - Increase the Contingency Reserve funding by a stated dollar amount or percentage of available earnings.
3. **Develop alternative strategies:** Adopt an alternative preliminary crediting to the Contingency or other reserves. That alternative should be adopted to allow for adequate reporting to the legislature as required by ORS 238.670(5) and adopt final earnings crediting decisions at the PERS Board's March 29, 2010 meeting.

NEXT STEPS

Once the Board makes its preliminary decisions, staff will prepare and present the required report to the Oregon Legislature's Ways and Means Committee. Any comments received from the committee will be presented to the Board prior to its final crediting decision on March 29, 2010.

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

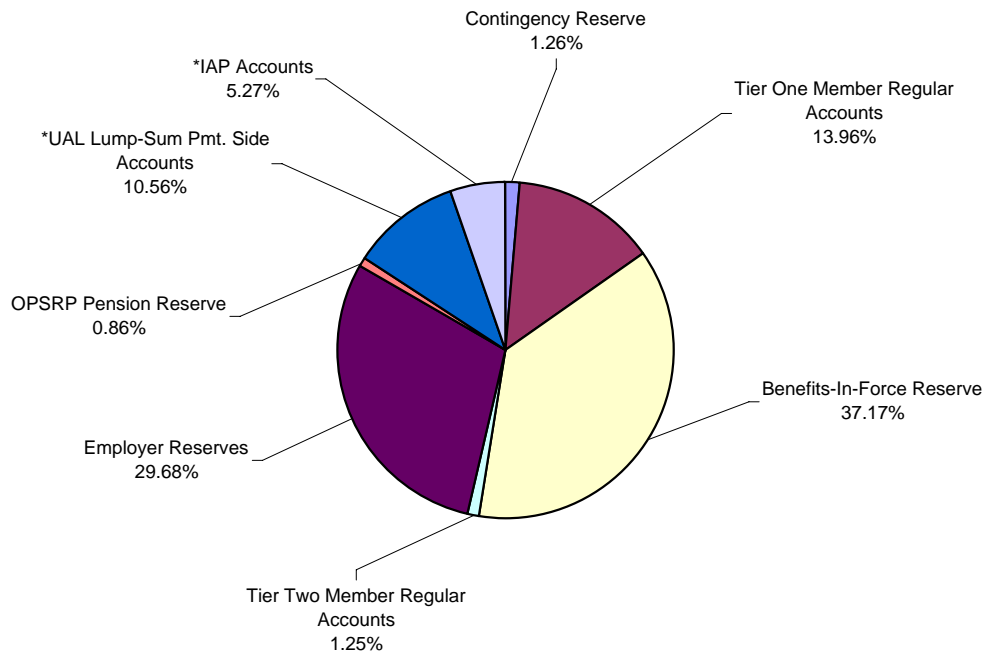
Attachments:

- Option 1: No Allocation to Contingency Reserve**
- Option 2: Contingency Reserve Receives 7.5% of Earnings**
- Option 3: Contingency Reserve Adjusted to 1% of Fund Reserves**

Option 1
2009 Preliminary Earnings Crediting
No Additional Allocation to Contingency Reserve
(All dollar amounts in millions)

Regular Account Reserve	Reserves Before Allocation	2009 Preliminary Allocation	Reserves After Allocation	2009 Preliminary Rates
Contingency Reserve	\$653.2	\$0.0	\$653.2	N/A
Tier One Member Regular Accounts	6,687.6	535.0	7,222.6	8.00%
Tier One Rate Guarantee Reserve	-978.5	557.4	-421.1	N/A
Benefits-In-Force Reserve	16,136.0	3,087.5	19,223.5	19.13%
Tier Two Member Regular Accounts	541.9	103.7	645.6	19.13%
Employer Reserves	12,885.4	2,465.5	15,350.9	19.13%
OPSRP Pension Reserve	377.1	65.4	442.5	17.35%
*UAL Lump-Sum Pmt. Side Accounts	4,567.7	891.6	5,459.2	Various
*IAP Accounts	2,297.7	425.6	2,723.4	18.48%
Total	\$43,168.2	\$8,131.8	\$51,300.0	

2009 Regular Account Reserve Balances
After 2009 Preliminary Crediting

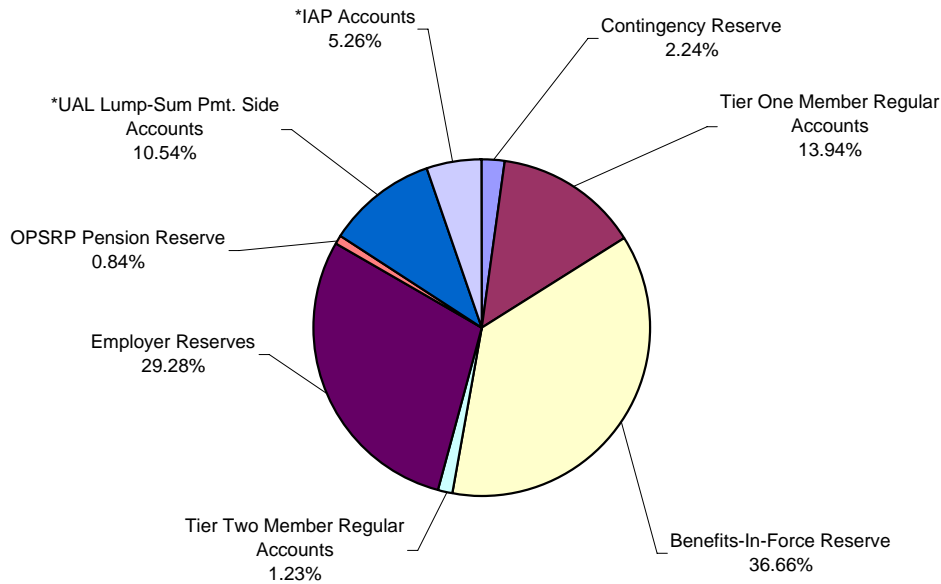


*Informational only. Not affected by Board reserving or crediting decisions.

Option 2
2009 Preliminary Earnings Crediting
Allocate 7.5% of Earnings to Contingency Reserve
(All dollar amounts in millions)

Regular Account Reserve	Reserves Before Crediting	2009 Preliminary Crediting	Reserves After Crediting	2009 Preliminary Rates
Contingency Reserve	\$653.2	\$509.5	\$1,162.7	N/A
Tier One Member Regular Accounts	6,687.6	535.0	7,222.6	8.00%
Tier One Rate Guarantee Reserve	-978.5	475.8	-502.6	N/A
Benefits-In-Force Reserve	16,136.0	2,856.9	18,992.9	17.71%
Tier Two Member Regular Accounts	541.9	96.0	637.9	17.71%
Employer Reserves	12,885.4	2,281.4	15,166.8	17.71%
OPSRP Pension Reserve	377.1	60.1	437.1	15.93%
*UAL Lump-Sum Pmt. Side Accounts	4,567.7	891.6	5,459.2	Various
*IAP Accounts	2,297.7	425.6	2,723.4	18.48%
Total	\$43,168.2	\$8,131.8	\$51,300.0	

2009 Regular Account Reserve Balances
After 2009 Preliminary Crediting

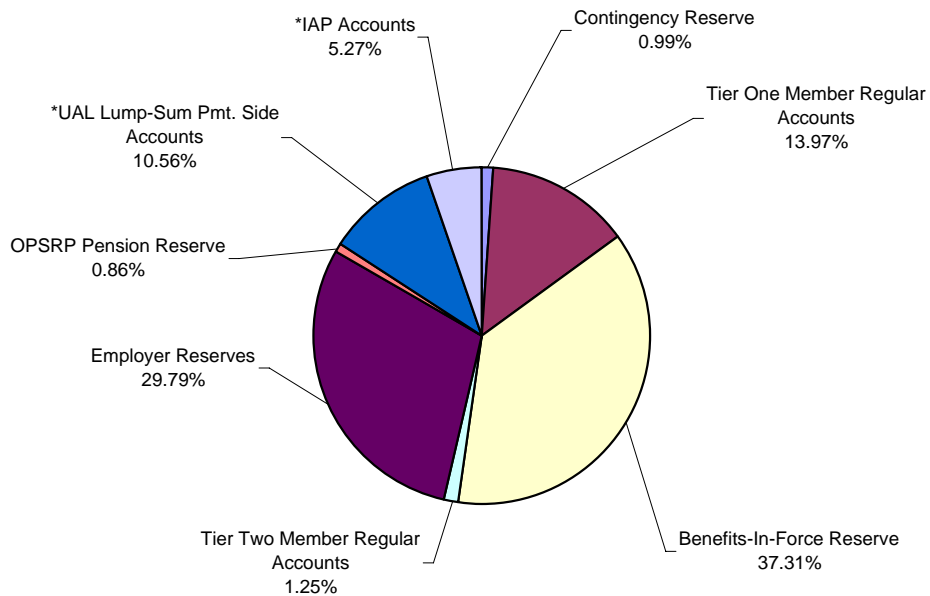


*Informational only. Not affected by Board reserving or crediting decisions.

Option 3
2009 Preliminary Earnings Crediting
Maintain Contingency Reserve at 1% of Fund Reserves
(All dollar amounts in millions)

Regular Account Reserve	Reserves Before Crediting	2009 Preliminary Crediting	Reserves After Crediting	2009 Preliminary Rates
Contingency Reserve	\$653.2	-\$140.2	\$513.0	N/A
Tier One Member Regular Accounts	6,687.6	535.0	7,222.6	8.00%
Tier One Rate Guarantee Reserve	-978.5	579.9	-398.6	N/A
Benefits-In-Force Reserve	16,136.0	3,151.0	19,287.0	19.53%
Tier Two Member Regular Accounts	541.9	105.8	647.8	19.53%
Employer Reserves	12,885.4	2,516.2	15,401.6	19.53%
OPSRP Pension Reserve	377.1	66.9	444.0	17.75%
*UAL Lump-Sum Pmt. Side Accounts	4,567.7	891.6	5,459.2	Various
*IAP Accounts	2,297.7	425.6	2,723.4	18.48%
Total	\$43,168.2	\$8,131.8	\$51,300.0	

2009 Regular Account Reserve Balances
After 2009 Preliminary Crediting



*Informational only. Not affected by Board reserving or crediting decisions.



Oregon

Theodore R. Kulongoski, Governor

Public Employees Retirement System

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January 29, 2010

TO: Members of the PERS Board
FROM: Steven Patrick Rodeman, Deputy Director
SUBJECT: 2011-13 Employer Rate Setting Options

BACKGROUND

At its November 20, 2009 meeting, the PERS Board was presented with the policy question of how to implement the employer rate collar. This question arises because the December 31, 2009 system valuation will likely result in the majority of employers crossing the 80% funding status threshold that currently triggers a doubling of the collared rate change. PERS staff and Mercer have further developed three options for the Board's consideration:

- Status Quo: Make no changes to the current rate collar implementation. For those employers whose funded status for employer rate setting drops below 80%, their base rate will increase by 6% of PERS covered payroll, beginning July 1, 2011.
- Revised: Revise the implementation of the rate collar so that the base rate increases incrementally from 3% to 6% of PERS covered payroll, based on the employer's rate setting funded status on a sliding scale from 80% to 70% funded.
- Ad Hoc: Impose a one-time rate collar limit of a 3% of PERS covered payroll increase for the 2011-13 biennium only on employer base rates, regardless of the employer's funded status.

The chart attached to this memo shows the net rate change and projected 2011-13 biennial aggregate fiscal impact on groups of employers under the three options using November 30, 2009 fund earnings as a proxy for calendar year returns. Please note that, under all three options, the rate offset provided by an employer's side account (if any) is not affected. Neither PERS staff nor the actuary recommends that the PERS Board revise the methods for calculation of side account offsets to an employer's base contribution rate.

PUBLIC COMMENT

These materials were distributed to the PERS Board's interested parties in advance of the January 29, 2010 meeting. Any comments received prior to that date will be distributed to the Board, including requests to address the Board at the meeting.

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt the staff and actuary’s recommended revised implementation to the employer rate collar, as presented.”
2. Adopt one of the other options presented or direct staff and the actuary to further develop other policy options for the Board’s consideration.

STAFF RECOMMENDATION

Staff recommends the Board adopt the revised rate collar implementation option as noted above.

- Reason: Mercer’s presentation analyzes the double rate collar implementation options against the Board’s established principles that are applied when considering changes to actuarial methods. That analysis demonstrates that revising the rate collar implementation as described most closely aligns with those principles.

C.3. Attachment 1: Employer Rate Setting Policy Options Chart

Employer Rate Setting Policy Options

	2007-2009 (actual)	2009-2011 (actual)	2011-2013* Status Quo	2011-2013* Revised	2011-2013* Ad Hoc
State Agencies					
Net Employer Rate	7.0%	3.3%	12.4%	10.6%	9.4%
Contributions (\$M)	\$296	\$149	\$611	\$522	\$463
School Districts					
Net Employer Rate	8.4%	5.3%	13.1%	12.5%	10.1%
Contributions (\$M)	\$455	\$310	\$823	\$785	\$634
Independents (Others)					
Net Employer Rate	9.0%	6.5%	13.1%	11.0%	10.1%
Contributions (\$M)	\$543	\$421	\$912	\$766	\$703
System Totals					
Net Employer Rate	8.3%	5.2%	12.9%	11.4%	9.9%
Contributions (\$M)	\$1,294	\$880	\$2,346	\$2,073	\$1,800

“Net Employer Rate” are average rates that include Side Account offsets but not IAP contributions or the costs of debt service on Pension Obligation Bonds. Contributions are total new dollars coming into the system, by biennium.

Status Quo: No changes to current methods (6% rate increase if <80% funded, with full side account reset)

Revised Implementation: Adopt a sliding scale rate collar, moving from 3% rate at 80% funded to a 6% rate at 70% funded, instead of the current “cliff” rates moving from 3% to 6% if <80% funded.

Ad Hoc: Use a 3% rate collar limit FOR 2011-13 ONLY (with full side account reset)

*Based on reported fund earnings as of November 30, 2009

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MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

January 29, 2010

Double Rate Collar Implementation Oregon Public Employees Retirement System

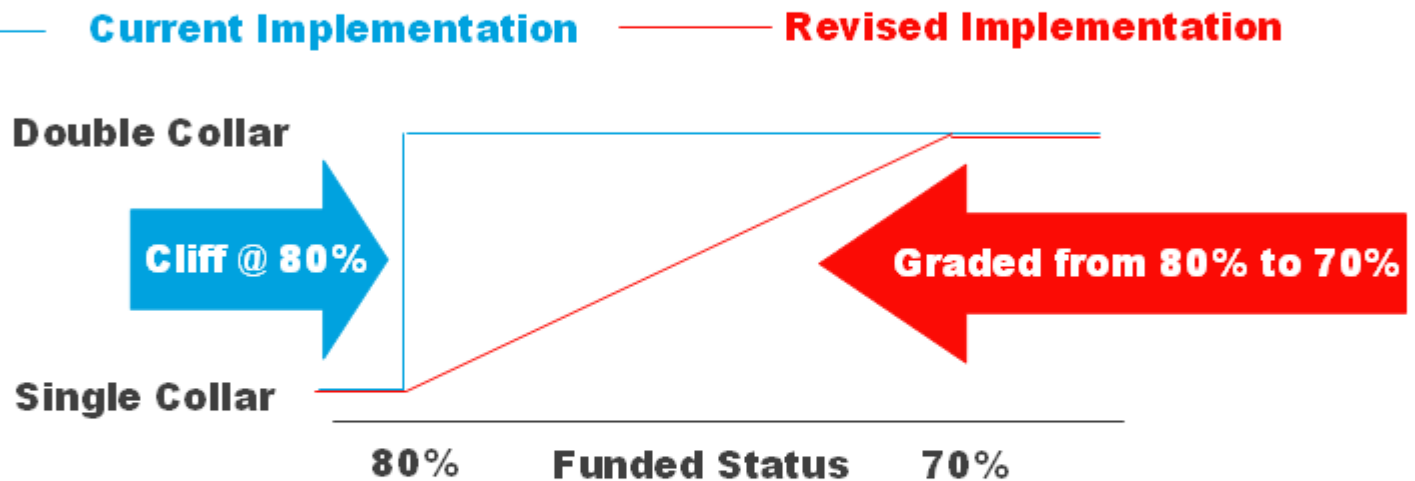
Matt Larrabee

Introduction

- In November, employer contribution rate setting for 2011-2013 was discussed in light of the market downturn, with focus on rate collaring methodology
- Key points from that meeting and from our September presentation:
 - System liabilities display modest, predictable annual growth
 - System asset levels have been highly volatile
 - Funded status has improved modestly due to 2009 returns
 - Estimate excluding side accounts: 75% funded; \$14 billion shortfall
 - Including side accounts: 85% funded status and \$9 billion shortfall
 - Improvement will be insufficient to avoid a “double rate collar” increase for most employers for the 2011-2013 biennium
 - Even in a good investment return scenario, base rates would increase for several future biennia
 - Employers with side accounts have greater net contribution rate volatility than employers without side accounts
 - Revising the implementation of the double rate collar should be considered

Revised Implementation of the Double Rate Collar

- A revised implementation would phase in the double rate collar starting at 80% funded status, with full implementation at 70% funded status
 - A symmetrical approach would be used between 120% and 130%



- The current and revised implementations would be identical above 80% funded status and below 70% funded status
- The revised implementation would:
 - Eliminate the arbitrary cliff increase at 80% funded status
 - Better align rate increases with employer funded status

Guiding Principles

- The Public Employees Retirement Board (PERB) has established the following principles to guide employer rate-setting methodology:
 - ***Transparent***
 - ***Predictable and stable rates***
 - ***Protect funded status***
 - ***Equitable across generations***
 - ***Actuarially sound***
 - ***GASB compliant***
- A revised implementation for the double rate collar is under consideration

Would adopting a revised implementation for the double rate collar be consistent with the principles noted above?

Guiding Principles

Principle: Transparent

- The current rate collaring approach was first established effective with the December 31, 2004 valuation
 - The rate collar is used in combination with the reported fair market value of system assets to develop contribution rates
 - Rate collaring is used in lieu of an asset smoothing method
- The fair market/rate collar approach is more transparent and understandable to stakeholders than asset smoothing
- A revised implementation approach would maintain the transparency that is derived from using fair market asset values
- The rate collar calculation that would be used in a revised implementation would be as transparent and as understandable as the current approach

Guiding Principles

Principle: Predictable and Stable Rates

- To assist with predictability, biennial rates are set well in advance, with advisory rates provided to employers in non-rate-setting valuation years
- Stability is provided by the rate collar, which spreads the effects of a significant market upturn or downturn across more than one biennium
 - In a market downturn, rate stability is necessarily limited when investment returns are volatile as this principle must be balanced against the competing principle of protecting funded status
- A revised implementation enhances predictability and stability
 - The improvement is derived from eliminating the arbitrary “cliff” at 80%
 - For a sample employer, decreasing from 80% to 79% funded status would
 - For current implementation: Increase collar width by 3.0% of payroll
 - For revised implementation: Increase collar width by 0.3% of payroll
 - The collar would widen by 0.3% of payroll for each additional 1% decrease in funded status until funded status reached 70%

Guiding Principles

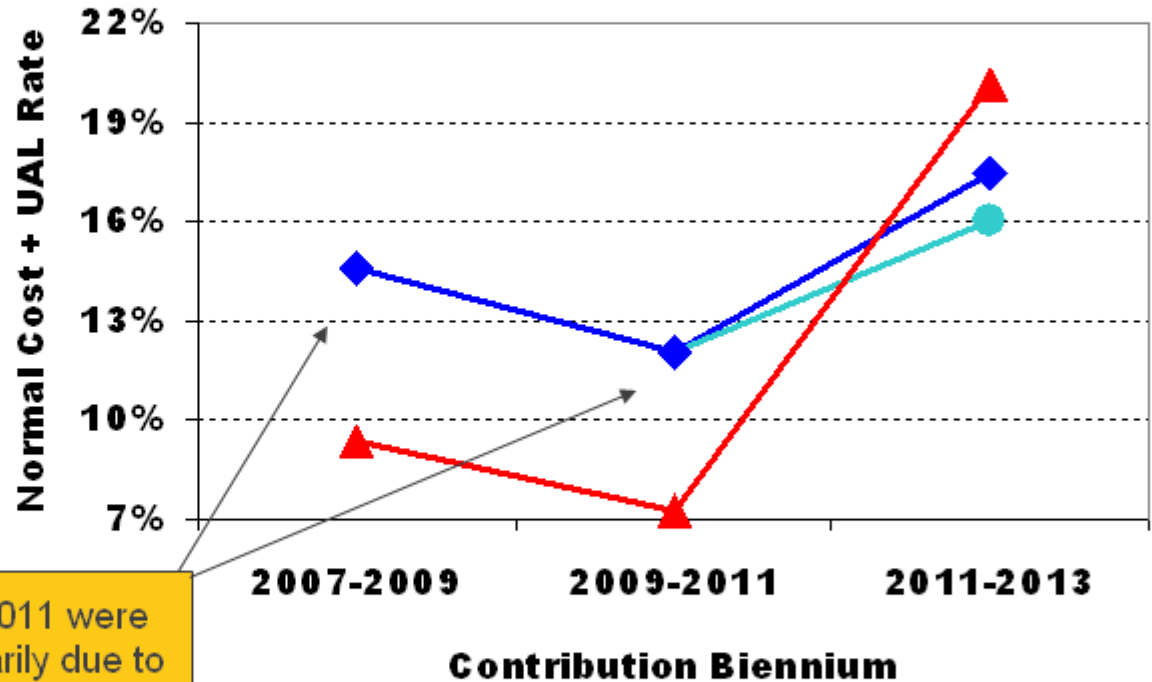
Principle: Predictable and Stable Rates

- In a volatile environment, a rate setting approach that upholds this principle should spread needed changes in employer rates across several biennia
 - One way to assess effectiveness is to compare actual employer rates against an actuarial “uncollared” rate based on fair market assets
 - The next page compares, for the two most recent biennia and the upcoming (2011-2013) biennium:
 - The rate determined by the PERB-enacted approach, and
 - An uncollared rate based on a 20-year amortization of all shortfalls
- The chart illustrates that for the period illustrated base rates have been above those of an uncollared 20-year rate in aggregate
 - This holds true for either the current or revised implementation
 - The movement in actual rates has been significantly more stable than the movement in the uncollared 20-year rate

Guiding Principles

Principle: Predictable and Stable Rates

- ◆ **Employer Base Rate (Current Implementation)**
- **Employer Base Rate (Revised Implementation)**
- ▲ **Uncollared 20-Yr Rate**



Base Rates for 2007-2009 and 2009-2011 were above the uncollared 20-year rate primarily due to amortizing a portion of the shortfall over 3 years

2011-2013 rates are estimates. Actual rates will depend on the results of the 12/31/2009 Actuarial Valuation, including asset levels as reported by OIC/PERS. The base rate excludes contributions to the IAP, retiree healthcare programs, debt service on Pension Obligation Bonds, and side account rate offsets.

Guiding Principles

Principle: Predictable and Stable Rates

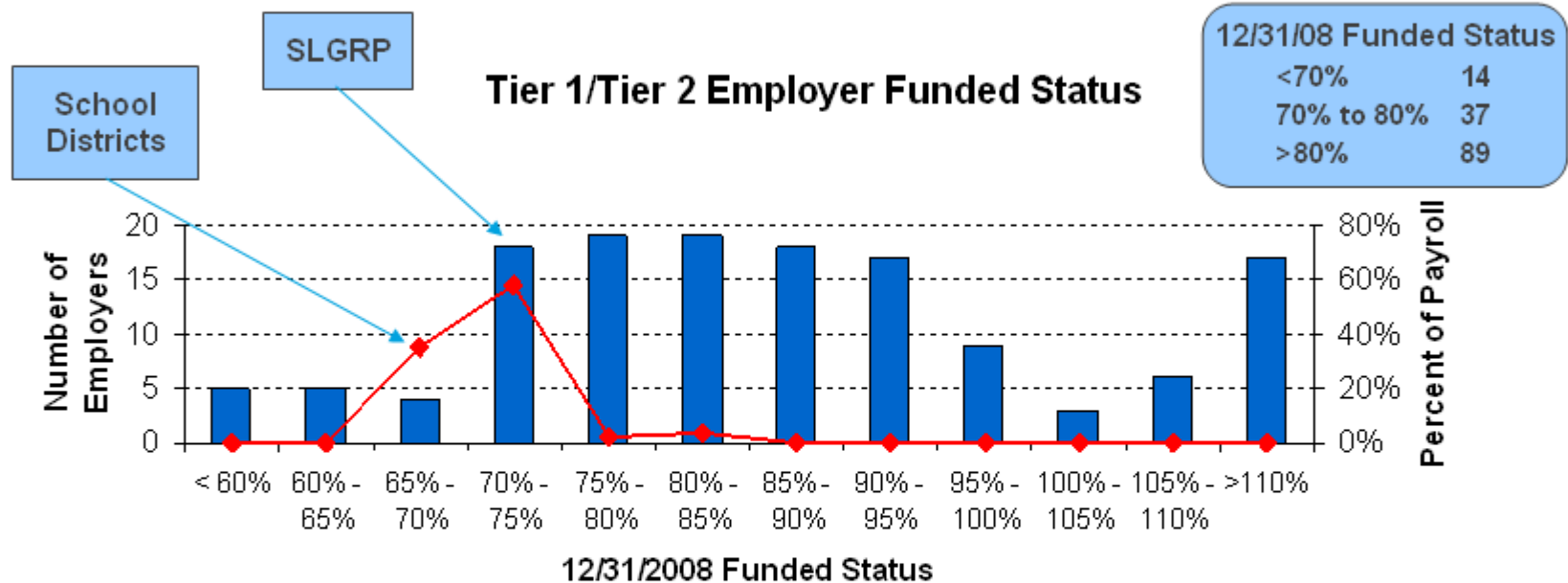
- The impact of a revised implementation is modeled on a systemwide basis, with the system treated as one employer with one funded status
- In reality, the system is not a monolith
 - PERS has hundreds of contributing employers, divided into 2 rate pools and 138 non-pooled independent employers
 - The two rate pools are School Districts and SLGRP (State and Local Government Rate Pool)
 - Funded status varies from rate pool to rate pool and employer to employer
 - As such, elimination of the 3% cliff is not just of academic interest

There will be employers just above and just below 80% as of December 31, 2009

- The next page illustrates the funded status distribution of the various employers and rate pools as of December 31, 2008

Guiding Principles

Principle: Predictable and Stable Rates



The blue bars show the number of employers in each funded status range (left axis)
 The red line shows the share of valuation payroll attributable to those employers (right axis)
 School Districts & SLGRP are each treated as one employer in this chart

Funded status at December 31, 2009 will vary from the 2008 distribution shown above, but will generally reflect the estimated 4% improvement in overall system funded status from 2008 to 2009

Guiding Principles

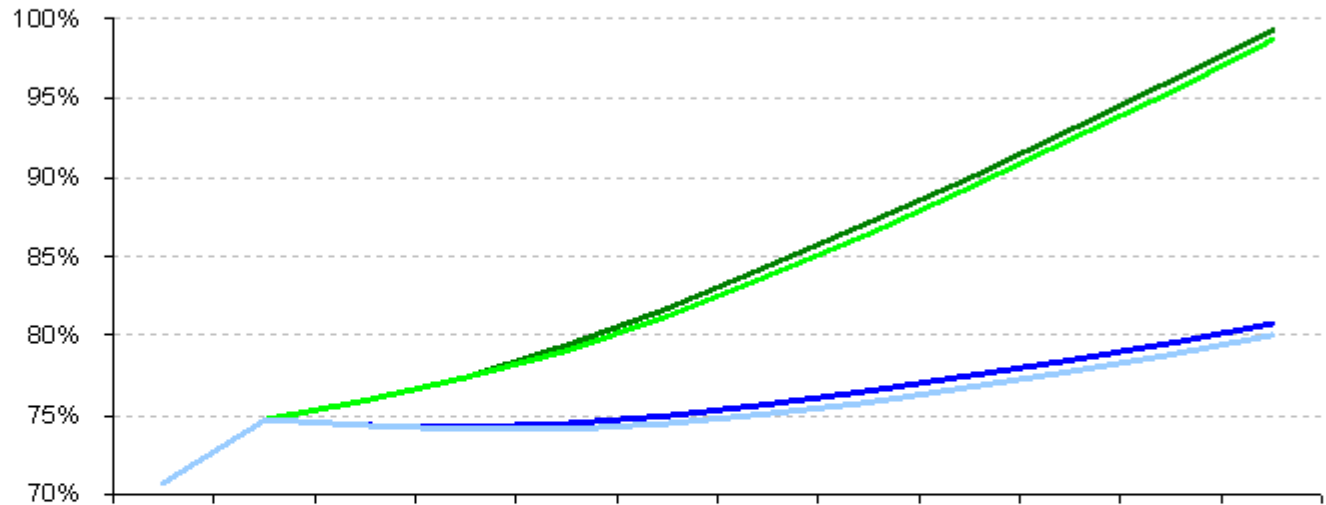
Principle: Protect Funded Status

- In the event of a downturn, rates should be set in a manner that will allow the system's funded status to be restored over time as investments recover
 - The double collar allows for sufficient responsiveness in rates to protect funded status if a downturn is significant
- Questions to help assess adherence to this principle after a downturn:
 - If the system meets or exceeds the actuarial investment return assumption (currently 8%), does funded status improve?
 - In the event of prolonged poor investment performance, does funded status either stabilize or, at the very least, display a slower rate of decline?

Guiding Principles

Principle: Protect Funded Status

The assumptions behind the projections are detailed in the Appendix



As of 12/31	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Current Implementation, 10.5% Return	71%	75%	76%	77%	79%	82%	84%	87%	90%	93%	96%	99%
Revised Implementation, 10.5% Return	71%	75%	76%	77%	79%	81%	84%	86%	89%	92%	95%	99%
Current Implementation, 8.0% Return	71%	75%	74%	74%	74%	75%	76%	77%	78%	79%	80%	81%
Revised Implementation, 8.0% Return	71%	75%	74%	74%	74%	74%	75%	76%	77%	78%	79%	80%

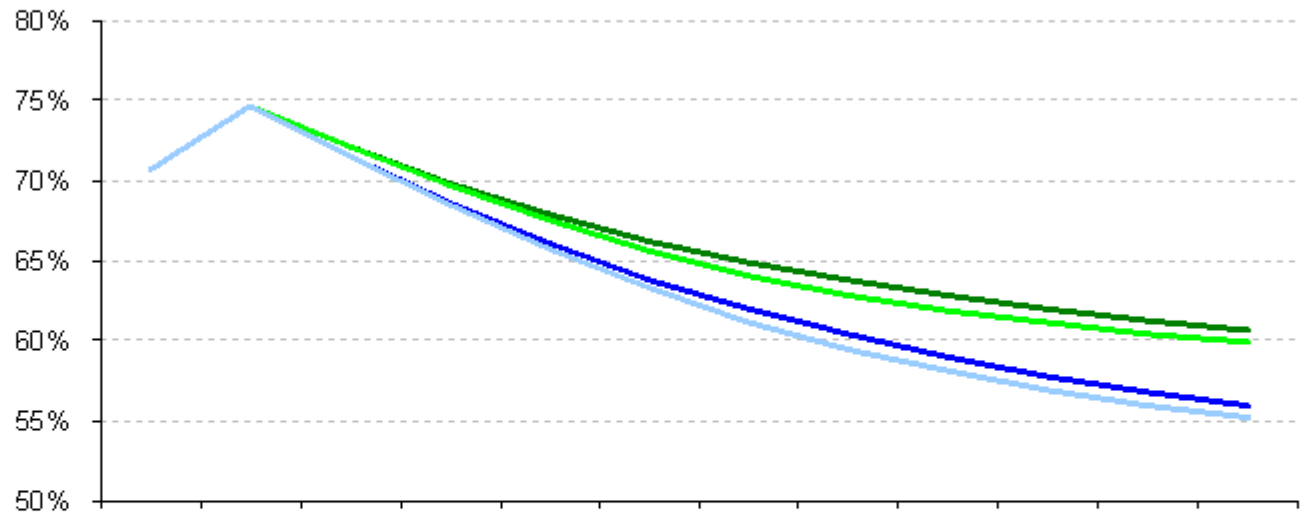
Both the current and revised implementations move funded status upward if the investment return assumption is met or exceeded, with the ten-year funded status projection about 1% lower under a revised implementation

Guiding Principles

Principle: Protect Funded Status

3.5% annual return is a proxy for a 5th percentile return over 10 years

Comparing the 2009-2014 period to the 2014-2019 period, the rate of funded status decline decreases 40-60%



As of 12/31	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Current Implementation, 4.5% Return	71%	75%	72%	70%	68%	66%	65%	64%	63%	62%	61%	61%
Revised Implementation, 4.5% Return	71%	75%	72%	70%	68%	66%	64%	63%	62%	61%	60%	60%
Current Implementation, 3.5% Return	71%	75%	72%	69%	66%	64%	62%	60%	59%	58%	57%	56%
Revised Implementation, 3.5% Return	71%	75%	72%	69%	66%	63%	61%	59%	58%	57%	56%	55%

The current and revised implementations are identical below 70% funded status, and thus exhibit similar funded status stabilization ability in the event of prolonged poor investment performance

Guiding Principles

Principle: Equitable Across Generations

- To help achieve generational equity, any Unfunded Actuarial Liability (UAL) shortfalls under the system are amortized over the following periods as a level percentage of projected employer payroll
 - Tier 1/Tier 2 UAL: 20 years
 - OPSRP UAL: 16 years
- Employer base rates are calculated to assess for both:
 - The shortfall amortizations noted above (i.e., the “UAL Rate”), plus
 - The Normal Cost Rate, which is the economic value of new benefits earned during the year
- In a significant downturn, the calculated UAL Rate increases substantially
 - The collar can spread the UAL Rate change across several biennia
- The prior funded status projections show a revised implementation would not significantly affect the principle in place under the current approach

Guiding Principles

Principles: Actuarially Sound; GASB Compliant

- We believe both the current and revised implementation approaches are actuarially sound
 - Evidence of this is the improvement in funded status under either approach if the 8% actuarial investment return assumption is met
- We also believe that either implementation approach is compliant with Governmental Accounting Standards Board (GASB) directives

Summary / Conclusions

- The single and double rate collars reflect a balance of competing principles
 - The single rate collar limits rates to a predictable and stable range in a transparent manner that uses a fair market asset value
 - The double rate collar widens the range to protect funded status, uphold generational equity and maintain actuarial soundness in a downturn
- In our view, a revised double rate collar implementation would not substantially alter the balance between these principles
 - Ten year projected funded status would differ by no more than 1% compared to the current implementation under the modeled scenarios
- A revised implementation would improve predictability and stability by eliminating the arbitrary “cliff” at 80% funded status in the current approach
 - In addition, rate increases would be better aligned with employer funded status
- Either implementation approach would not affect the level of rate offsets generated by side accounts, as side account rate offsets are not collared

Financial Impact

Financial Impact

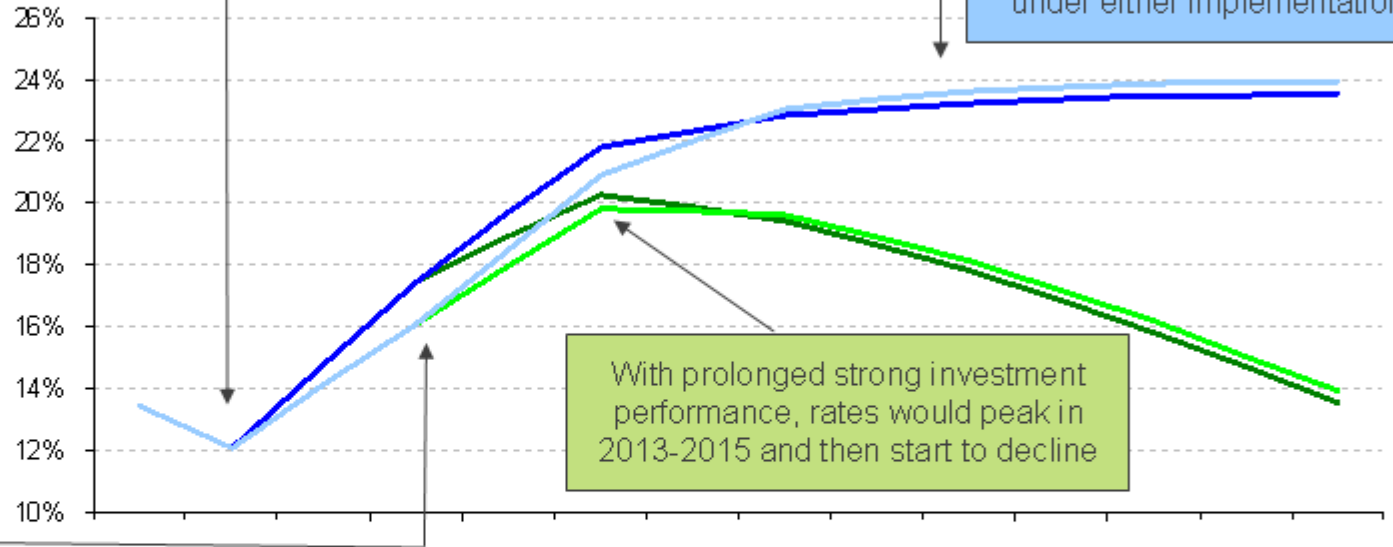
- We have presented the funded status impact of a revised implementation
- Financial impact depends on actual employer rates and contribution amounts
- The following two measures help assess the financial impact:
 - Contribution rate projections
 - Use “base” rates – excluding the effect of side account rate offsets
 - Modeled on a systemwide basis
 - Estimated actual employer contributions for the 2011-2013 biennium
 - Uses “net” rates and contribution amounts
 - Includes effects of side account rate offsets based on estimated December 31, 2009 asset levels
 - Employers were grouped into three categories
- Details on the assumptions and methodology behind the estimates and projections are in the Appendix

Financial Impact - Projections of Base Rates

Combined Payroll Weighted (Tier 1/Tier 2, OPSRP) Base Contribution Rate

Rates for the 2009-2011 biennium are based on the 12/31/2007 valuation

The 12/31/2009 valuation will set rates for 2011-2013. The width of the collar will determine rates for that biennium



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Current Implementation, 10.5% Return	13.4%	12.1%	14.8%	17.4%	18.9%	20.3%	19.8%	19.4%	18.6%	17.8%	16.8%	15.8%	14.7%	13.6%
Revised Implementation, 10.5% Return	13.4%	12.1%	14.1%	16.0%	17.9%	19.8%	19.7%	19.6%	18.9%	18.1%	17.2%	16.2%	15.1%	13.9%
Current Implementation, 8.0% Return	13.4%	12.1%	14.8%	17.4%	19.7%	21.8%	22.3%	22.8%	23.0%	23.2%	23.4%	23.5%	23.5%	23.5%
Revised Implementation, 8.0% Return	13.4%	12.1%	14.1%	16.0%	18.5%	20.9%	22.0%	23.1%	23.3%	23.6%	23.7%	23.9%	23.9%	23.9%

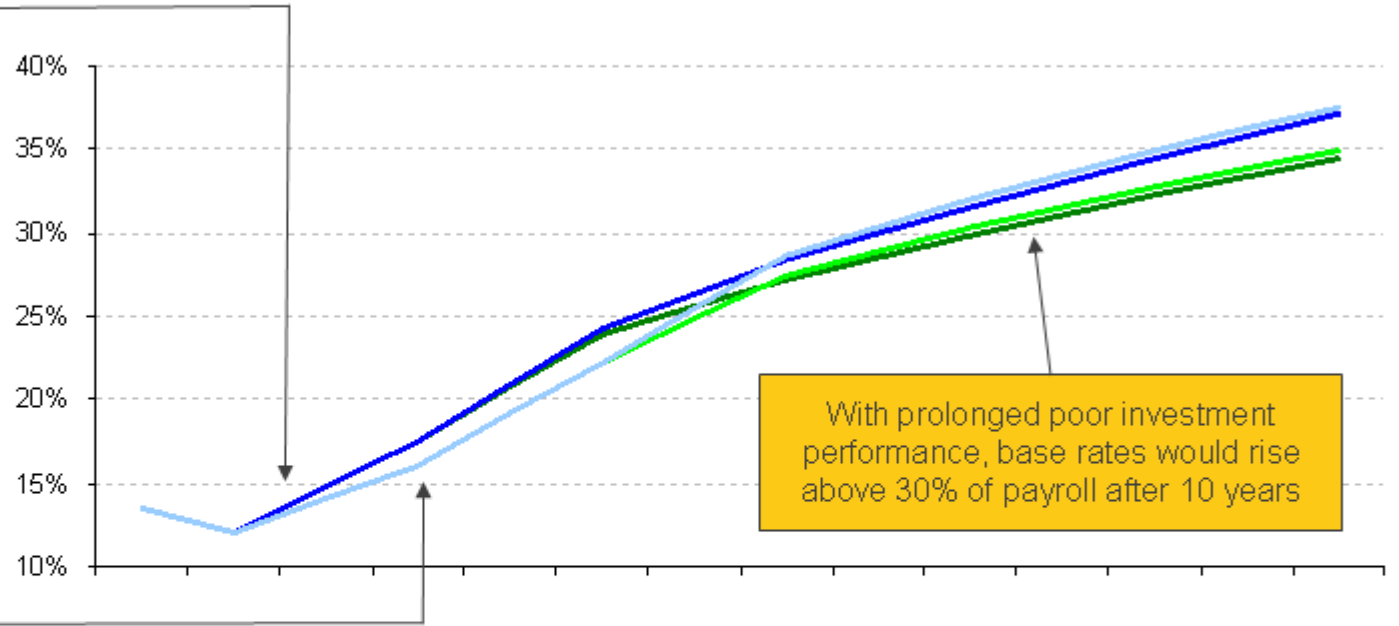
Base rates do not reflect the effects of side account rate offsets, and do not include contribution rates for the IAP or retiree healthcare programs, debt service on pension obligation bonds, or any contributions that might be needed to address a 5-year Rate Guarantee Reserve deficit

Financial Impact - Projections of Base Rates

Combined Payroll Weighted (Tier 1/Tier 2, OPSRP) Base Contribution Rate

Rates for the 2009-2011 biennium are based on the 12/31/2007 valuation

The 12/31/2009 valuation will set rates for 2011-2013. The width of the collar will determine rates for that biennium



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Current Implementation, 4.5% Return	13.4%	12.1%	14.8%	17.4%	20.7%	23.9%	25.6%	27.2%	28.5%	29.8%	31.0%	32.2%	33.3%	34.4%
Revised Implementation, 4.5% Return	13.4%	12.1%	14.1%	16.0%	19.2%	22.3%	24.9%	27.5%	28.9%	30.3%	31.5%	32.7%	33.8%	34.9%
Current Implementation, 3.5% Return	13.4%	12.1%	14.8%	17.4%	20.9%	24.2%	26.3%	28.4%	30.0%	31.6%	33.0%	34.4%	35.7%	37.0%
Revised Implementation, 3.5% Return	13.4%	12.1%	14.1%	16.0%	19.2%	22.3%	25.5%	28.6%	30.4%	32.1%	33.5%	34.9%	36.2%	37.5%

Base rates do not reflect the effects of side account rate offsets, and do not include contribution rates for the IAP or retiree healthcare programs, debt service on pension obligation bonds, or any contributions that might be needed to address a 5-year Rate Guarantee Reserve deficit

Financial Impact - Estimated 2011-2013 Net Rates/Contributions

Combined Payroll Weighted (Tier 1/Tier 2, OPSRP) Net Contribution Rate

Rates shown are estimates only. The actual 2011-2013 rates will be calculated in the 12/31/2009 actuarial valuation.

Estimated Net Employer Rates/Contributions <i>(amounts in millions)</i>						
Employer Group	2009-2011		2011-2013 Implementation			
			Current		Revised	
State Agencies	3.3%	\$149	12.4%	\$611	10.6%	\$522
School Districts	5.3%	\$310	13.1%	\$823	12.5%	\$785
Locals/All Others	6.5%	\$421	13.1%	\$912	11.0%	\$766
Total	5.2%	\$880	12.9%	\$2,346	11.4%	\$2,073

The net contribution rate increase is greater than the collar width due to the effect of changes in side account offsets, which are not collared

- The increase for State Agencies includes a 3.1% reduction in the side account offset rate, which is in addition to the collared base rate increase

Net rates do reflect the effects of side account rate offsets, but do not include contribution rates for the IAP or Retiree Healthcare Programs, debt service on Pension Obligation Bonds, or any contributions that might be needed to address a 5-year Rate Guarantee Reserve deficit

Actuarial Certification

Mercer has prepared this presentation exclusively for the Oregon PERS Board to inform the Board and other stakeholders on actuarial considerations related to implementation of the double rate collar. This presentation may not be used or relied upon by any other party or for any other purpose; Mercer is not responsible for the consequences of any unauthorized use.

This report material includes or is derived from projections of future funding and/or accounting costs and/or benefit related results. To prepare these projections or results, various *actuarial assumptions*, as described in the Appendix, were used to project a limited number of scenarios from a range of possibilities. However, the future is uncertain, and the system's actual experience will likely differ from the assumptions utilized and the scenarios presented; these differences may be significant or material. In addition, different assumptions or scenarios may also be within the reasonable range and results based on those assumptions would be different. This report has been created for a limited purpose, is presented at a particular point in time and should not be viewed as a prediction of the system's future financial condition. To prepare the results shown in this report, various *actuarial methods*, as described in the Appendix, were used.

Because actual system experience will differ from the assumptions, decisions about benefit changes, investment policy, funding amounts, benefit security and/or benefit-related issues should be made only after careful consideration of alternative future financial conditions and scenarios and not solely on the basis of a valuation report or reports.

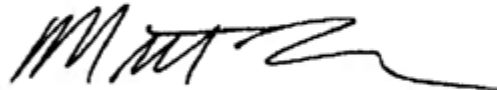
This report is based on data and system provisions as described in the Appendix. Oregon PERS is solely responsible for the validity, accuracy and comprehensiveness of this information. If the data or plan provisions supplied are not accurate and complete, the valuation results may differ significantly from the results that would be obtained with accurate and complete information; this may require a later revision of this report.

Actuarial Certification

Professional Qualifications

We are available to answer any questions on the material in this report or to provide explanations or further details as appropriate. The undersigned credentialed actuaries meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained in this report. We are not aware of any direct or material indirect financial interest or relationship, including investments or other services that could create a conflict of interest, that would impair the objectivity of our work.

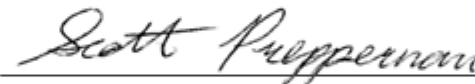
We are available to answer any questions on the material contained in the report, or to provide explanations or further details as may be appropriate.



January 29, 2010

Matthew R. Larrabee, FSA, EA, MAAA
Enrolled Actuary No. 08-6154

Date



January 29, 2010

Scott D. Preppernau, FSA, EA, MAAA
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Date

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The information contained in this document is not intended by Mercer to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code that may be imposed on the taxpayer.

Appendix

Financial Projections

Overview

- Basis for modeling
 - 12/31/2008 Tier 1/Tier 2 and OPSRP actuarial valuations
 - Contribution rates and funded status are modeled on a system-wide basis, and do not include retiree healthcare or IAP contributions
 - **Based on published investment returns through November 30, 2009**
 - The OIC published November 2009 return on general account assets of +15.55% was treated as the 2009 12-month annual investment return
 - 2009 investment experience is assumed to improve funded status 4%
- Projected effects of 10.5%, 8.0%, 4.5%, 3.5% annual investment returns
 - Represents 25-year earnings average, valuation interest rate, 10-year earnings average and 5th percentile 10-year return, respectively
- Results model the impact of two double collar implementation approaches
 - Current implementation: Collar immediately doubles at 80% funded status
 - Revised implementation: Double collar phases in from 80% to 70%

Base rates & funded percentages shown are before consideration of side accounts

Base Rates Versus Net Rates

- The modeled base contribution rate consists of two parts:
 - Normal Cost Rate
 - Economic value of new benefits during a year
 - Unfunded Actuarial Liability (UAL) Rate
 - Amortization payment of shortfalls for benefits already granted
- Base rates exclude the effects of:
 - Side account rate offsets
 - Payments for Individual Account Program (IAP), retiree healthcare, and debt service on Pension Obligation Bonds (POBs)
- Net rates include the effect of side account rate offsets

Usefulness / Limitations of Models

- The recent downturn and subsequent partial recovery help to illustrate both the usefulness and limitations of actuarial modeling
- Models are useful because they can provide:
 - Long-term forecasting using “best estimate” assumptions
 - Sensitivity analysis on the effect of a key factor varying from assumption
 - Example: September 2009 Board meeting projections
 - An estimate of the likely range of possible outcomes (with percentiles) for a robust variety of possible future experience
 - Examples: Annual financial modeling presentations to the Board
 - The ability for policymakers and stakeholders to quantify the projected long-term effects of significant recent changes
- Models are limited because:
 - They are not a guarantee of future experience
 - Actual experience can fall outside of the range of even a robust model

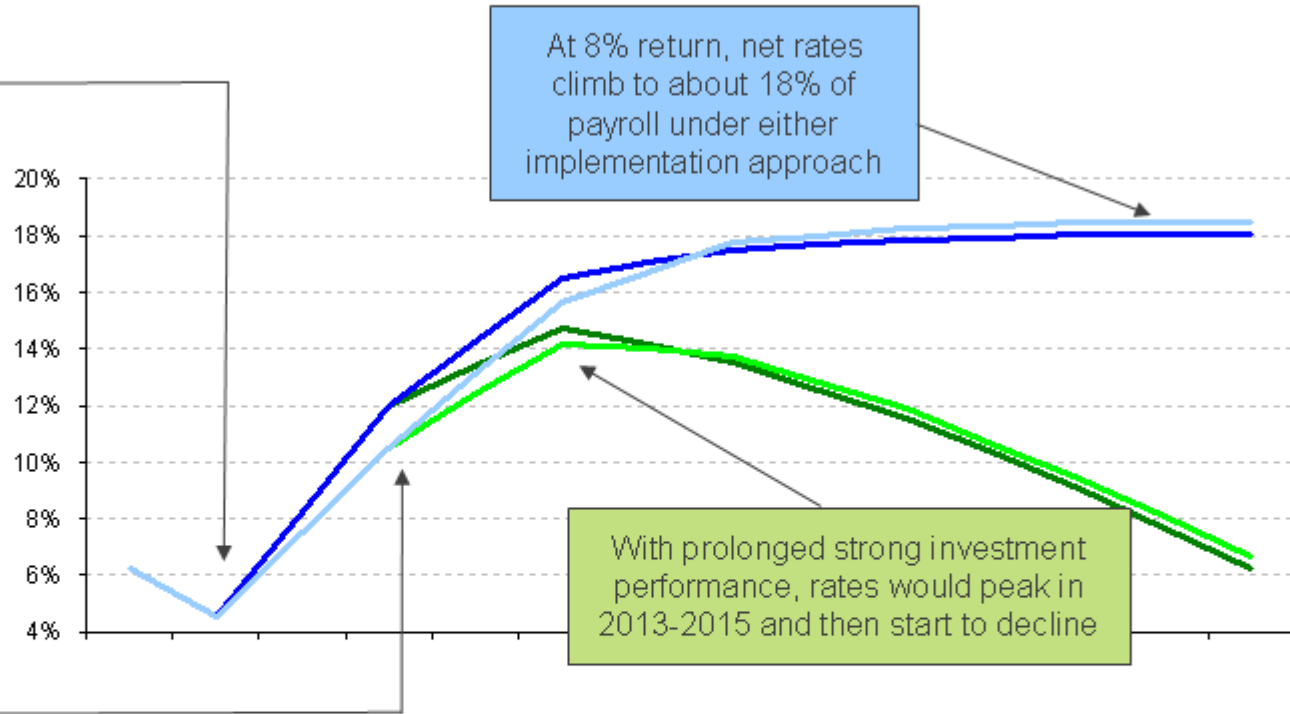
“Computers are useless. They can only give you answers.” -Picasso

Financial Projections – Net Rates

Combined Payroll Weighted (Tier 1/Tier 2, OPSRP) Net Contribution Rate

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Revised Implementation, 10.5% Return	6.2%	4.5%	7.5%	10.5%	12.4%	14.2%	14.0%	13.8%	12.8%	11.8%	10.6%	9.4%	8.0%	6.6%
Current Implementation, 8.0% Return	6.2%	4.5%	8.2%	11.9%	14.2%	16.5%	17.0%	17.5%	17.7%	17.9%	18.0%	18.0%	18.0%	18.0%
Revised Implementation, 8.0% Return	6.2%	4.5%	7.5%	10.5%	13.1%	15.6%	16.7%	17.8%	18.0%	18.3%	18.4%	18.4%	18.4%	18.4%

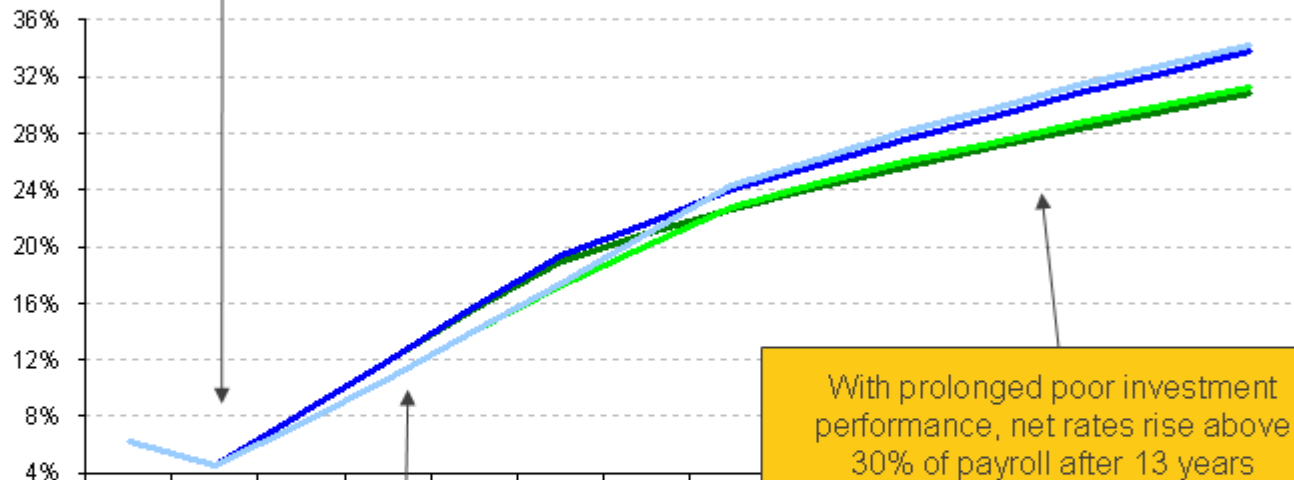
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Financial Projections – Net Rates

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Net rates do reflect the effects of side account rate offsets, but do not include contribution rates for the IAP or Retiree Healthcare Programs, debt service on Pension Obligation Bonds, or any contributions that might be needed to address a 5-year Rate Guarantee Reserve deficit

Appendix

Actuarial Basis

Data

We have based our ten-year financial projection of the liabilities on the data, methods, assumptions and plan provisions described in the December 31, 2008, Actuarial Valuation ("2008 Valuation Report") for the Oregon Public Employees Retirement System.

Assets as of December 31, 2008, were based on values provided by Oregon PERS reflecting the Board's earnings crediting decisions for 2008. Assets and year-to-date returns as of November 30, 2009 as published by the Oregon Investment Council (OIC) were used as the basis for estimating December 31, 2009 assets.

As the starting point for the financial projections, assets were updated based on year-to-date investment results through November 30, 2009 as published by the Oregon Investment Council (OIC). Year-to-date 2009 returns as of that date on regular accounts are +15.55%.

We have assumed that the active participant data reflected in the valuation of the Plan remains stable over the projection period (i.e. – participants leaving employment are replaced by new hires in such a way that the total counts, average age, and average service remain stable from year to year). No new members are assumed to be eligible for Tier 1 and Tier 2 benefits; all new entrants are assumed to become members under the OPSRP benefit formula.

Methods / Policies

Liabilities are based on the Projected Unit Credit method and are rolled forward according to the following rules:

Normal cost: Normal cost increases with assumed wage growth adjusted for wage experience, demographic experience and asset return experience (if applicable). Demographic experience follows assumptions described in the 2008 Valuation Report.

Accrued liability: Liabilities increase with normal cost and decrease with benefit payments. Results are adjusted for wage, demographic and asset experience (if applicable).

Contribution Rates: The projected contribution rates are calculated on each odd valuation date in accordance with methodologies described in the 2007 and 2008 Valuation Reports. Rates are applied 18 months after the biennial determination date.

Expenses: Administration expenses for ten-year financial projections were assumed to be equal to \$6.6M plus .05% of Market Value of Assets.

Actuarial Value of Assets: Equal to Market Value of Assets excluding Contingency, Capital Preservation and Tier 1 Rate Guarantee Reserves

Appendix

Actuarial Basis

Assumptions

In general, assumptions for financial projections are as described in the 2008 Valuation Report.

The major assumptions used in our financial projections are shown below. They are aggregate average assumptions that apply to the whole population and were held constant throughout the projection period. The economic experience adjustments were allowed to vary in future years given the conditions defined in each economic scenario.

- Valuation interest rate — 8.00%
- General Accounts Growth — 8.00%
- Variable Account Growth — 8.50%
- Wage growth assumption — 3.75%
- Wage growth experience — inflation + 1.25%
- Demographic experience — reflects decrement assumptions as described in the 2008 Valuation Report.

Reserve Projections

Contingency Reserve as of 12/31/2008 is \$653.2M. No future increases or decreases from this reserve were assumed.

Capital Preservation Reserve was assumed to be \$0 throughout the projection period.

Tier 1 Rate Guarantee Reserve ("T1RGR") is a deficit of \$0.98B as of 12/31/2008. The reserve was assumed to grow with returns in excess of 8% on Tier 1 Member Accounts plus T1RGR. When aggregate returns were below 8%, applicable amounts from the T1RGR were transferred to the Tier 1 Member Accounts to maintain the 8% target growth on the member accounts. No contributions were allocated to the T1 RGR and the 5-year call on a deficit was not modeled.

Provisions

Provisions valued are as detailed in the 2008 Valuation Report.

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MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN