OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING

Friday January 29, 2016 1:00 P.M.		PERS 11410 SW 68th Parkway Tigard, OR
	ITEM	**PRESENTER**
A.	**Administration**	
1.	Board Governance Assignments	THOMAS
2.	November 20, 2015 Board Meeting Minutes	RODEMAN
	Director’s Report	
	a. Forward-Looking Calendar	
	b. OIC Investment Report	SKJERVEM
	c. Budget Execution Report	
B.	**Administrative Rulemaking**	
1.	Notice of Disability Eligibility Determinations Rules	VAUGHN
2.	Adoption of Disability Definitions Rules	
3.	Adoption of Medical Records Reimbursement Rule	
4.	Adoption of OAR Public Notice Rule	
C.	**Action and Discussion Items**	
1.	Strategic Plan Update	BROWN
2.	*Moro* Implementation Project Update	ELLEDGE-RHODES
3.	Legislative Update	TAYLOR
4.	Preliminary 2015 Earnings Crediting and Reserving	DUNN

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http://www.oregon.gov/PERS/

2016 Meetings: · March 28* May 27 July 29* September 30· November 18* * Audit Committee

SL1

PERS Board Governance Assignments

Proposed for 2016

Stephen Buckley	Audit Committee
Lawrence Furnstahl	Legislative Advisory Committee
Krystal Gema	Audit Committee (Chair)
John Thomas	Board Chair Audit Committee
Pat West	Board Vice-Chair Legislative Advisory Committee Retiree Health Insurance Advisory Committee

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM
BOARD MEETING MINUTES

November 20, 2015

Board members present:

Chair John Thomas, Stephen Buckley, Lawrence Furnstahl, and Vice-Chair Pat West.

Staff present:

Linda Barnett, David Crosley, Mary Dunn, Yvette Elledge-Rhodes, Brian Harrington, Rick Howitt, Jessica Johnson, Jordan Masanga, Beth Porter, Daniel Rivas, Steve Rodeman, Jason Stanley, Marjorie Taylor, Stephanie Vaughn, Anne Marie Vu, Dale Wakabayashi, Joli Whitney, and Yong Yang

Others present:

Nate Carter, Stacy Cowan, Josh Eggleston, Janice Essenberg, Greg Hartman, Matt Larrabee, Elizabeth McCann, Jay Osborne, Megan Phelan, Scott Preppernau, Del Stevens, Deborah Tremblay, Scott Winkles, and Peter Wong

Chair John Thomas called the meeting to order at 1:00 P.M.

ADMINISTRATION

A.1. BOARD MEETING MINUTES OF SEPTEMBER 25, 2015

Board Member Furnstahl moved and Board member West seconded approval of the minutes submitted from the September 25, 2015 Board meeting. The motion passed unanimously.

A.2.a. WELCOME NEW BOARD MEMBER

Executive Director Steve Rodeman welcomed new Board member Stephen Buckley to the Board. He was appointed as an independent member to the Board in September.

A.2.b. DIRECTOR'S REPORT

Rodeman reviewed the 2015-16 Forward Looking Calendar. Rodeman presented the Oregon Investment Council (OIC) Investment Report of the Oregon Public Employees Retirement Fund (OPERF) for the period ending October 31, 2015. There was a slight uptick in regular returns near the end of October.

Rodeman also presented the November 2015 Budget Execution Report. Given the current point of the budget cycle, in the report the budget looks overspent, but this is because we have not received our 2017-19 budget packages. Rodeman gave a brief explanation of the budget process. A final report on 2013-15 expenditures will be submitted for the January 2016 Board meeting.

Strategic and Operational Planning Manager Paul Brown presented the Board Scorecard Report on Agency Performance Measures. Brown briefly reviewed the agency's process of review for these measures. Some highlights of the report include: over 90% of written benefit estimates are completed within 30 days of receipt, and; wait times just over 3 minutes for callers to reach a live person in the Member Information Center. One area that is not performing up to standards, or in the "red" category, is system up time. We have several system batch processing jobs which are long running. Often the system is taken offline earlier than usual, in an abundance of caution, to accommodate those jobs. This will continue to be an issue. We have submitted policy option packages for the funding necessary to upgrade the system in the ways which will remedy this issue, but those packages have not been approved by the legislature.

ADMINSTRATIVE RULEMAKING

Policy, Analysis, and Compliance Section Manager Stephanie Vaughn presented.

B.1. NOTICE OF DISABILITY DEFINITIONS RULES

Vaughn presented the notice of rulemaking for the Disability Definitions Rules, OAR 459-015-0001; and -076-0001. These rules are being amended to clarify definitions in our Disability rules. A rulemaking hearing will be held at PERS Headquarters December 15, 2015. The public comment period ends December 29, 2015. No Board action was required. Chair Thomas asked a clarifying question.

B.2. NOTICE OF MEDICAL RECORDS REIMBURSEMENT RULE

Vaughn presented the notice of rulemaking for the Medical Records Reimbursement rule, OAR 459-005-0605. The proposed rule amendment will establish a reimbursement schedule for providing medical records. A rulemaking hearing will be held December 15, 2015. The public comment period ends December 29, 2015. No Board action was required.

B.3. NOTICE OF OAR PUBLIC NOTICE RULE

Vaughn presented the notice of rulemaking for OAR Public Notice Rule, OAR 459-001-0000. The proposed rule amendments will clarify the rulemaking notice procedure. A rulemaking hearing will be held December 15, 2015. The public comment period ends December 29, 2015. No Board action was required.

B.4. ADOPTION OF 2015 LEGISLATION RULES

Vaughn presented the revised rules to implement 2015 legislation: OAR 459-005-0001, -0310, -0350; -011-0500; and -080-150 for adoption. A rulemaking hearing was held October 27, 2015. The public comment period ended on November 2, 2015. There were no public comments received and no one attended the public hearing. The changes are necessary to bring these rules in line with changes or additions to statue made by the 2015 legislature. West clarified that sick time and sick leave are not the same thing.

Furnstahl moved to adopt modifications to the 2015 Legislation rules as presented. Buckley seconded. The motion passed unanimously.

B.5. ADOPTION OF PARTIAL YEAR FOR ACADEMIC EMPLOYEES RULE

Vaughn presented the revised Partial Year rule: OAR 459-010-0012, for adoption. A rulemaking hearing was held October 27, 2015. The public comment period ended November 2, 2015. No members of the public attended the hearings and no public comments were received. The modifications will clarify partial year rules for Tier One and Tier Two academic employees of community colleges.

West moved to adopt modifications to the partial year rule as presented. Furnstahl seconded. The motion passed unanimously.

B.6. ADOPTION OF RETIREMENT BENEFITS RULE

Vaughn presented the revised retirement benefits rules: OAR 459-013-0060, and -0310. A rulemaking hearing was held October 27, 2015. The public comment period ended November 2,

2015. No members of the public attended the hearing and no public comments were received. The rule changes clarify administration of tax remedy payments for recipients who file partial year tax residency and clarifies the administration of retirement benefit electronic payments on certain calendar dates such as the 1st of January. Since notice, the rules have been modified to add a section that clarifies that PERS will reverse a tax remedy benefit increase and seek repayment if fraud is discovered.

Furnstahl moved to adopt modifications to the retirement benefit rules as presented. West seconded. The motion passed unanimously.

ACTION AND DISCUSSION ITEMS

C.1. MORO IMPLEMENTATION PROJECT UPDATE

Mary Dunn of the Financial and Administrative Services Division presented an update on the status of the *Moro* project. To date, 115,919 accounts were adjusted for the restored cost-of-living adjustment (COLA) and $62.5 million was distributed for prior, unpaid COLA. These distributions were charged to the Contingency Reserve.

The remaining population affected by the *Moro* decision consists of approximately 16,500 accounts. Of these, approximately 7,652 will receive invoices as their total retroactive COLA owed is not enough to offset the supplementary payment or pro-rated COLA they should have received. This population was originally scheduled to be paid or adjusted in January, but this has now been pushed out to February and March to accommodate several year-end processes which also update data used for *Moro* adjustments.

Rodeman added that we will still consider waiving invoices under $50, but this population still needs to be reviewed.

Thomas asked if we have any idea how many staff hours have been necessary to compute this information. Rodeman said that they are being tracked, but as we get to the more complicated blended rates, the hours will increase considerably.

West thanked staff, including the Executive Director. He added that from a retired member's perspective this has been addressed quickly and efficiently.

C.2. LEGISLATIVE ADVISORY COMMITTEE APPOINTMENTS

Marjorie Taylor, Senior Policy Director, presented recommended appointments for the Legislative Advisory Committee (LAC). ORS 238.660(10) requires the Board to appoint a committee to advise the Board on legislative proposals for changes to PERS benefits. Staff requests that the Board confirm membership for the LAC for the following people to replace previous members who were no longer available to serve on the committee: Joe Baessler for AFSCME, Stacy Cowan for SEIU and Jared Mason-Gere for OEA. A total of 12 members have been recommended for appointment to the LAC.

Furnstahl moved to approve the recommended appointments. West seconded. The motion passed unanimously.

C.3. 2014 VALUATION UPDATE AND FINANCIAL MODELING RESULTS

Scott Preppernau and Matt Larrabee of Milliman presented the 2014 Valuation Update and Financial Modeling Results.

At the January meeting they will have preliminary year end 2015 investment results.

Thomas adjourned the Board meeting at 2:15 PM.

Respectfully submitted,

Steven Patrick Rodeman
Executive Director

PERS Board Meeting
Forward-Looking Calendar

Monday, March 28, 2016

Adoption of Disability Eligibility Determinations Rules
Final 2015 Earnings Crediting and Reserving
2016 Legislative Session Review and 2017 Proposed Legislative Concepts
Audit Committee Meeting

Friday, May 27, 2016

Board Scorecard Report on Agency Performance Measures
2017-19 Agency Budget Development
2017 Retiree Health Insurance Plan Renewals and Rates
OSGP Advisory Committee Appointments

Friday, July 29, 2016

2015-17 Agency Request Budget
2015 System-wide Valuation Results
Audit Committee Meeting

Wednesday, August 3, 2016 (Tentative)

Joint meeting with Oregon Investment Council

Friday, September 30, 2016

Customer Service Survey Results
2017-19 Employer Rate Adoption

Friday, November 18, 2016

Approval to File 2017 Final Legislative Concepts
Board Scorecard Report on Agency Performance Measures
Financial Modeling
Audit Committee Meeting

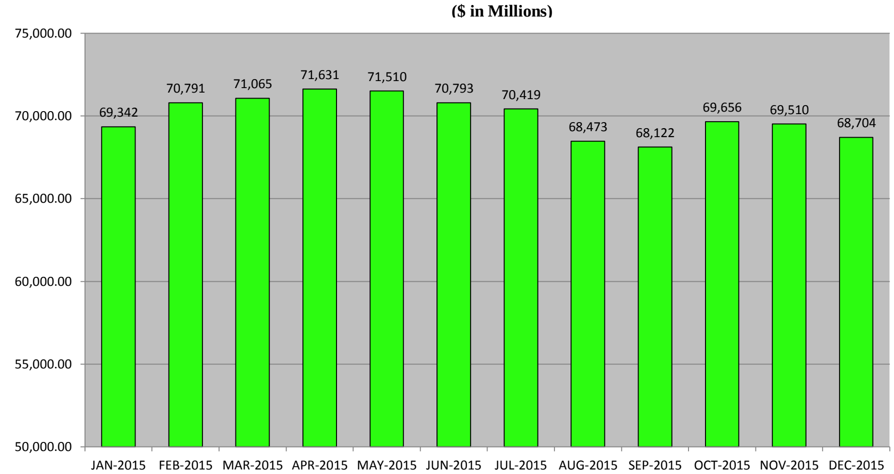
Returns for periods ending DEC-2015 **Oregon Public Employees Retirement Fund**

OPERF	Policy[1]	Target[1]	$ Thousands[2]	Actual	Year-To-Date[3]	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS	7 YEARS	10 YEARS
	Regular Account				Historical Performance (Annual Percentage)							
Public Equity	32.5-42.5%	37.5%	$ 26,336,529	38.7%	(1.75)	(1.75)	0.75	8.74	10.86	6.75	11.89	5.02
Private Equity	13.5-21.5%	17.5%	$ 13,982,582	20.5%	7.79	7.79	11.77	13.23	13.52	13.02	10.83	10.56
Total Equity	**50.0-60.0%**	**55.0%**	**$ 40,319,111**	**59.3%**								
Opportunity Portfolio	0-3%	0%	$ 1,286,288	1.9%	2.14	2.14	5.42	8.52	10.92	8.97	13.14	
Total Fixed	**15-25%**	**20.0%**	**$ 15,634,785**	**23.0%**	0.54	0.54	2.02	1.69	3.79	4.25	8.01	5.54
Real Estate	**9.5-15.5%**	**12.5%**	**$ 8,208,607**	**12.1%**	9.81	9.81	11.96	12.25	12.59	12.96	7.28	7.08
Alternative Investments	**0-12.5%**	**12.5%**	**$ 2,299,979**	**3.4%**	(4.32)	(4.32)	(0.03)	1.94	1.24			
Cash w/Overlay	**0-3%**	**0%**	**$ 299,979**	**0.4%**	0.50	0.50	0.51	0.56	0.83	0.69	0.95	1.82
TOTAL OPERF Regular Account		**100.0%**	**$ 68,048,749**	**100.0%**	2.11	2.11	4.67	8.19	9.68	8.15	10.32	6.27
OPERF Policy Benchmark					1.57	1.57	4.85	8.32	10.33	8.35	9.77	6.50
Value Added					0.55	0.55	(0.18)	(0.13)	(0.64)	(0.20)	0.55	(0.23)
TOTAL OPERF Variable Account			**$ 655,619**		(1.79)	(1.79)	1.15	8.17	10.31	6.49	11.38	3.74

Asset Class Benchmarks:

	Year-To-Date	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS	7 YEARS	10 YEARS
Russell 3000	0.48	0.48	6.35	14.74	15.15	12.18	15.04	7.35
OREGON MSCI ACWI EX US IMI NET	(4.60)	(4.60)	(4.25)	2.02	5.59	1.27	8.09	3.37
MSCI ACWI IMI NET	(2.19)	(2.19)	0.78	7.86	9.93	6.11	11.17	4.98
RUSSELL 3000+300 BPS QTR LAG	2.49	2.49	11.47	15.87	20.16	16.64	13.62	10.50
OREGON CUSTOM FI BENCHMARK	0.16	0.16	1.59	1.15	2.97	3.44	4.53	4.58
NCREIF Property Index QTR LAG	13.48	13.48	12.36	11.91	11.68	12.55	5.85	8.02
91 Day Treasury Bill	0.05	0.05	0.04	0.05	0.07	0.07	0.10	1.26

Total OPEF NAV
(includes Variable Fund assest)
One year ending DEC-2015
($ in Millions)



[1] OIC Policy revised June 2015.

[2] Includes impact of cash overlay management.

[3] For mandates beginning after January 1 (or with lagged performance), YTD numbers are "N/A". Performance is reflected in Total OPERF. YTD is not annualized.

Returns & Price Levels

Annualized Return[1]	1-Year	3-Year	5-Year	7-Year	10-Year
Russell 3000	0.48%	14.74%	12.18%	15.04%	7.35%
S&P 500	1.38%	15.13%	12.57%	14.81%	7.31%
Russell 2000	-4.41%	11.65%	9.19%	14.01%	6.80%
Russell 1000 Growth	5.67%	16.83%	13.53%	17.11%	8.53%
Russell 1000 Value	-3.83%	13.08%	11.27%	13.04%	6.16%
MSCI ACWI ex-U.S. IMI	-4.60%	2.02%	1.27%	8.09%	3.18%
MSCI World ex-U.S.	-3.04%	3.93%	2.79%	7.61%	2.92%
MSCI Emerging Markets	-14.92%	-6.76%	-4.81%	7.50%	3.61%
Barclays Aggregate	0.55%	1.44%	3.25%	4.09%	4.51%
OPERF	**2.11%**	**8.19%**	**8.15%**	**10.32%**	**6.27%**
Ranking[2]	**11**	**28**	**11**	**26**	**16**

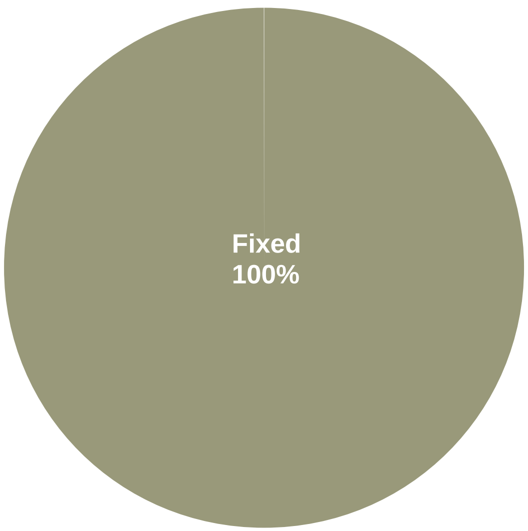
Levels[1]	2015	2014	2013	2012	2011
Yield, U.S. 10-Year Treasury	2.27%	2.17%	3.03%	1.76%	1.88%
Yield, U.S. 2-Year Treasury	1.05%	0.67%	0.38%	0.25%	0.24%
Fed Funds Rate Target	0.25% -- 0.50%	0.00% -- 0.25%	0.00% -- 0.25%	0.00% -- 0.25%	0.00% -- 0.25%
Gold ($/oz)	$1,061	$1,184	$1,202	$1,675	$1,565
Euro ($/€)	1.09	1.21	1.37	1.32	1.30
Yen (¥/$)	120.22	119.78	105.31	86.75	76.91
Oil (WTI $/Barrel)	37.04	53.27	98.42	91.82	98.83

- [1] Bloomberg for index returns & levels
- [2] Percentile ranking in Callan's >$10B AUM public fund peer cohort

Increasing Volatility and Complexity

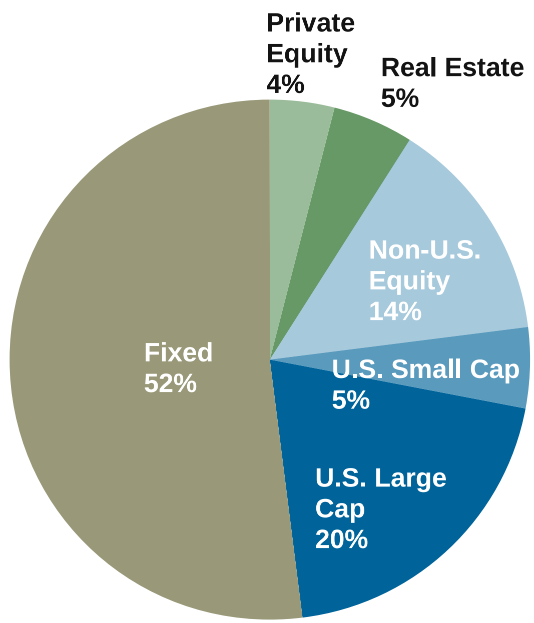
Expected Portfolio Returns Over Past 20 Years

Increasing Complexity →



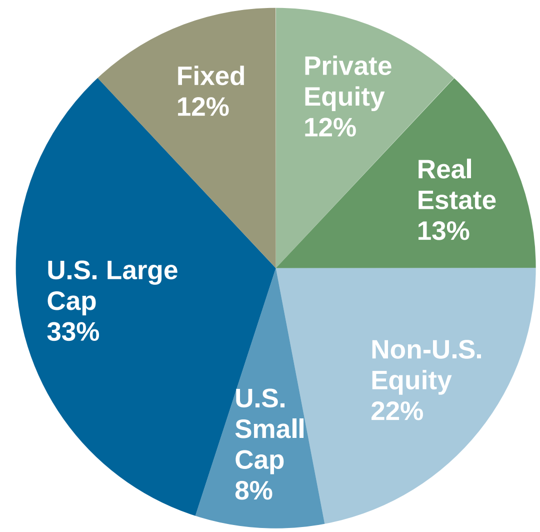
1995

Expected Return: 7.5%
Standard Deviation: 6.0%



2005

Expected Return: 7.5%
Standard Deviation: 8.9%



2015

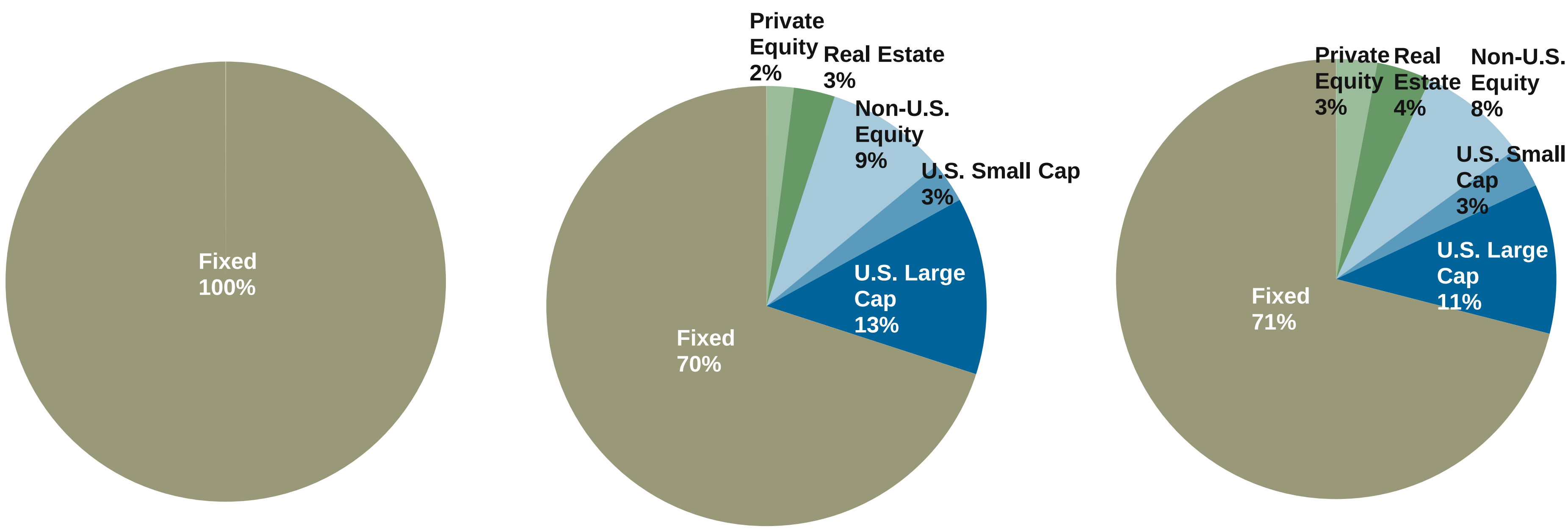
Expected Return: 7.5%
Standard Deviation: 17.2%

Constant Return, Increasing Risk →

Increasing Volatility and Complexity

Expected Portfolio Risk Over Past 20 Years

Increasing Complexity



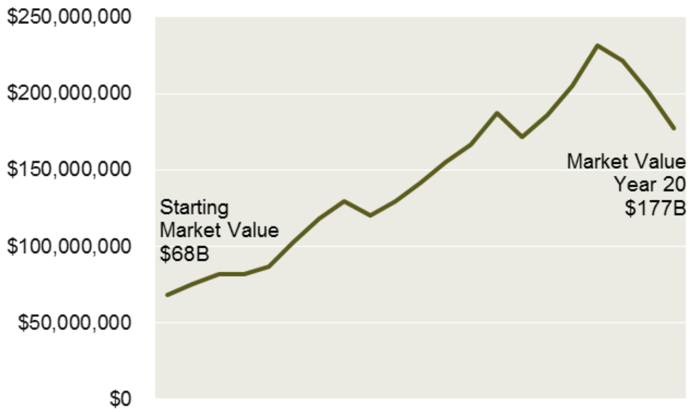
1995	2005	2015
Expected Return: 7.5%	Expected Return: 6.5%	Expected Return: 4.8%
Standard Deviation: 6.0%	Standard Deviation: 6.0%	Standard Deviation: 6.0%

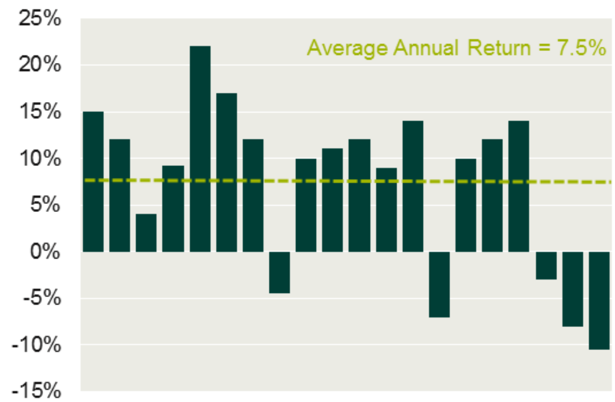
Constant Risk, Decreasing Return

Sequence of Returns Matters (a lot!)

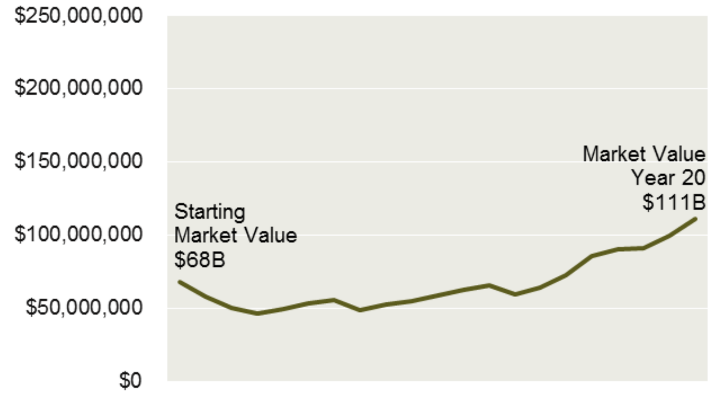
Terminal value 20 years hence depends on 1) beginning value, 2) average realized return, 3) net contributions/withdrawals and the precise sequence of actual, annual investment returns. In this hypothetical example, two funds with identical beginning values ($68B), average returns (7.5%) and net contributions/withdrawals (-$2.8B/year) have dramatically different 20-year terminal value outcomes due entirely to differences in the realized sequence of actual returns.

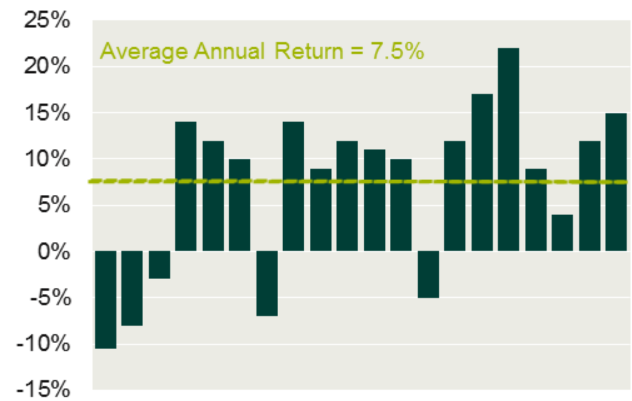
Fund A





Fund B





Source: W. Van Harlow, the Putnam Institute, New York Times.

Oregon

Kate Brown, Governor

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January 29, 2016

TO: Members of the PERS Board

FROM: Linda M. Barnett, Budget Officer

SUBJECT: January 2016 Budget Execution Report

2015-17 OPERATIONS BUDGET

Operating expenditures for November 2015 and preliminary expenditures for December 2015 were $3,293,533 and $3,348,149, respectively. Final expenditures for December will close in the Statewide Financial Management System (SFMS) on January 15, 2016, and will be included in the March 2016 report to the Board.

To date, through the first six months (or 25.0%) of the 2015-17 biennium, the agency has expended a total of $20,708,961, or 22.06% of PERS' legislatively approved operations budget of $93,871,154. As of December 2015, PERS was awaiting approval from the Legislative Fiscal Office to request the rescheduling of $3,320,599 to do the following:

§ $1,514,399 Pkg. 102 – to complete Phase III of a project to transfer administration of the Individual Account Program from a third-party administrator to PERS. On January 15, 2016 $430,000 was rescheduled to avoid a project shutdown and to allow the program to operate through the third quarter of the 2015-17 biennium, whereupon legislative decisions may be made about the project's status and supplemental budget request. Outcomes of the 2016 session will also determine the scheduling of any remaining project funds.

§ $1,581,200 Pkg. 105 – to further develop the agency's Disaster Recovery and Business Continuity technology infrastructure in support of the Oregon Retirement Information Online Network (ORION).

§ $225,000 Pkg. 840 – to implement SB 370; this established a new benefit that allows an ex-spouse of an Oregon Public Service Retirement Plan (OPSRP) member to receive a death benefit if the member, who is vested, dies pre-retirement.

The current projected negative variance is ($1,260,426) due to the method in which the Operations budget expenditure limitation was developed. The legislatively adopted budget did not include anticipated COLA or merit increases because the collective bargaining agreements were not ratified at that time. PERS anticipates an increase in expenditure limitation in the range from $2.7 to $3.2 million when the Department of Administrative Services goes before the 2016 February legislative session or subsequent Emergency Board and requests that agencies' budgets be increased to cover COLA and merit increases.

2013-15 OPERATIONS BUDGET

The 2013-15 Operations budget closed in the Statewide Financial Management System (SFMS) on December 31, 2015. PERS expended a total of $79,182,484, or 93.35% of its legislatively approved Operations budget of $84,820,034 resulting in a positive variance of $5,637,550.

SENATE BILLS 822 and 861 BUDGETS

These separate budget limitations were approved by the Legislature in 2013 and 2014 for administrative costs to implement the COLA modifications for 2013 and beyond; remove tax remedy benefits for recipients who do not pay Oregon income taxes because they do not reside in Oregon; implement the six-year supplementary payments program; and recalculate employer contribution rates effective July 1, 2013. Funding was also provided for necessary technology enhancements, additional call center agents, and Attorney General expenses.

These budgets also closed in the SFMS on December 31, 2015. PERS expended a cumulative total of $1,445,829, or 71.2% of the cumulative legislatively approved budget of $2,031,096, resulting in a cumulative positive variance of $585,267.

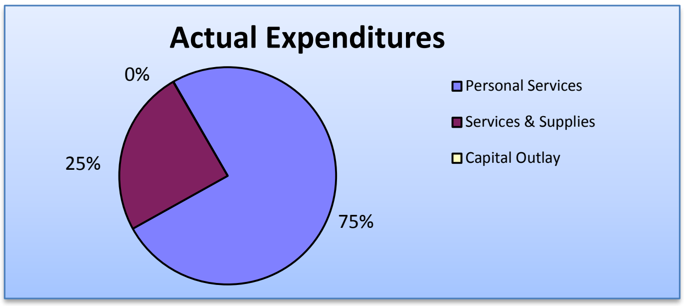
A.2.c. Attachment 1 – 2015-17 Agency-wide Budget Execution Summary Analysis

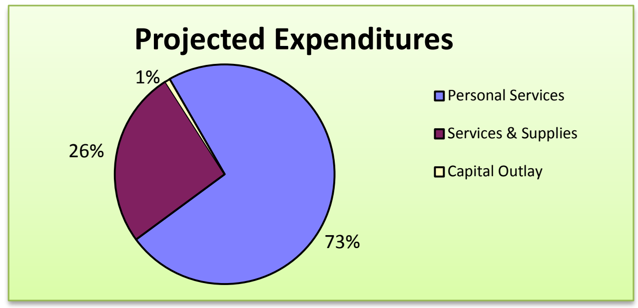
2015-17 Agency-wide Budget Execution
Summary Budget Analysis
Preliminary For the Month of: December 2015

Limited - Operating Budget

2015-17 Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expenditures	2015-17 LAB	Variance
Personal Services	15,586,377	52,057,765	67,644,142	66,020,903	(1,623,239)
Services & Supplies	5,112,714	18,523,238	23,635,952	23,933,845	297,893
Capital Outlay	9,870	521,017	530,887	595,807	64,920
Unscheduled	0	3,320,599	3,320,599	3,320,599	0
Total	**20,708,961**	**74,422,619**	**95,131,580**	**93,871,154**	**(1,260,426)**





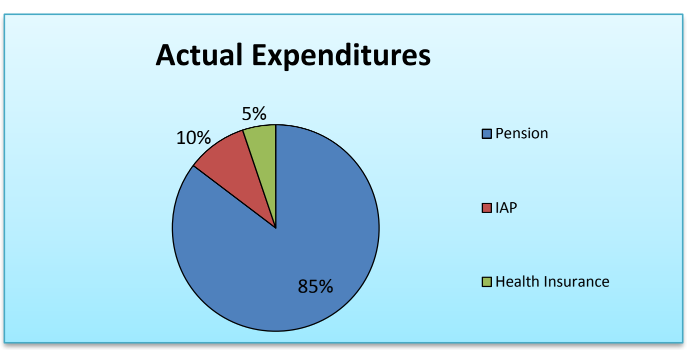
Monthly Summary

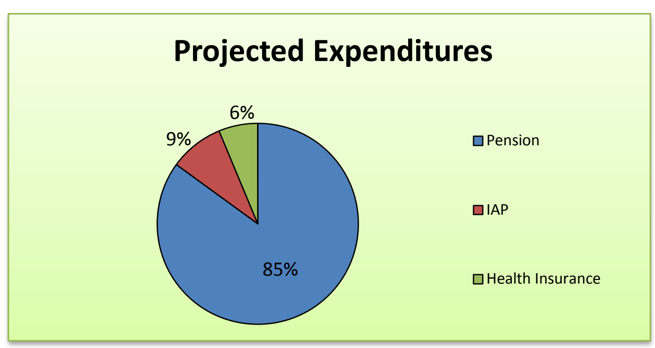
Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Monthly Projected Exp.
Personal Services	2,668,850	2,821,115	152,265	2,597,729	8,676,294
Services & Supplies	679,299	1,135,452	456,153	852,119	3,087,206
Capital Outlay	0	0	0	1,645	86,836
Total	**3,348,149**	**3,956,567**	**608,418**	**3,451,493**	**11,850,336**

Non-Limited Budget

2015-17 Biennial Summary

Programs	Actual Exp To Date	Projected Expenditures	Total Est. Expenditures	Non-Limited LAB	Variance
Pension	1,803,839,217	6,179,721,959	7,983,561,176	8,291,874,726	308,313,550
IAP	200,403,951	632,484,807	832,888,758	873,488,891	40,600,133
Health Insurance	109,764,391	455,966,474	565,730,865	558,094,445	(7,636,420)
Total	**2,114,007,559**	**7,268,173,240**	**9,382,180,799**	**9,723,458,062**	**341,277,263**





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January 29, 2016

TO: Members of the PERS Board

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

SUBJECT: Notice of Rulemaking for Disability Eligibility Determinations Rules:
OAR 459-015-0010, *Criteria for Granting and Denying Disability Retirement Allowances (Tier One & Tier Two)*
OAR 459-015-0050, *Periodic Reviews (Tier One & Tier Two)*
OAR 459-076-0010, *Criteria for Granting and Denying Disability Benefits (OPSRP)*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Clarify the criteria for disability eligibility determinations.
- Policy Issue: No policy issues have been identified at this time.

BACKGROUND

To be eligible for a PERS disability benefit, a member has to be totally disabled and unable to perform any work for which qualified. When an individual receives unemployment benefits, they certify each week that they are able to work and are actively seeking work. For a member who is receiving unemployment benefits and applies for disability, this weekly certification for unemployment benefits is in direct contradiction to the disability requirement that the member be totally disabled and unable to perform any work for which qualified.

The rule modifications incorporate the recent decision in the *Drake* case, in which the Court of Appeals upheld the Board's Final Order that the member was not eligible for a disability retirement while receiving unemployment benefits. The court agreed that a member's receipt of unemployment benefits is substantial evidence that the member is not disabled. PERS will still perform a full medical review in making a final determination on disability eligibility, but will also continue working with the Employment Department in the event a member is determined to be totally disabled and continues to receive unemployment benefits.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held February 23, 2016, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends March 1, 2016, 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: No.

Impact: Establish additional criteria for disability eligibility determinations.

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

RULEMAKING TIMELINE

January 15, 2016	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
January 29, 2016	PERS Board notified that staff began the rulemaking process.
February 1, 2016	*Oregon Bulletin* publishes the Notice. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
February 23, 2016	Rulemaking hearing to be held at 2:00 p.m. at PERS in Tigard.
March 1, 2016	Public comment period ends at 5:00 p.m.
March 28, 2016	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A rulemaking hearing will be held February 23, 2016, at 2:00 p.m. at PERS headquarters in Tigard. The rule is scheduled to be brought before the PERS Board for adoption at the March 28, 2016 Board meeting.

B.1. Attachment 1 – OAR 459-015-0010, *Criteria for Granting and Denying Disability Retirement Allowances*
B.1. Attachment 2 – OAR 459-015-0050, *Periodic Reviews*
B.1. Attachment 3 – OAR 459-076-0010, *Criteria for Granting and Denying Disability Benefits*

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 015 – DISABILITY RETIREMENT ALLOWANCES

459-015-0010

Criteria for Granting and Denying Disability Retirement Allowances

(1) Medical documentation is required by PERS. Each disability retirement applicant shall supply any treating or consulting physician's examination report or other medical information requested by PERS. PERS may base its determination on either a treating or consulting physician's medical examination report or have the applicant examined by one or more physicians selected by PERS, or both.

(2) All claims of a disability must be supported by at least one physician's report, resulting from a physical examination, documenting how the injury or disease incapacitates the member.

(3) In addition, a disability retirement applicant shall be required to furnish the following:

(a) For claims of mental or emotional disorder, at least one report of examination by a psychiatrist or at least one report of evaluation by a psychologist when accompanied by a report of physical examination by a treating or consulting physician;

(b) For claims of orthopedic injury or disease, at least one report of a treating or consulting orthopedic specialist;

(c) For claims of neurological or neurosurgical injury or disease, at least one report of a treating or consulting neurologist or neurosurgeon;

(d) For claims of fibromyalgia, at least one report of a treating or consulting rheumatologist; and

(e) Any other specialized physician's report that PERS deems necessary.

(4) To demonstrate that he or she is unable to perform any work for which qualified, as defined in OAR 459-015-0001(1), the applicant shall document how the injury or disease incapacitates the applicant. The standard is subjective (that is, whether the applicant is actually incapacitated) not objective (that is, whether a "normal" member would have been incapacitated by the same events).

(a) In determining what work for which a member is qualified, the following factors shall be considered:

(A) Previous employment experience;

(B) Formal education;

(C) Formal training;

(D) Transferable skills;

(E) Age; and

(F) Physical or mental impairment.

(b) In determining what work for which a member is qualified, PERS may request, at PERS' expense, a vocational evaluation be done by a vocational consultant who is fully certified as set forth in OAR 459-015-0001(2).

(c) The inability of the applicant to perform the duties of his or her last job, in itself, does not satisfy the criterion.

(5) When there is a dispute among medical experts, more weight will be given to those medical opinions that are both well-reasoned and based on complete information.

(6) The Board may deny any application or discontinue any disability retirement allowance if an applicant:

(a) Refuses to submit to an independent medical or vocational examination; or

(b) Refuses to submit to any medical examination or supply a completed application or review form.

(7) Receipt of weekly unemployment insurance payments attributable to PERS covered employment after the date of disability is substantial evidence that the member is able, available, actively seeking and willing to accept suitable employment and is not totally and continuously disabled.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.320 & 238.335

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 015 – DISABILITY RETIREMENT ALLOWANCES

459-015-0050

Periodic Reviews

(1) Members receiving a disability retirement allowance are subject to periodic reviews of their disabled status until the member reaches normal retirement age or staff determines that periodic reviews are no longer warranted.

(2) Periodic reviews will be used to determine that continued disability retirement allowances are warranted. In recommending the continuance or discontinuance of a disability retirement allowance, PERS will follow the criteria established under OAR 459-015-0005 for the original approved disabling condition or a new medical condition. PERS will also consider the Return to Work provisions of ORS 238.330(3), 238.340, and OAR 459-015-0045.

(3) For duty disability, the periodic review will not revisit the original determination that the injury or disease was duty caused, unless there is evidence of misrepresentation or fraud.

(4) PERS will establish review dates for each member subject to a periodic review depending on type of disability, extent of disability, and medical reports unique to each individual case.

(a) The reviews may be medical or vocational in nature, or both.

(b) Upon review, PERS may accept or require:

(A) New treating or consulting physician or specialist reports;

(B) Updated physician or specialist reports;

(C) Independent medical or vocational examinations; or

(D) Employment and wage information, including but not limited to, tax returns or information from the State Employment Department. **Receipt of weekly unemployment insurance payments attributable to PERS covered employment after the date of disability is substantial evidence that the member is able, available, actively seeking and willing to accept suitable employment and is not totally and continuously disabled.**

(c) PERS may immediately discontinue the disability retirement allowance of any person who refuses to provide current medical evidence or refuses to submit to an examination.

(A) If the disability claim is discontinued, the staff shall issue an Intent to Discontinue letter by regular and certified mail, return receipt requested. The discontinuation letter shall advise the applicant that additional information to substantiate the claim, or a request for an extension of 30 days to present additional information, may be submitted to the staff in writing within 30 days of the date of the Intent to Discontinue letter.

(B) Following the issuance of an Intent to Discontinue letter, staff will review any additional information which is submitted within 30 days.

(i) If the additional information results in a recommendation to approve the application, staff shall resubmit the application to the Director, or the Director's designee, with the recommendation.

(ii) If the additional information does not result in a recommendation to approve the application, PERS will issue a final discontinuation letter by regular and certified mail, return receipt requested.

(C) If no additional information is received within 30 days, PERS will issue a final discontinuation letter by regular and certified mail, return receipt requested.

(D) The final discontinuation letter will provide the applicant with notification of the right to request a contested case hearing as provided for in OAR 459-015-0030 and 459-001-0035.

(5) The member has the burden to prove continuing eligibility for a disability retirement allowance.

(6) The Director, or the Director's designee, may approve or deny the continuance of a disability retirement allowance.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.320 & 238.335

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 076 – OPSRP DISABILITY BENEFIT

459-076-0010

Criteria for Granting and Denying Disability Benefits

(1) Medical documentation is required by PERS. Each disability benefit applicant shall supply any treating or consulting physician's examination report or other medical information requested by PERS. PERS may base its determination on either a treating or consulting physician's medical examination report or have the applicant examined by one or more physicians selected by PERS, or both.

(2) All claims of a disability must be supported by at least one physician's report, resulting from a physical examination, documenting how the injury or disease incapacitates the member.

(3) In addition, a disability benefit applicant shall be required to furnish the following:

(a) For claims of mental or emotional disorder, at least one report of examination by a psychiatrist or at least one report of evaluation by a psychologist when accompanied by a report of physical examination by a treating or consulting physician;

(b) For claims of orthopedic injury or disease, at least one report of a treating or consulting orthopedic specialist;

(c) For claims of neurological or neurosurgical injury or disease, at least one report of a treating or consulting neurologist or neurosurgeon;

(d) For claims of fibromyalgia, at least one report of a treating or consulting rheumatologist; and

(e) Any other specialized physician's report PERS deems necessary.

(4) To demonstrate that he or she is unable to perform any work for which qualified, as defined in OAR 459-076-0001(1), the applicant shall document how the injury or disease incapacitates the applicant. The standard is subjective (that is, whether the applicant is actually incapacitated) not objective (that is, whether a "normal" member would have been incapacitated by the same events).

(a) In determining what work for which a member is qualified, the following factors shall be considered:

(A) Previous employment experience;

(B) Formal education;

(C) Formal training;

(D) Transferable skills;

(E) Age; and

(F) Physical or mental impairment.

(b) In determining what work for which a member is qualified, PERS may request, at PERS' expense, a vocational evaluation be done by a vocational consultant who is fully certified as set forth in OAR 459-076-0001(2).

(c) The inability of the applicant to perform the duties of his or her last job, in itself, does not satisfy the criterion.

(5) When there is a dispute among medical experts, more weight will be given to those medical opinions that are both well-reasoned and based on complete information.

(6) The Board may deny any application or discontinue any disability benefit if an applicant:

(a) Refuses to submit to an independent medical or vocational examination; or

(b) Refuses to submit to any medical examination or supply a completed application or review form.

(7) Receipt of weekly unemployment insurance payments attributable to PERS covered employment after the date of disability is substantial evidence that the member is able, available, actively seeking and willing to accept suitable employment and is not totally and continuously disabled.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.235

Oregon

Kate Brown, Governor

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January 29, 2016

TO: Members of the PERS Board

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

SUBJECT: Adoption of Disability Definitions Rules:
OAR 459-015-0001, *Definitions (Tier One/Tier Two)*
OAR 459-076-0001, *Definitions (OPSRP)*

OVERVIEW

- Action: Adopt modifications to the Disability Definitions rules.
- Reason: Clarify definitions in our Disability rules.
- Policy Issue: No policy issues were identified.

BACKGROUND

PERS relies on physician statements and medical records in determining a member's eligibility for disability benefits. Currently, the definition of "physician" includes specialists who hold a doctorate rather than a degree in medicine. The modifications to the rules clarify that the definition of "physician" means a doctor with a degree in medicine and who is properly licensed to practice medicine, and who may also have other qualifications that fit within the various specialist categories, to clarify that a degree in medicine is a threshold qualification to be considered as a "physician." We have also added a definition for "orthopedic specialist," which is a term used in other administrative rules but was previously undefined.

SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

The term "Orthopedic specialist physician" was changed to "Orthopedic specialist." No other changes were made to the rule.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held December 15, 2015, at 2:00 p.m. at PERS headquarters in Tigard. No members of the public provided comment on the rules. The public comment period ended December 29, 2015, at 5:00 p.m. One public comment was received.

PERS received a letter dated December 17, 2015, from Nelson Hall on behalf of the PERS Coalition. A copy of his letter is included as Attachment 3. The PERS Coalition opposes the proposed amendments and states that they are unnecessary and unjustified, create substantial costs that burden the member, and do not clarify but rather complicate claims for members.

Mr. Hall states the proposed amendments reflect a substantial policy shift whereby chiropractic doctors, naturopathic doctors, and doctors of psychology would be excluded altogether and there is a discrete cost that will require the member to change physicians or involve additional physicians in the management of treatment. A member may abandon their claims because the member cannot bear the costs.

Mr. Hall noted that PERS offered no justification for rewriting the definition and the change does not reflect the "modern practice and provision of medical care whereby patients utilize naturopathic and chiropractic physicians and psychologists….The proposed changes reflect an institutional bias, without justification for the bias, that only 'medical doctors' (MD) are qualified to render expert opinions." He also states, "the PERS rules for determining disability are already burdensome and are already at odds with the practice of medicine and provision of health care by requiring disability claims to be established only through specialized physicians…." Mr. Hall further argues that "statute places no requirements or limitations on the licenses, credentials, or scope of practice of the experts a member may rely upon for establishing a mental or physical disability."

PERS staff maintains that no policy or practice will be changed by the amendments to these disability rules. PERS will still request, review, and consider records from naturopaths, chiropractors, and psychologists as it does now. And, the weight they are provided in determinations will not change. PERS outlines the medical specialist requirements for specific conditions in OAR 459-010-0010(3) and 459-076-0010(3); these requirements will not change. The amendment clarifying the definition of physician resolves potential confusion in both these other OARs. Both rules require:

(a) For claims of mental or emotional disorder, at least one report of examination by a psychiatrist or at least one report of evaluation by a psychologist when accompanied by a report of physical examination by a treating or consulting physician;

Under the current definition of physician, one might conclude that a report of evaluation from two psychologists may satisfy the requirement, or a report from a psychologist accompanied by a report of a chiropractor may satisfy the requirement for a mental or emotional disorder. Currently, such combinations of reports do not satisfy the specialist requirement for mental or emotional disorders and the amendment to the definition of physician clarifies PERS' current practice in this regard. The requirements have not changed.

These amendments do not prevent or prohibit a member from consulting with a professional chiropractor, naturopath, or psychologist. These health care provider medical records will continue to provide important information regarding the physical and mental health of the member.

The requirements of a physician or specialist medical reports for disability benefit eligibility and the associated costs remain the same regardless of the change in definition.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Impact: Clarify the definition of physician.

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

RULEMAKING TIMELINE

November 13, 2015	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
November 20, 2015	PERS Board notified that staff began the rulemaking process.
December 1, 2015	*Oregon Bulletin* published the Notice. Notice was sent to employers, legislators, and interested parties. Public comment period began.
December 15, 2015	Rulemaking hearing held at 2:00 p.m. at PERS in Tigard.
December 29, 2015	Public comment period ended at 5:00 p.m.
January 29, 2016	Board may adopt the permanent rule modifications.

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt modifications to the Disability Definitions rules, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

· Reason: Clarify definitions in our Disability rules.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board’s policy direction if the Board determines that a change is warranted.

B.2. Attachment 1 – OAR 459-015-0001, *Definitions (Tier One/Tier Two)*
B.2. Attachment 2 – OAR 459-076-0001, *Definitions (OPSRP)*
B.2. Attachment 3 – Public comment letter from Nelson Hall

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 015 – DISABILITY RETIREMENT ALLOWANCES

459-015-0001

Definitions

The words and phrases used in this division have the same meaning given them in ORS Chapter 238 and OAR 459-005-0001. Additional terms are defined as follows unless the context requires otherwise.

(1) “Any work for which qualified” means a job, not necessarily the last or usual job, which the applicant for a disability retirement allowance:

(a) Is physically and psychologically capable of performing; and

(b) Has, or may obtain with reasonable training the knowledge, skills and abilities, to perform the job.

(2) “Certified vocational consultant” means a person who satisfies the criteria set forth under either of the following:

(a) A Master’s Degree in vocational rehabilitation, and one year of experience in performing vocation evaluations or developing individualized return-to-work plans; or a Bachelor’s Degree and two years of such experience. All degrees must have been earned at an accredited institution; or

(b) Accredited as a Certified Rehabilitation Counselor (CRC) by the Commission on Rehabilitation Counselor Certification; as a Certified Disability Management Specialist (CDMS) by the Certification of Disability Management Specialists Commission; or a Certified Vocational Evaluation Specialist (CVE) or a Certified Work Adjustment Specialist (CWA) by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(3) "Confidential information" means information of a personal nature such that disclosure would constitute an unreasonable invasion of privacy as defined by state law.

(4) "Date an application for disability retirement is filed" means the receipt date as determined pursuant to OAR 459-005-0220.

(5) "Date of disability" means the later of:

(a) The date an active member ceased to work because of inability to perform any work for which qualified due to injury or disease; or

(b) The date an inactive member became unable to perform any work for which qualified provided such inability occurred within six months after the date of separation from service.

(6) "Date of separation from service" means the later of: the last day worked or the last day of paid leave with a PERS participating employer.

(7) "Date of termination" means the date a member terminates from employment such that an employee/employer relationship no longer exists.

(8) "Earned income" means income that includes, but is not limited to:

(a) Salary or wages received as an employee;

(b) Self-employment income from:

(A) Services industry;

(B) Sales;

(C) Assembly or manufacturing;

(D) Consulting;

(E) Property management;

(F) Hobby income; or

(G) Book advances.

(c) "Earned income" does not include:

(A) Investment income;

(B) Rent; and

(C) Royalties.

(d) Earned income is deemed to be received by the member on the date it is issued by the payer.

(9) "Effective date of disability retirement" means the first day of the month following the date of disability in which all of the following has been met:

(a) The member is paid no salary from a participating employer, and

(b) The member does not receive paid leave from a participating employer except for any lump sum payment for accrued vacation leave or compensatory time.

(10) "Extended duration" means a period of not less than 90 consecutive calendar days, unless the disability is expected to result in the death of the disabled member in less than 90 days.

(11) "Granted service" means that portion of creditable service used solely to calculate a disability retirement allowance under ORS 238.320 that is not performed or earned.

(12) "Independent medical exam" means an exam or exams conducted by a physician chosen by PERS for purposes other than treatment which results in the issuance of a report or reports based on those exams, giving an opinion regarding the claimed injury or disease.

(13) "Material contributing cause" means the efficient, dominant, and proximate cause of the disability, without which the member would not be disabled.

(14) “Monthly salary” means “salary” as defined in ORS 238.005 that is earned in the last full calendar month of employment, and includes employer payments under ORS 238A.335 and differential wage payments as defined in OAR 459-005-0001.

(a) Retroactive payments or payments made due to clerical errors, paid in accordance with ORS 238.005, are allocated to the period the salary was earned or should have been earned.

(b) Payments of salary paid within 31 days of separation are allocated to the period the salary was earned and should be considered as paid on the last date of employment.

(15) “Monthly salary received” means the greater of the monthly salary paid for the last full calendar month of:

(a) Employment before the date of disability; or

(b) Differential wage payments made before the date of disability. This subsection is effective January 1, 2009.

(16) “Normal retirement age” means the age at which a member can retire without a reduced benefit as set forth under ORS 238.005 and 238.280.

(17) “Orthopedic specialist,” as used in OAR 459-015-0010(3), means an orthopedist, orthopedic surgeon, or physical medicine and rehabilitation specialist.

(18)*[(17)]* “Performance of duty” means whatever an employee may be directed, required or reasonably expected to do in connection with his or her employment, and not solely the duties particular to his or her position.

(19)*[(18)]* “Periodic review” means a review of a member receiving a disability retirement allowance to determine whether or not a continued allowance is warranted.

(20)*[(19)]* "Physician" means **a person who holds a degree of doctor of medicine, doctor of osteopathy, doctor of podiatric medicine, or***[a medical doctor, a doctor of osteopathy, a]* doctor of oral surgery *[, a chiropractic doctor, a naturopathic doctor, or a doctor of psychology practicing only within the purview of their license issued by the designated authority of a state.]* **and is licensed by law to practice medicine or surgery by the designated authority of any state within the United States of America or the District of Columbia. PERS may accept at its discretion a physician licensed by another country.**

(21)*[(20)]* "Pre-existing condition" means a condition that was not sustained in actual performance of duty in a qualifying position with a participating employer.

(22)*[(21)]* "Protected health information" means health information created or received by a health care provider, health plan, or health care clearinghouse, where an individual has a reasonable belief that the information can identify the individual, which relates to:

(a) The past, present, or future physical or mental health of an individual;

(b) The provision of health care to an individual; or

(c) The past, present, or future payment for the provision of health care to an individual.

(23)*[(22)]* "Similar in compensation" means salary or other earned income, excluding overtime, equaling at least 80% of the monthly salary.

(24)*[(23)]* "Total disability" means the inability to perform any work for which qualified for an extended duration due to physical or mental incapacitation.

(25)*[(24)]* "Training or vocational rehabilitation program" means a comprehensive, coordinated program, usually state or federally funded, to train and assist individuals with disabilities in securing gainful employment commensurate with their abilities and capabilities.

(26)*[(25)]* "Vocational evaluation" means an evaluation conducted by a certified vocational consultant, to determine the ability of an applicant to perform any work for which they are qualified.

(27)*[(26)]* "Work related stress" means conditions or disabilities resulting from, but not limited to:

(a) Change of employment duties;

(b) Conflicts with supervisors;

(c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;

(d) Relationships with supervisors, coworkers, or the public;

(e) Specific or general job dissatisfaction;

(f) Work load pressures;

(g) Subjective perceptions of employment conditions or environment;

(h) Loss of job or demotion for whatever reason;

(i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;

(j) Objective or subjective stresses of employment; or

(k) Personnel decisions.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.320 - 238.345

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 076 – OPSRP DISABILITY BENEFIT

459-076-0001

Definitions

The words and phrases used in this division have the same meaning given them in ORS Chapter 238A and OAR 459-070-0001. Additional terms are defined as follows unless the context requires otherwise.

(1) "Any work for which qualified" means a job, not necessarily the last or usual job, which the applicant for disability benefits:

(a) Is physically and psychologically capable of performing; and

(b) Has, or may obtain with reasonable training, the knowledge, skills and abilities, to perform the job.

(2) "Certified vocational consultant" means a person who satisfies the criteria set forth under either of the following:

(a) A Master's Degree in vocational rehabilitation, and one year of experience in performing vocation evaluations or developing individualized return-to-work plans; or a Bachelor's Degree and two years of such experience. All degrees must have been earned at an accredited institution; or

(b) Accredited as a Certified Rehabilitation Counselor (CRC) by the Commission on Rehabilitation Counselor Certification; as a Certified Disability Management Specialist (CDMS) by the Certification of Disability Management Specialists Commission; or a Certified Vocational Evaluation Specialist (CVE) or a Certified Work Adjustment Specialist (CWA) by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(3) “Confidential information” means information of a personal nature such that disclosure would constitute an unreasonable invasion of privacy as defined by state law.

(4) “Date an application for a disability benefit is filed” means the receipt date as determined pursuant to OAR 459-005-0220.

(5) “Date of disability” means the date an active member ceased to work because of inability to perform any work for which qualified due to injury or disease.

(6) “Date of separation from service” means the later of: the last day worked or the last day of paid leave with a PERS participating employer.

(7) “Date of termination” means the date a member terminates from employment such that an employee/employer relationship no longer exists.

(8) “Earned income” includes, but is not limited to:

(a) Salary or wages received as an employee;

(b) Self-employment income from:

(A) Services industry;

(B) Sales;

(C) Assembly or manufacturing;

(D) Consulting;

(E) Property management;

(F) Hobby income; or

(G) Book advances.

(c) “Earned income” does not include:

(A) Investment income;

(B) Rent; and

(C) Royalties.

(d) Earned income is deemed to be received by the member on the date it is issued by the payer.

(9) “Effective date of disability benefit” means the first day of the month following the date of disability, in which:

(a) The member is paid no salary from a participating employer; and

(b) The member does not receive paid leave from a participating employer, except for any lump sum payment for accrued vacation leave or compensatory time.

(10) “Extended duration” means a period of not less than 90 consecutive calendar days unless the disability is expected to result in the death of the disabled member in less than 90 days.

(11) “Independent medical exam” means an exam or exams conducted by a physician chosen by PERS for purposes other than for treatment which results in the issuance of a report or reports based on those exams, giving an opinion regarding the claimed injury or disease.

(12) “Material contributing cause” means the efficient, dominant, and proximate cause of the disability, without which the member would not be disabled.

(13) “Monthly salary” means salary as defined in ORS 238A.005 that is earned in the last full calendar month of employment and includes a differential wage payment, as defined in OAR 459-005-0001.

(a) Retroactive payments or payments made due to clerical errors, paid in accordance with ORS 238A.005, are allocated to the period the salary was earned or should have been earned.

(b) Payments of salary paid within 31 days of separation are allocated to the period the salary was earned and should be considered as paid on the last date of employment.

(14) “Monthly salary received” means the greater of the salary paid for the last full calendar month of:

(a) Employment before the date of disability; or

(b) Differential wage payments made before the date of disability. This subsection is effective January 1, 2009.

(15) “Orthopedic specialist,” as used in OAR 459-076-0010(3), means an orthopedist, orthopedic surgeon or physical medicine and rehabilitation specialist.

(16)*[(15)]* “Performance of duty” means whatever an employee may be directed, required or reasonably expected to do in connection with his or her employment, and not solely the duties particular to his or her position.

(17)*[(16)]* “Periodic review” means a review of a member receiving a disability benefit to determine whether or not a continued benefit is warranted.

(18)*[(17)]* “Physician” means **a person who holds a degree of doctor of medicine, doctor of osteopathy, doctor of podiatric medicine, or** *[a medical doctor, a doctor of osteopathy, a]* doctor of oral surgery*[, a chiropractic doctor, a naturopathic doctor, or a doctor of psychology practicing only within the purview of their license issued by the designated authority of a state]* **and is licensed by law to practice medicine or surgery by the designated authority of any state within the United States of America or the District of Columbia. PERS may accept at its discretion a physician licensed by another country**.

(19)*[(18)]* “Pre-existing condition” means a condition that was not sustained in actual performance of duty in a qualifying position with a participating employer.

(20)*[(19)]* “Protected health information” means health information created or received by a health care provider, health plan, or health care clearinghouse, where an individual has a reasonable belief that the information can identify the individual, which relates to:

(a) The past, present, or future physical or mental health of an individual;

(b) The provision of health care to an individual; or

(c) The past, present, or future payment for the provision of health care to an individual.

(21)*[(20)]* "Total disability" means the inability to perform any work for which qualified for an extended duration due to physical or mental incapacitation.

(22)*[(21)]* "Vocational evaluation" means an evaluation conducted by a certified vocational consultant, to determine the ability of an applicant to perform any work for which they are qualified.

(23)*[(22)]* "Work related stress" means conditions or disabilities resulting from, but not limited to:

(a) Change of employment duties;

(b) Conflicts with supervisors;

(c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;

(d) Relationships with supervisors, coworkers, or the public;

(e) Specific or general job dissatisfaction;

(f) Work load pressures;

(g) Subjective perceptions of employment conditions or environment;

(h) Loss of job or demotion for whatever reason;

(i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;

(j) Objective or subjective stresses of employment; or

(k) Personnel decisions.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.235

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December 17, 2015

Stephanie Vaughn
Policy Analysis & Compliance Section
Public Employee Retirement System
Post Office Box 23700
Tigard, Oregon 97281

RE: Comments – Rulemaking, December 2015
OAR 459-015-0001/OAR 459-076-0001

Dear Ms. Vaughn:

The following comments, in response to and in opposition to proposed amendments to OAR 459-015-0001 and OAR 459-076-0001, are submitted on behalf of the PERS Coalition. In summary, we strongly oppose the proposed amendments. They are unnecessary and unjustified; they create substantial costs and burdens to members; they do not clarify but rather complicate claims for members. Members – the PERS Coalition – are left asking who is motivated to propose the changes and why?

OVERVIEW AND BACKGROUND

Contrary to the "overview" and "background" offered by PERS to justify the proposed amendments, the proposed amendments do not "clarify" a definition but rather rewrite the definition to substantially change the definition of who qualifies as a "physician". The PERS "overview" is also incorrect in claiming that no policy issues have been identified (implicated). The proposed amendments, which redefine "physician", reflect a substantial policy shift whereby chiropractic doctors, naturopathic doctors, and doctors of psychology would be excluded all together from the definition of a physician. The policy implications cannot be ignored when entire specialized fields of medicine are being excluded.

The PERS notice of rule making is also incorrect in claiming that there are no discreet costs attributable to the rule changes. Indeed, the proposed amendments will require the member to bear the burden and substantial cost (hundreds and often times thousands of dollars) of changing physicians or involving additional physicians in the management of treatment and in the forensic-legal pursuit of a disability claim. Given that members treat with chiropractors, naturopaths and psychologists, the rule changes would require members to either change doctors or at a minimum have their treating doctors make referrals to other physicians simply to meet PERS criteria. Just a consultation with a non-treating specialist can cost a member hundreds, and often times thousands, of out-of-pocket dollars. These are real costs to members that cannot be ignored. It has been the experience of the undersigned that members will simply abandon claims for PERS disability because the members cannot bear the costs.

JUSTIFICATION

PERS offers no justification for rewriting the definition of "physician" to exclude chiropractors, naturopaths, and psychologists. What purpose is served? What problem is solved? The proposed amendments do not clarify a definition. If clarification is needed then clarify that chiropractic doctors, naturopathic doctors and doctors of psychology are included – as they currently are – in the definition of "physician".

The proposed change in the definition of physician certainly does not reflect the modern practice and provision of medical care whereby patients utilize naturopathic and chiropractic physicians and psychologists. For that matter, in modern managed medical care dictated by law and insurance policies, patients (members) regularly receive treatment and work disability authorizations from physician assistants and nurse practitioners, not from "MD"s. The amendment to exclude duly educated and licensed doctors also does not recognize the specialized education, training, experience and knowledge required to be a licensed chiropractic doctor, naturopathic doctor or doctor of psychology. The proposed changes reflect an institutional bias, without justification for the bias, that only "medical doctors" (MD) are qualified to render expert opinions. PERS has offered no justification for why specialized and duly licensed doctors cannot be relied upon in determining the nature and extent of a PERS member's disability or medical needs.

The PERS rules for determining disability are already burdensome and are already at odds with the practice of medicine and provision of health care by requiring disability claims to be established only through specialized physicians (eg. only allowing an orthopedic specialist to address issues of bones and tissues, neurological specialists to address issues of neurology). There is no justification to further complicate matters and add further burden and expense by, for example, eliminating chiropractic physicians with specialized education, training and license in orthopedics from rendering opinions on orthopedic injuries and conditions.

Finally, if not foremost, the proposed amendments are not consistent with ORS 238.320-350. The statute places no requirements or limitations on the licenses, credentials, or scope of practice of the experts a member may rely upon for establishing a mental or physical disability. Instead, the statute addresses the Board's responsibility for examinations by "... one or more physicians selected by the board..." (ORS 238.320(1)) and the Board's duty to "...require medical examinations for all applicants..." (ORS 238.335). It is the board compelled medical examinations that are to be prescribed by the Board's "general rules" (ORS 238.335). The statute does not contain or reflect an intent, let alone a stated policy, to limit physicians and medical examinations to specific licenses, credentials and specializations. Indeed, the statute does not reflect an intent, let alone a stated policy, that even compelled examinations are limited to examiners with specific credentials or specializations. Again, the statute places no limits on the medical experts a member may rely upon to establish disability.

CONCLUSION

The proposed amendments to OAR 459-015-0001 and OAR 459-076-0001 should be rejected.

Respectfully submitted,

Nelson R. Hall, on behalf
of the PERS Coalition

NRH/mm

Oregon

Kate Brown, Governor

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January 29, 2016

TO: Members of the PERS Board

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

SUBJECT: Adoption of Medical Records Reimbursement Rule:
OAR 459-005-0605, *Reimbursement for Medical Records Requested by PERS*

OVERVIEW

- Action: Adopt modifications to the Medical Records Reimbursement rule.
- Reason: Establish a reimbursement schedule for providing medical records.
- Policy Issue: No policy issues were identified.

BACKGROUND

PERS regularly requests copies of medical records for disability eligibility determinations, ongoing reviews, appeals, and contested case hearings. The rate at which PERS reimburses medical providers for medical records has varied over time, and has not always been consistently applied. This rule will establish a published reimbursement schedule for requested medical records, providing consistency in the reimbursement we will pay providers of these records.

SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

No modifications have been made to the rule.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held December 15, 2015, at 2:00 p.m. at PERS headquarters in Tigard. No members of the public provided comment on the rule. The public comment period ended December 29, 2015, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Impact: Consistent reimbursement rates throughout the agency.

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

RULEMAKING TIMELINE

November 13, 2015	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
November 20, 2015	PERS Board notified that staff began the rulemaking process.
December 1, 2015	*Oregon Bulletin* published the Notice. Notice was sent to employers, legislators, and interested parties. Public comment period began.
December 15, 2015	Rulemaking hearing held at 2:00 p.m. at PERS in Tigard.
December 29, 2015	Public comment period ended at 5:00 p.m.
January 29, 2016	Board may adopt the permanent rule modifications.

BOARD OPTIONS

The Board may:

1. Pass a motion to "adopt modifications to the Medical Records Reimbursement rule, as presented."
2. Direct staff to make other changes to the rule or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

· Reason: Establish a reimbursement schedule for providing medical records.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board's policy direction if the Board determines that a change is warranted.

B.3. Attachment 1 – OAR 459-005-0605, *Reimbursement for Medical Records Requested by PERS*

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 005 – ADMINISTRATION

459-005-0605

Reimbursement for Medical Records Requested by PERS

(1) The following are the maximum amounts that PERS will reimburse for the costs incurred in processing medical requests for health information.

(a) Cost of coping medical records:

(A) $30.00 for 10 or fewer pages;

(B) $0.50 per page for pages 11 through 50; and

(C) $0.25 per page for pages 51 and higher.

(b) PERS will pay $35.00 for the cost of providing a compact disc with medical record data in place of providing printed materials to PERS.

(2) PERS will pay a provider $30.00 for completing and signing a PERS Medical Information Statement or Physician Statement of Current Status.

(3) PERS will not make advance payments to providers before medical records are received.

Stat. Auth.: ORS 238.620 and 238A.450

Stat. Implemented: ORS Chapters 238 and 238A

Oregon

Kate Brown, Governor

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January 29, 2016

TO: Members of the PERS Board

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

SUBJECT: Adoption of Oregon Administrative Rule (OAR) Public Notice Rule: OAR 459-001-0000, *Notice of Proposed Rule*

OVERVIEW

- Action: Adopt modifications to the OAR Public Notice rule.
- Reason: Clarify rulemaking notice procedure.
- Policy Issue: No policy issues were identified.

BACKGROUND

OAR 459-001-0000 sets forth the procedure for noticing the adoption, amendment, and repeal of administrative rules. The current rule, however, stipulates that notices of rulemaking will be sent via postal mail and lists a limited group of interested parties and employers as recipients of the rulemaking notices. The proposed rule modifications update the mailing requirement to conform to agency practice of emailing notices unless the recipient requests a postal mailing. The incomplete list of employers and interested parties has been removed, and section (2) has been updated to indicate that notices of rulemaking will be provided to all persons and organizations who request to receive the notices.

SUMMARY OF MODIFICATIONS TO RULE SINCE NOTICE

No modifications have been made to the rule.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held December 15, 2015, at 2:00 p.m. at PERS headquarters in Tigard. No members of the public provided comment on the rule. The public comment period ended December 29, 2015, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

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

IMPACT

Mandatory: No.

Impact: Update agency rulemaking notice procedure and clarify that any person or organization may request to receive the rulemaking notices.

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

RULEMAKING TIMELINE

November 13, 2015	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
November 20, 2015	PERS Board notified that staff began the rulemaking process.
December 1, 2015	*Oregon Bulletin* published the Notice. Notice was sent to employers, legislators, and interested parties. Public comment period began.
December 15, 2015	Rulemaking hearing held at 2:00 p.m. at PERS in Tigard.
December 29, 2015	Public comment period ended at 5:00 p.m.
January 29, 2016	Board may adopt the permanent rule modifications.

BOARD OPTIONS

The Board may:

1. Pass a motion to "adopt modifications to the OAR Public Notice rule, as presented."
2. Direct staff to make other changes to the rule or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Clarify rulemaking notice procedure.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board's policy direction if the Board determines that a change is warranted.

B.4. Attachment 1 – OAR 459-001-0000, *Notice of Proposed Rule*

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 001 – PROCEDURAL RULES

459-001-0000

Notice of Proposed Rule

Prior to adoption, amendment or repeal of any permanent rule, the Public Employees Retirement System (PERS) shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360, at least 21 days before the effective date **of the intended action**.

(2) By **e**mailing, or *[transmitting by email]* **sending via postal mail** if the recipient has elected that option, notice to persons **and organizations** on the PERS mailing list established pursuant to ORS 183.335*[(7)]***(8),** at least 28 days before the effective date of the *[rule]* **intended action**. **An interested person or organization may request to be placed on the PERS mailing list by submitting a request to the agency Administrative Rules Coordinator.**

[(3) By mailing, or transmitting by email if the recipient has elected that option, or furnishing notice to the following publications:

(a) Associated Press.

(b) Daily Journal of Commerce.

(c) Northwest Labor Press.

(d) Capitol Press Room.

(4) By mailing, or transmitting by email if the recipient has elected that option, or furnishing notice to the following persons, organizations and publications at least 28 days before the effective date of the rule:

(a) Oregon Public Employees Union.

(b) Oregon Education Association.

(c) Association of Oregon Counties.

(d) League of Oregon Cities.

(e) Oregon School Boards Association.

(f) Confederation of Oregon School Administrators.

(g) Association of Engineering Employees of Oregon.

(h) Local Government Personnel Institute.

(i) American Federation of State, County and Municipal Employees.

(j) Oregon State Firefighters Council.

(k) Department of Public Safety Standards and Training.

(l) Oregon Association of Chiefs of Police.

(m) Oregon Federation of Teachers, Education and Health Professionals.

(n) Oregon School Employees Association.

(o) Oregon Community College Association.

(p) Oregon State Sheriffs Association.

(q) Oregon State System of Higher Education.

(r) Oregon Council of Police Associations.

(s) Special Districts Association of Oregon.]

*[(5)]***(3)** By **e**mailing **notice** *[a Notice of Rulemaking and a copy of the proposed rule(s)]* to the Director of the Department of Administrative Services and, to the extent identified, affected participating public employers in the System**, at least 28 days before the effective date of the intended action**.

*[(6)]***(4)** By **e**mailing *[a copy of the]* notice to the legislators specified in ORS 183.335(15), at least 49 days before the effective date of the *[rule]* **intended action**.

Stat. Auth.: ORS 183.335 & 238.650

Stats. Implemented: ORS 183.335

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January 29, 2016

TO: Members of the PERS Board

FROM: Paul Brown, Strategic and Operational Planning Manager

SUBJECT: 2015-2020 Strategic Plan Update

OVERVIEW

The 2015-2020 Strategic Plan is a living document that undergoes changes and updates to meet legislative and judicial mandates, as well as shifts in long-term priorities. The Executive Leadership Team (ELT) recently added two components to the Information Technology strategy: establishing Information Governance and strengthening our Cybersecurity Program. A copy of the revised pages of the plan, with highlights showing the new edits, is attached. The revised plan has been posted to our web site and is available at this link:

http://www.oregon.gov/pers/mem/docs/publications/stra_guide.pdf

SUMMARY OF AGENCY ACTIONS

In the past year, we have taken the following steps to implement initiatives from the Strategic Plan:

1) Organizational Management and Development:
   a. Focus Area: PERS Outcome-Based Management System (POBMS) (Objectives 1 and 2).
      i. We have formed a Business Process Management (BPM) section as part of Strategic and Operational Planning (SOP). This new section is charged with assisting managers and staff to move measures in a positive direction. This is being achieved through facilitation of both problem solving and breakthrough plans. We are also in the process of meeting with all sections and driving the measures to the team level, as well as reintroducing POBMS through a series of presentations to all staff.
   b. Focus Area: Organization Communication (Objectives 1 and 2).
      i. The agency has added questions to the employee engagement survey to ascertain actionable input to enhance internal communications, begun holding all-staff meetings led by the Executive Director, started a Director's blog that allows for direct feedback from staff, and formed an internal communications problem solving team that generated suggestions which are in the evaluation and implementation process.
2) Data Reliability
   a. Focus Area: Agency Data Warehouse (Objectives 1 and 2).
      i. Operations Division has kicked off construction of the Agency Data Warehouse. This will be the central source for agency data and reports. The goal is to provide more efficient, accurate, and consistent reporting.
3) Information Governance, Security and Technology:
   a. Focus Area IT governance and Management Model (Objectives 1 and 3)
      i. This involves creating policies and controls, strategies, decision-making, and accountability framework to ensure that IT has a defined process to meet objectives.
      ii. ELT approved the development of IT Policies to support the management of agency information.

iii. "Compass," our new Information Technology Service Management (ITSM) solution, has been deployed to production which enhances our ability to fix IT issues as well as establishing an Information Technology Infrastructure Library (ITIL).

b. Focus Area: Agile Technology System (Objective 2)

i. A Scalable System Development Life Cycle (SDLC) was updated to incorporate new best practices and allow more flexibility in software development.

c. Focus Area: Information Security (Objectives 1, 2, and 3).

i. Worked with a third party to perform an agency risk assessment and penetration test.

ii. Initiated a project to upgrade our agency firewall.

We are currently reviewing other initiatives to prioritize for the 2017-2019 budget cycle. Among the initiatives under consideration are:

§ Secure funding to complete Phase III of the transition to administer all components of the Individual Account Program (IAP) in-house.

§ A business case is being developed to establish long-term, stable funding for system maintenance and enhancements in line with the IT modernization plan. This initiative is part of our goal to improve IT efficiency and address our technical debt issue.

§ A business case is being developed to establish a Business Continuity Program in line with the Disaster Recovery infrastructure that we hope to improve through this biennium's Policy Package 105.

§ Consider reorganization for the Financial and Administrative Services Division. The goal would be to gain efficiencies and better align processes to cover increased workloads, capture daily policies and procedures, and document the changing complexities of the system's reporting requirements. This initiative is related to the Strategic Plan's Organizational Management goal of developing workforce excellence. This will also support completion of integrating POBMS in the division.

PERS' UPDATED CORE VALUES AND OPERATING PRINCIPLES

Additional work on our Strategic Plan includes our updated core values and operating principles to better align with our mission statement:

> *"We serve the people of Oregon by administering public employee benefit trusts to pay the right person the right benefit at the right time."*

Following completion of the Strategic Plan, PERS' Executive Leadership Team (ELT) requested that an internal group evaluate and develop recommendations for updating PERS' core values and operating principles. A team of 17 staff, representing every division, met to analyze and discuss the core values and operating principles in place at the time, as well as those identified during Strategic Plan town hall discussions, and those that individual team members felt were most critical. The core values and operating principles selected by the team were adopted with minor revisions by the ELT.

An organization's core values are its foundation for conducting business and serve to communicate who we are and what we stand for to our stakeholders. They also govern internal business processes and help inform strategic decision-making. Operating principles translate the organization's core values into concrete actions; in essence, operating principles serve as the code-of-conduct for how we demonstrate our core values in our day-to-day work.

In analyzing the core values and operating principles selected, the core values team considered many relevant factors including:

- § our strengths as an organization, and alignment of core values with PERS' culture and behavioral norms;
- § the expectations of our members and key stakeholders, as well as our expectations of staff;
- § whether the value is essential to achieving our mission and our strategic objectives;
- § how each value would support desired behaviors and foster strategic decision making; and
- § whether a value would stand the test of time and be upheld in the face of challenges and competing demands.

These are the core values and operating principles PERS has adopted:

CORE VALUES

Service-Focus

We work together to meet the needs of others with dependability, professionalism, and respect.

Accountability

We take ownership for our decisions, actions, and outcomes.

Integrity

We inspire trust through transparency and ethical, sound judgment.

OPERATING PRINCIPLES

Professional

We are responsive, respectful, and sensitive to the needs of our members, employers, and staff.

Accurate

We ensure data integrity and provide consistent, dependable information and benefits.

Judicious

We use sound judgment and prudent, principled decision-making in upholding our fiduciary responsibility.

Information Security

We are constantly vigilant to safeguard confidential information.

At the meeting, team members will share with you why these core values and operating principles were selected and what they mean for PERS. We will integrate these core values and operating principles into the agency's Outcome-Based Management System and workforce development objectives under the Strategic Plan, as well as PERS' performance management system, and training and hiring practices.

NEXT STEPS

We will continue to update the Board periodically regarding our progress in meeting our Strategic Plan objectives.

BOARD ACTION

No action is required by the Board.

C.1. Attachment 1 – ISD Strategic Plan Amendments

Information Governance, Security and Technology

Introduction

PERS' information technology (IT) system provides the foundational data and information management necessary to "pay the right person the right benefit at the right time." Our primary IT system is the Oregon Retirement Information Online Network (ORION). ORION needs to be continuously maintained and enhanced to provide necessary business functionality due to changes initiated both internally and by outside stakeholders. PERS' controls over the change management process are not optimal, which impacts efficiency and responsiveness in meeting business needs.

The 2014 IT Change Management Audit reported opportunities to increase efficiency and effectiveness in several areas, including the need for an IT management framework. Development of an IT Governance and Management Model is our first area of focus. This management framework will enable PERS to:

- Define and document IT processes and implement services that meet the agency's IT-related goals.
- Document policies, standards, guidelines, procedures, and service level agreements.
- Define roles, responsibilities, and organizational structures.
- Align IT Governance Standards under Information Governance Policies and Processes

Instituting an agile technology system is our second focus area for improving IT efficiency and responsiveness. This includes evolving The IT system development life cycle (SDLC) methodology to be scalable and investing in ORION so the network is sustainable, maintainable, and more easily enhanced. The primary ORION application, jClarety, was designed over 20 years ago and has a fair amount of technical debt, unavoidably inherited upon implementation. This technical debt impacts PERS' ability to resolve processing errors, inaccurate data, removal of obsolete code and other tasks essential to delivering accurate and timely retirement benefits to our members.

The third IT focus area is information security, which encompasses two goals. The first is the development and implementation of an Information Security Management system or program, to meet the requirements of the Agency's Information Security Plan. The second is the development and implementation of an infrastructure, which will provide business continuity of the critical ORION systems necessary to minimize the impact of any localized disaster on our members, employers, and staff.

Information Governance, Security and Technology

Focus Area: IT Governance and Management Model

Goal

Implement improved Information Technology (IT) governance and management to clarify accountability and authority.

Objective 1

Revise the current IT Governance and Management framework to better align with industry standards.

Strategies

1. Develop a plan for implementing the IT management framework ITIL (Information Technology Infrastructure Library) and for implementing related components of the COBIT IT governance framework.
2. Implement the IT governance and management frameworks.

Related measure

SP3 Leveraging technology

Objective 2

Better, define and document the inter-relationships between business operations, computer applications, system hardware, and other domains to provide more reliable and accessible information about PERS technology for decision making.

Strategies

1. Select a framework for defining and documenting PERS Enterprise Architecture.
2. Develop a plan to use the framework.

Related measures

N/A

Objective 3

Establish Information Governance Standards and Best Practices that support management of information assets at the enterprise level.

Strategies

1. Adopt CGOC (Compliance, Governance & Oversite Council) and AIIM (Association of Information & Imaging Management) standards and best practices as the guides for building an enterprise Framework for Information Governance Activities.
2. Align IT Governance Standards as a component of Information Governance Policies and Procedures.

Related measure

SP3 Leveraging technology

Information Governance, Security and Technology

Focus Area: Agile Technology System

Goal

Improve IT efficiency and responsiveness to business operational changes.

Objective 1

Resolve missing functionality and key technical debt issues that are affecting ORION’s administration, performance, maintainability, and sustainability.

Strategies

1. Research and define capabilities that allow business to make appropriate changes that do not require IT development resources.
2. Analyze and implement missing functionality that replaces manual workarounds in business operations.

Related measure

SP3: Leveraging Technology

Objective 2

Adopt a scalable system development life cycle (SDLC) methodology to align with the risk and complexity of operational requirements.

Strategies

1. Define and follow SDLC methodologies appropriate to the scope and scale of projects.
2. Implement IAP administration using a flexible architecture.

Related measure

SP3: Leveraging Technology

Information Governance, Security and Technology

Focus Area: Information Security

Goal

Establish and implement an Information Security Management System in accordance with PERS Information Security Plan.

Objective 1

Establish an information risk assessment process.

Strategies

1. Establish and maintain information security risk criteria.
2. Develop a process to identify, analyze and evaluate information security risks.

Related measure

SP3: Leveraging Technology – Ensuring system security

Objective 2

Establish an information security risk treatment process.

Strategies

1. Establish a process to select the appropriate Information Security risk treatment options.
2. Develop a process to determine, compare, approve and implement necessary controls

Related measures

SP3: Leveraging Technology – Ensuring system security

Objective 3

Develop and Establish an Information Security Organizational Structure.

Strategies

1. Determine the resources necessary for the establishment, implementation, maintenance and continual improvement of the Information Security Management System.
2. Establish and maintain an Information Security Management System

Related measure

SP3: Leveraging Technology – Ensuring system security

Goal

Provide operational infrastructure that restores critical business services in the event of a localized disaster.

Objective 1

Define the technology infrastructure that is at risk in the event of a localized disaster and execute a strategy to restore that infrastructure.

Strategies

1. Identify the critical management systems and supporting infrastructure necessary to meet the agency's business continuity requirements.
2. Develop a strategy to enable single sign-on functionality for the critical management systems.
3. Design and implement a virtual desktop infrastructure to support the agency's remote access requirements.

Related measure

SP3: Leveraging Technology - System Availability

Objective 2

Update the agency's Business Continuity Plan to align with disaster recovery strategies and infrastructure.

Strategies

1. Develop a strategy for deploying a back-up recovery site ("warm site") that would be used to provide access to core business systems and infrastructure.
2. Execute a complete and full disaster recovery test.

Related measures

N/A

OUTCOME-BASED MANAGEMENT SYSTEM MAP

FOUNDATIONS

MISSION
We serve the people of Oregon by administering public employee benefit trusts to pay the right person the right benefit at the right time.

Shared Vision
Honoring your public service through secure retirement benefits

CORE VALUES & OPERATING PRINCIPLES
- Service-Focused
- Professional
- Accountability
- Accurate
- Integrity
- Judicious
- Information Security

KEY GOALS

- Collaborative & Transparent Leadership
- Efficient, Effective, Adaptable Organization
- Engaged & Empowered Workforce
- Engaged & Educated Stakeholders
- Timely & Accurate Service
- Trusted & Credible Agency

CORE PROCESSES

OPERATING PROCESSES

OP1: Managing Client Data and Services

Sub Processes
1. Receiving member data
2. Reconciling member data
3. Correcting member data
4. Maintaining member data
5. Archiving and imaging member information
6. Analyzing data and generating reports
7. Generating and responding to correspondence
8. Generating and responding to phone calls
9. Creating and making presentations

Process Measures
- OP1a: % reports received vs. expected
- OP1b: % of returned bulk mail
- OP1c: % of employer reports received are complete and accurate
- OP1d: Average number of days to process member forms
- OP1e: % of employer reports received within three business days of reporting cycle
- OP1f: Average length of wait before caller reaches live person
- OP1g: % of correspondence responded to with 10 days of receipt

Process Owner: Yvette

OP2: Collecting Contributions

Sub Processes
1. Creating and maintaining employer accounts
2. Establishing an employer rate
3. Generating an employer invoice
4. Receiving employer contributions
5. Posting contributions to invoices
6. Crediting contributions to the general ledger
7. Reconciling contributions submitted to State Treasury
8. Collecting on delinquent employer invoices
9. Receiving member purchases
10. Accounting for supplemental member contributions

Process Measures
- OP2a: % of IAP contributions posted that are due
- OP2b: % of employers that rate the employer statement as good or excellent
- OP2c: % of total employers utilizing the Automated Clearing House
- OP2d: # of invoices outstanding more than 30 days
- OP2e: % of member purchases posted within 14 days of receipt

Process Owner: Kyle

OP3: Assessing Benefit Eligibility

Sub Processes
1. Determining beneficiaries for pre- and post-retirement death benefits
2. Requesting and reviewing divorce decrees
3. Determining eligibility for disability
4. Completing estimate requests
5. Completing data verification requests
6. Determining eligibility for PERS Health Insurance Program

Process Measures
- OP3a: % of appeals that are upheld compared to total # of eligibility, disability, and divorce appeals filed
- OP3b: % of disability and divorce determinations completed within 180 and 90 days respectively
- OP3c: % of estimates completed within 30 days of receipt
- OP3d: % of data verification requests completed within 180 days from receipt

Process Owner: Yvette

OP4: Processing Benefit Applications

Sub Processes
1. Receiving benefit application
2. Reviewing benefit application
3. Entering application data
4. Corresponding with applicant and Employer
5. Reviewing Membership Account for Readiness
6. Initiating the benefit calculation process

Process Measures
- OP4a: % of applications completed by the eligibility team within 30 days of the effective retirement
- OP4b: % of estimated payments per month
- OP4c: % of applications returned or rejected back to the applicant
- OP4d: % of applications with two or more requests made to an applicant or employer for information
- OP4e: % of non-canceled applications completed and ready for calculation within 30 days of the effective date
- OP4f: % of non-canceled applications completed and ready for calculation within 15 business days of all required documents received
- OP4g: % of non-canceled applications completed and ready for calculation within 60 days of the effective date

Process Owner: Yvette

OP5: Calculating Benefits

Sub Processes
1. Reviewing account
2. Calculating initial benefit (service, death, divorce, disability, withdrawals)
3. Recalculating benefit after an estimated benefit or when an adjusted or retro-active benefit is due
4. Validating benefit calculations

Process Measures
- OP5a: # of calculations completed per FTE
- OP5b: % of sample calculations that are within plus or minus $5
- OP5c: % of calculations completed within 15 calendar days from completed application date

Process Owner: Yvette

OP6: Paying Benefits

Sub Processes
1. Ensuring cash is available to fund benefit payments.
2. Creating and trans-mitting payment files
3. Processing manual checks
4. Validating payment files
5. Processing returns/cancels
6. Managing payee information
7. Maintaining deductions
8. Ensuring tax reporting

Process Measures
- OP6a: # of manual checks processed
- OP6b: % of electronic payments over total payments
- OP6c: Average # of days to resolve returned payments
- OP6d: # of exceptions not cleared prior to pension lock
- OP6e: % of tax reports completed by Federal and State deadline

Process Owner: Kyle

SUPPORTING PROCESSES

SP1: Communicating Internally & Externally

Sub Processes
1. Developing communications strategy
2. Creating and maintaining publications and forms
3. Maintaining electronic & social media
4. Communicating with Legislators and interest groups
5. Responding to media requests
6. Communicating with agency staff
7. Responding to public record and discovery requests

Process Measures
- SP1a: # of emails to PERS Board email box with complaints
- SP1b: % who rate forms as easily understandable
- SP1c: % rating satisfaction as good or excellent
- SP1d: % of public records requests responded to with a cost estimate within 14 days of receipt

Process Owner: Steve

SP2: Managing Compliance & Risk

Sub Processes
1. Providing policy advice
2. Implementing new legal mandates
3. Resolving disputes
4. Managing legal services
5. Maintaining tax qualified status
6. Managing strategic relationships
7. Conducting enterprise risk management efforts
8. Managing audit services
9. Managing information (record & document) programs
10. Ensuring reliable, consistent and auditable data reporting

Process Measures
- SP2a: % of operating budget expended for attorney and administrative hearing fees and risk management premiums
- SP2b: # of Member and Employer appeals and contested case matters, employment disputes, litigation disputes, notices of dispute and risk management claims
- SP2c: % of staff determinations that are reversed on appeal
- SP2d: % of high risk audit findings resolved within committed time period

Process Owner: Jason

SP3: Leveraging Technology

Sub Processes
1. Developing IT strategy and roadmap to meet agency technology needs
2. Ensuring system availability and performance
3. Delivering HelpDesk/ desktop support
4. Maintaining applications and systems
5. Enhancing applications and systems
6. Implementing new applications and systems
7. Ensuring system security
8. Developing, delivering and managing Enterprise Content Management System

Process Measures
- SP3a: # of business days in a month ORION systems are not available within the standard service window
- SP3b: % of survey respondents indicating satisfaction with our technology
- SP3c: # domains in the Information Security Business Risk Assess-ment report that meet agency goal
- SP3d: # of batch incidents/ abends in a month
- SP3e: # of outstanding Critical and High Priority ORION Enhancement Requests (non-defect-type CRs)
- SP3f: # of outstanding Critical and High Severity ORION Defects (defect-type CRs and PPCRs)
- SP3g: % of HelpDesk Tickets resolved within the Service Level Agreement
- SP3h: % of time systems are available during the service window

Process Owner: Jordan

SP4: Managing Organizational Finances & Resources

Sub Processes
1. Administering accounting and payroll services
2. Managing funds and investments
3. Developing and administering budget and finance operations supporting agency strategic plan
4. Developing and managing contracts and agreements
5. Maintaining and managing facilities and equipment
6. Managing actuarial services

Process Measures
- SP4a: % of months with no interest cost incurred due to borrowing
- SP4b: % of accounts receivable dollars collected (based on total dollars of accounts receivable)
- SP4c: % of actuarial services milestones met (e.g., experience studies, valuations, CAFR data, employer rates updated in jClarety, economic impact report)
- SP4d: % of invoices with payments released for payment within 30 business days of receipt by Accounts Payable

Process Owner: Kyle

SP5: Managing & Developing the Workforce

Sub Processes
1. Managing the Workforce Plan
2. Acquiring Talent
3. On-Boarding
4. Managing Performance
5. Developing Employees
6. Retaining Employees

Process Measures
- SP5a: % of employees' annual development plans created
- SP5b: % of employees receiving corrective action for violations
- SP5c: % of employees completing trial service
- SP5d: % of data fields entered correctly into the personnel database (PPDB)
- SP5e: % of employees evaluated overall performance rating "meets expectations"
- SP5f: % of performance evaluations completed by due date

Process Owner: Kyle

SP6: Strategic & Operational Planning

Sub Processes
1. Nurturing the agency's mission, values and core operating principles
2. Developing/maintaining the agency's strategic plan and ensuring organizational alignment
3. Prioritizing and managing the completion of projects
4. Governing and Maintaining the PERS Outcome-Based Management System
5. Optimizing Business Processes

Process Measures
- SP6a: % of outcome and process measures with new or current data reported for that quarter
- SP6b: # of problem solving initiatives in process
- SP6c: % of employees that rate mission relevance as high
- SP6d: Net # of measures that improve per each quarterly target review (QTR)
- SP6e: # of breakthroughs on schedule

Process Owner: Steve

OUTCOME MEASURES

- OM1: Clear, Concise Communication (Yvette/Steve) OM1
- OM2: Employee Engagement (Steve) OM2
- OM3: Operating Effectiveness - % Green Process Measures (Steve)
- OM4: Member to Staff Ratio (Steve)
- OM5: Total Benefit Admin Costs (Steve)
- OM6: Performance to Budget (Kyle)
- OM7: Member Service Satisfaction (Yvette)
- OM8: Effective Employer Partnerships (Yvette)
- OM9: Timely Benefit Payments (Yvette)
- OM10: Informed Retirement Decisions (Yvette)
- OM11: Accurate Benefit Calculations (Yvette)

PERS Oregon Public Employees Retirement System

Revised: 1/15/16

MassIngenuity

Oregon

Kate Brown, Governor

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January 29, 2016

TO: Members of the PERS Board

FROM: Yvette Elledge-Rhodes, Chief Operations Officer

SUBJECT: *Moro* Implementation Project Update

UPCOMING PROJECT ACTIVITIES

In February 2016, an additional 16,138 *Moro* adjustments will be completed. This population consists of more complex accounts and scenarios, for example:

- Retired members with service time before and after the 2013 law, meaning that they will have a blended COLA rate; and
- Most of the population that required (AEF) recalculations because their original benefits used survivorship factors from the old 2014 AEF tables that were based on 1.25% COLAs, instead of the 2% or blended COLA required under the *Moro* decision.

Approximately 3,100 of these recipients will receive invoices of $50 or more (invoices under $50 were waived in accordance with PERS policy as allowed by ORS 238.715). Causes for these invoices include the AEF recalculations, as well as offsetting the supplementary payment and reinstituting pro-rated COLA in the first year for OPSRP retired members. The balance of the population will receive lump-sum payments. All of these recipients' benefit payments will be adjusted for March 1, 2016, with the restored COLA.

As a result, we have 13 customized letters specific to the recipients' situation that will be mailed in mid-February to inform members of this activity. Attachment 1 has more specific information regarding the population and invoice amounts.

NEXT STEPS

The final populations impacted by the *Moro* decision include recipients who died before these restoration efforts were completed. These accounts that are on hold until after system programming to calculate and apply the blended COLA is complete (targeted for the July 1, 2016 COLA cycle). These 7,400 recipients will be due either a retro payment or an invoice; this population will continue to increase as there are approximately 300 deaths per month.

There may also be a small population (about 200) of the more complex accounts, as well as approximately 175 recipients whose benefits have stopped that may be pulled from the February population. These accounts would also have to be resolved after we re-program our system sometime after June 2016. We are currently on schedule to be ready for the 2016 COLA update next July that will be paid to benefit recipients August 1, 2016.

Our project end date to resolve all *Moro* impacted accounts is still the end of 2017.

C.2. Attachment 1—*Moro* Decision Implementation Project: February 2016 Estimated Adjustments

Moro Decision Implementation Project: February 2016 Estimated Adjustments

As of 1/15/16

Total number of accounts to be updated:	16,138
Recipients due a *Moro* COLA retro:	9,052
Recipients to receive an invoice $50 or more:	3,096
Number of combined invoices less than $50 and waived:	3,817
Recipients whose benefits have stopped but need resolution:	173

Recipients due a *Moro* COLA retro:	9,052
Average retro paid per account:	$378.33
Largest retro paid:	$6,115.64
Smallest retro paid:	$0.12

Recipients receiving a benefit increase on March 1:	10,445
Average monthly benefit increase per account:	$23.16
Largest monthly increase:	$522.84
Smallest monthly increase:	$0.24
Recipients receiving a benefit decrease March 1:	5,520
Average monthly benefit decrease per account:	($1.64)
Largest monthly decrease:	($27.76)
Smallest monthly decrease:	($0.01)
Largest invoice owed:	($4,391.72)

Number of recipients to receive an invoice $50 or more:	3,096
Amount to be recovered from invoices $50 or more:	($624,882.85)
Average over $50 invoice amount per account:	($201.84)
Number of invoices less than $50 and waived:	3,817
Amount not recovered from waived invoices less than $50:	($39,348.34)
Average waived invoice per account:	($10.31)

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January 29, 2016

TO: Members of the PERS Board

FROM: Marjorie Taylor, Senior Policy Director

SUBJECT: Legislative Update

2016 LEGISLATIVE SESSION

Agency Budget Presentations – During the February legislative session, we expect to make presentations to the Ways and Means Subcommittee on General Government and the Committee on Information Management and Technology. To reflect interim discussions on Policy Packages 102, 104, and 105 from House Bill 5034 (2015), PERS will make the following reports and requests to the Joint Ways & Means General Government Subcommittee:

Package 102, Integrating IAP into ORION - The agency has responded to concerns and recommendations from LFO, OSCIO, and CFO on planning and documentation deficiencies prior to seeking agreement on moving to Stage Gate 3 of the project execution, including engaging an independent QA/QC contractor. These efforts were funded through rescheduling $400,000 of the Policy Package's approved funding as of August 28, 2015.

Refined documentation and planning, along with additional project and system requirements and the delay in starting the next phase of the project, has pushed the completion date out and total project costs upward. In addition to rescheduling the remaining $1,514,399 from the original package request, the agency is requesting an additional $1,255,601 in limitation in the 2015-17 biennium. As the project completion date is now pushed to no sooner than the fourth quarter of 2018, the agency will present a policy package for the 2017-19 biennium, seeking an additional $1,884,000 to complete Phase III.

Package 104, Technology Maintenance and Enhancements - A System Modernization Plan was developed using the $250,000 of approved expenditure in partnership with HP Enterprise, the original designers and architects of the jClarety benefit administration system. A series of presentations and meetings with LFO, OSCIO, and CFO staff have properly framed the original request as a system enhancement, not system replacement, strategy. The agency will request an additional expenditure for 2015-17 for "technical debt" stabilization, to analyze and implement structural updates to the jClarety system and better prepare for a Service Oriented Architecture (SOA) approach.

The agency will also preview a policy package for 2017-19 to "normalize" its Information Technology budget to support future SOA-based system enhancements in line with the agency's strategic initiatives.

Package 105, Disaster Recovery / Business Continuity Planning - First, the agency will report on the state of its DR and BCP program and planning. Then, the agency will request rescheduling the $1,581,200 that was already approved to support the following activities:

- $529,700 for the virtual desktop infrastructure build;
- $170,500 for the single sign on infrastructure build; and

- $881,000 for DR/BCP technology infrastructure that will be partially used to enhance planning and program development. Funds will be used to administratively establish a Limited Duration position to support these efforts.

The notification letters to the co-chairs of the Joint Ways & Means Committee are attached to this memo.

Assumed Rate Budget Note - PERS was also directed to report during the 2016 legislative session if the PERS Board adopted any change to the assumed earnings rate, which you did at the July 31, 2015 meeting. The report will include an actuarial analysis specially focused on the change in the assumed earnings rate.

Preliminary Earnings Crediting and Other Updates – PERS is required to notify the legislature of preliminary earnings crediting at least 30 days prior to final allocations of earnings. A report on the Board's action today under Agenda item C.4. will be presented to the Joint Ways and Means Committee in February.

Finally, we will update the committee on the progress of implementing the *Moro* decision and the status of other budget-related projects during 2013-15, as time and interest allows.

Proposed 2016 Legislation Impacting PERS Statutes – As legislative committees met during January legislative days, several bill drafts surfaced that are projected to impact PERS statutes.

LC 51 – "Police" status for employees of the Oregon State Hospital. This proposes to give "police" status, for the purpose of PERS benefits, to employees of the Oregon State Hospital. Similar bills have been introduced during recent legislative sessions. This version establishes an incremental timeline to expand the "police" status to all employees of the Oregon State Hospital by 2020. The House Rural Communities, Land Use and Water Committee considered introduction of the measure.
https://olis.leg.state.or.us/liz/2015I1/Downloads/CommitteeMeetingDocument/82335

LC 66 – Senator Knopp PERS Reform Proposal. This legislation has several policy pieces that Senator Knopp has discussed publicly, including redirection of the member IAP contributions, annuitization of Money Match benefits using a rate other that the Board-approved assumed rate, limiting the use of sick leave and vacation hours to increase benefits, and limiting salary that may be applied to benefit calculations. No committee considered introducing this measure, but Senator Knopp has stated that he plans to introduce this bill as one of his two bills that legislators can introduce in the February session.

LC 195 – Tax reconnection bill. This is an annual proposal that updates the connection date to the Internal Revenue Code and other provisions of federal tax law. The House Revenue Committee considered introduction of the measure.
https://olis.leg.state.or.us/liz/2015I1/Downloads/CommitteeMeetingDocument/82184

LC 224 – Return to work exception for Tier One and Tier Two Speech-Language Pathologists. The previous speech-language pathologist/assistant 1,040 return to work exception expired January 2, 2016. Two bills were approved during the 2007 session to grant 1,040 hour return to work exceptions: one was for nursing instructors and DPSST instructors; and the other was for speech pathologists. Exceptions for all three groups were set to expire January 2, 2016, but nurses and DPSST had HB 2684 (2015) to extend their sunset to January 2, 2026. The speech pathologists did not have a bill introduced in 2015, so their exception expired. The pending

expiration for speech-language pathologists was noticed last fall and a request for LC 224 was made. We provided suggested language and that is reflected in the draft. The House Education Committee considered introduction of the measure.
https://olis.leg.state.or.us/liz/2015I1/Downloads/CommitteeMeetingDocument/82530

POSSIBLE 2017 AGENCY LEGISLATIVE CONCEPTS

In early December 2015, the Legislative Advisory Committee met to hear from PERS staff about possible proposals for legislative concepts to be introduced for the 2017 session. Drafting requests are due April 15, 2016. Based on Board feedback and other considerations, a formal request for drafting may be presented for Board approval at the March 28, 2016 meeting.

Some agency proposals are more "housekeeping" in nature or were drafted by Legislative Counsel for consideration during the 2015 Legislative Session review process. Additionally, a budget note in House Bill 5034 (2015), requires PERS to "identify recommendations for simplifying and reducing the costs of the statutory benefits structure and its administration" with consideration of a future information technology upgrade of retirement applications. PERS is directed to report findings to a legislative committee by September 2016. These proposals are characterized as "Budget Note – type" proposals. The following suggestions were presented for consideration to the Legislative Advisory Committee:

- **"HOUSEKEEPING" TYPE PROPOSALS**

Police and Firefighters (P&F) Unit Purchases. (Discussed prior to 2015 session) Units are additional benefits that a police officer or firefighter may purchase with after-tax dollars before retirement. After retirement, the unit account provides a monthly stream of income, usually for five years, which is partially paid for by the employer. A PERS P&F member who is younger than age 65 may elect to purchase up to eight units through payroll deductions. The actuarial cost of eight units is $4,000 at age 60.

Currently, lump sum P&F Unit purchases must be made within 60 days prior to the P&F member's effective retirement date. Technically, if a P&F member chooses to make a lump sum purchase of P&F Units more than 60 days before the effective date of retirement, PERS is required to return the check and request that the purchase be resubmitted within the 60-day P&F unit purchase window. A member may make other service time purchases within the 60-90 day window. This concept proposes to extend the P&F Unit purchase time period from 60 to 90 days to provide for consistency for all purchase timelines.

Problem: ORS 238.440(2) allows lump sum P&F unit purchases to be made 60 days before P&F member's retirement date. The lump sum P&F unit purchase timeline is inconsistent with the timelines for most other purchases (waiting time, refunded time, military time, etc.).

Solution: Standardize the timeline so members may make any unit or time purchase within 90 days of their effective retirement date.

OPSRP Police Officer or Firefighter Retirement Eligibility. An OPSRP P&F member who wants to retain P&F retirement eligibility is required to hold a P&F position for a period of 5 years "continuously" and "immediately" preceding their effective date of retirement. In addition, at retirement, the P&F member must retire immediately after separation (following month) or lose eligibility to retire as P&F. These restrictions have been problematic for OPSRP P&F

members who have applied for retirement under OPSRP P&F eligibility and have been denied for not meeting the “immediately” or “continuously” statutory requirements.

Problem: OPSRP service benefit applications have been denied for not meeting P&F eligibility due to breaks between P&F employments or for not applying for retirement benefits the first of the month following separation. The “continuous” and “immediately” is more restrictive than P&F retirement eligibility provisions in the Tier One and Tier Two programs.

Solution: Revise ORS 238A.165 by the removal of the words “continuously” and “immediately.” Continue to prohibit P&F members from receiving P&F retirement eligibility if the P&F member is employed in a non-P&F qualifying position within the 5 years (60 months) before retirement. The 60 month P&F retirement credit will reset when any non-P&F retirement credit is within the 60 months before the effective retirement date but will not reset for breaks between P&F employment (changing employers) and allows a P&F member to maintain P&F eligibility. Eligible P&F members will retain P&F retirement eligibility after termination of P&F employment as long as they do not become employed in a non-P&F qualifying position.

Statutory References Updates. **(Discussed prior to 2015 session)** This housekeeping concept is necessary to properly reflect recently codified statutes in all programs, such as including reference to ORS 238.372-.382 (tax remedy) in ORS 238.580 (judges), and including ORS 238.092 in ORS 238A.050, to clarify how the IAP account is handled for legislators who retire for service other than legislative service, but remain an active member of the system for their legislative service.

Problem: ORS 238.580 provides an extensive list of all ORS Chapter 238 statutes that are applicable to judge members. Not included on that list are the tax remedy provisions as amended by SB 822 (2013). This causes uncertainty as to whether or not judge members are subject to reporting requirements for receiving tax remedy.

Also, ORS 238A.050 specifies which provisions of Chapter 238 apply to Chapter 238A. Legislators have special retirement plan election options. Some legislators may have other PERS-covered service time in addition to legislative service. Under ORS 238.092, legislators may retire from one service-type before they retire from legislative service, and the benefit they receive at retirement generally consists of a pension benefit and an IAP benefit. PERS operates as if ORS 238.092 also applies to the IAP benefit, but seeks clarity in statute.

Solution: Include appropriate statutory references for corresponding provisions.

Access to Employment Data for OPSRP Members. Employment information is used by PERS to process disability claims and for on-going disability eligibility reviews. Employment information also allows PERS to coordinate benefits with the Employment Department and may assist in the detection of fraud. Employment Department statute allows disclosure of data to PERS for Tier One and Tier Two members.

Problem: The Employment Department does not have statutory authority to disclose to PERS employment information about OPSRP members.

Solution: Extend current authority for Employment Department to disclose information about OPSRP members to PERS.

Updating Social Security References. By legislative delegation, Oregon’s Social Security Administrator is the Executive Director of PERS. From July 1, 1951, through December 31, 1986, public employers in Oregon participating in OASI (Old Age and Survivors Insurance), commonly known as Social Security, remitted employer/employee contributions to the State Social Security administrator. Effective January 1, 1987, the responsibility for collection of FICA taxes was transferred to the IRS.

Problem: Although amendments were made to the applicable statutes in prior legislative sessions, some references to the fiduciary function of FICA collection by the State Social Security Administration remain in statute.

Solution: Delete references to remittance procedures and access to the account which funds the program.

- **“BUDGET-NOTE” TYPE PROPOSALS**

Elimination of IAP Installment Payment Options. At retirement, a member’s IAP account balance can be distributed as a one-time lump-sum payment or in installment payments over 5, 10, 15, or 20 years or over the member’s Anticipated Life Span Option (ALSO). Regardless of duration, all installment options require a distribution frequency. Members may select monthly, quarterly, or annual distributions provided the IAP account balance at the time of retirement projects to at least $200 minimum payments. An IAP withdrawal does not have installment payment options.

Currently, about 15% of IAP retirees select installment option payments. Earnings and losses are applied monthly, so each distribution is different based on the current market value of the IAP account. Amounts must be recalculated for each installment payment. There are three payment methods for the installment: direct payment, roll over, or a combination of direct and roll. Members can change payment method and tax withholdings at any time. IAP distributions are processed by a Third Party Administrator (TPA).

Policy Question: PERS members have a spectrum of options for installment payments from their IAP which can be complex for the agency to manage and can cause confusion for members. Should installment option payments be eliminated for IAP accounts?

Other Considerations: As the value of IAP accounts continues to grow, more members may be interested in installment payments at the time of retirement. If installment option payments are eliminated for IAP, PERS is unsure if members will be aware of how, when, or where to place this asset and how to manage it.

Increase Threshold for Minimum Monthly Pension Benefit Payment (One-Time, Lump-Sum for Smaller Benefits). A retiring PERS member who is due a monthly benefit payment of $200 or less is paid a single lump sum that represents the actuarial value of the member’s monthly benefit. The $200 threshold was last changed in 2001, when it was increased from $30. The OPSRP member’s pension cash-out has remained unchanged at $200 since plan inception in 2004.

Policy Question: There is an administrative expense to maintain small, monthly retirement benefit payments. Is $200 an appropriate “floor” for monthly pension payments or should another value be considered?

Other Considerations: Pension payments are monthly benefit payments over the lifetime of the member and/or beneficiary. If the payment is eliminated, and a lump sum payment is made, PERS is unsure if members will be aware of how, when, or where to place this asset and how to manage it.

<u>"Locking" Member Data.</u> Data constancy and reliability is the cornerstone of the PERS mission to "pay the right person the right benefit at the right time." Good, reliable data may be compromised by factors including: changes in determinations of service credit, contributions, and other key retirement data elements over a member's career; changes in employer reporting and recordkeeping systems; retroactive changes to member data by employers; and changes in technology. All of these factors result in data that may be incomplete, inconsistent, or missing, which may erode confidence and trust in PERS by members, employers, and the public.

"Locking" retroactive data, and all other data on an annual basis, may improve data reliability for retirement planning and prevent significant financial burden to employers if they owe previously unreported contributions and earnings.

Policy Question: Should plan sponsors mandate data constancy between employers, members, and the agency after a specific window of time? Can PERS administratively accomplish this same goal with effective communication to employer and members?

Other Considerations: This would be a multi-year, multi-prong project moving forward and will rely on clear communication and expectations with employers and members. The agency, employers, and members need a mechanism to fix reporting errors.

<u>Work After Retirement.</u> Generally, retired members may not work after retirement (WAR) while receiving retirement benefits; however, there are some exceptions provided in statute. There are different standards for WAR based on program membership (Tier One, Tier Two, or OPSRP), their employer, geographic location of employer, population of counties, employment position, or other factors. It is the responsibility of the member to monitor the compensated hours they work for a PERS-participating employer after retirement.

When a retired member exceeds the statutorily allowed hour limit, PERS is required by statute to stop the member's retirement benefit, return them to active membership, and invoice them for retirement benefits paid after they exceeded the limit. This also leads to an invoice for employers who must pay for contributions and earnings for members who exceed WAR limits. For these reasons PERS has a manual process to also monitor WAR hours.

Policy Question: As a courtesy, PERS notifies retired members and employers when hour limits are being approached, and PERS is trying to reduce the number of members who unintentionally exceed WAR limits and reestablish active service. Should the plan sponsor consider WAR options such as eliminate all restrictions, or impose more restrictions on WAR for members and employers?

Other Considerations: Employers and members have a variety of reasons employ or be employed after retirement. PERS' role is to maintain data on any person working for a PERS-participating employer so benefits and employer contribution rates may be calculated accurately.

Attachments:

C.3. Attachment 1 – February 2016 Budget Request Package 102

C.3. Attachment 2 -- February 2016 Budget Request Package 104

C.3. Attachment 3 – February 2016 Budget Request Package 105

Oregon

Kate Brown, Governor

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January 22, 2016

The Honorable Senator Richard Devlin, Co-Chair
The Honorable Representative Peter Buckley, Co-Chair
Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairpersons:

Nature of the Request
The Public Employees Retirement System (PERS) is requesting an increase in the agency's Other Funds limitation by $1,255,601 due to a re-evaluation of the total estimated work to complete the transfer of all aspects of Individual Account Program (IAP) administration to PERS.

Agency Action
A $1,914,399 expenditure limitation and establishment of three new full-time limited duration positions (3.00 FTE) was approved in the agency's 2015-17 Legislatively Adopted Budget Other Funds limitation (Policy Package 102). These funds were unscheduled pending joint approval of the Office of the State Chief Information Officer, Chief Financial Office, and the Legislative Fiscal Office (LFO).

On August 28, 2015, $400,000 was rescheduled to address any remaining shortfalls and deficiencies in foundational project management documentation, address 15 conditions identified by LFO, and to contract for external Quality Assurance review of the project documentation.

On December 29, 2015, PERS requested that the remaining $1,514,399 expenditure limitation be rescheduled in January 2016 so the project could move forward with Construction (Project Phase III). An amount of $430,000 was rescheduled to support project activities through the first quarter of 2016, with the balance withheld pending consideration of this supplemental request.

Action Requested
PERS requests an increase in the agency's Other Funds expenditure limitation from $93,871,154 to $95,126,755 for the 2015-17 biennium. This increase would be allocated as IT Professional Services in Services and Supplies.

Legislation Affected
If approved, the additional Other Funds budget limitation would increase the amount of expenses allocated to this agency by Section 1(1) of Chapter 595 (2015 Laws).

Oregon

Kate Brown, Governor

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January 22, 2016

The Honorable Senator Richard Devlin, Co-Chair
The Honorable Representative Peter Buckley, Co-Chair
Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
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Dear Co-Chairpersons:

Nature of the Request
The Public Employees Retirement System (PERS) is requesting an increase in the agency's Other Funds limitation by $1,659,976 for the 2015-17 biennium to address the following areas of the agency's benefit administration system (jClarety):

$ 203,229 – Batch Job Failures
$ 227,595 – Database Design
$ 728,185 – UI Redesign for Browser Compatibility
$ 274,738 – Replace Outdated Reporting Engine
$ 226,299 – Error Handling
$1,659,976   Total

Agency Action
The jClarety system architecture was designed over a decade ago. Limitations and inefficiencies can be remediated as technology capabilities have evolved. Code and integration components need to be updated to keep the system scalable, maintainable, and meet prudent industry standards.

For the 2015-2017 budget, PERS requested $3,281,250 Other Funds limitation in the Information Services Division to address necessary system enhancements to existing jClarety architecture. This included creating a team of existing staff and contractors to analyze and implement architectural updates to the jClarety system. Technical debt and system enhancements were the two areas addressed in this package (Policy Package 104).

Hwelett Packard Enterprise, the original vendor for jClarety, has provided a proposal to address some of these deficiencies based on its further development and enhancement of the product for other retirement systems. This biennium's additional limitation would bolster jClarety in these areas, preparing the system to better support the agency's IT modernization plan using a Service Oriented Architecture approach.

Action Requested
PERS requests that the Joint Committee on Ways and Means increase the agency’s approved Other Funds operations limitation from $93,871,154 to $95,931,130 for the 2015-17 biennium. This increase would be allocated as IT Professional Services in Services and Supplies.

Legislation Affected
If approved, the additional Other Funds budget limitation would increase the amount of expenses allocated to this agency by Section 1(1) of Chapter 595 (2015 laws).

Oregon

Kate Brown, Governor

Public Employees Retirement System
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January 22, 2016

The Honorable Senator Richard Devlin, Co-Chair
The Honorable Representative Peter Buckley, Co-Chair
Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairpersons:

Nature of the Request
The Public Employees Retirement System (PERS) will report on the status of rescheduling funds that were legislatively approved for Virtual Desktop infrastructure (VDI) build, Single Sign On (SSO) infrastructure build, and Disaster Recovery/Business Continuity Planning technology infrastructure funds that would instead be partially used to enhance planning and program development.

Agency Action
Upgrades to the agency's infrastructure will enhance our ability to provide reliable services, including distributing about $360 million each month in benefit payments.

For the 2015-2017 budget, $1,581,200 Other Funds limitation were approved to further develop the agency's Disaster Recovery (DR) and Business Continuity (BC) technology infrastructure to facilitate more robust and efficient recovery and resumption activities, as well as improve data security, reduce life-cycle replacement and other maintenance costs, and provide more efficient and flexible deployments of software upgrades agency-wide. PERS is awaiting rescheduling of funds by LFO/OSCIO/CFO.

As part of the agency's 2015-17 Legislatively Adopted Budget, PERS is directed to conduct a detailed health check and risk assessment of the current state of its disaster recovery and business continuity environment, including the state of its current related plans.

PERS is to develop an associated prioritized action plan to correct all identified deficiencies and to ensure that its disaster recovery and business continuity plans are in alignment with state policies, standards, and guidelines. PERS is directed to report to the Joint Committee on Ways and Means during the Legislative session in 2016 with its findings and prioritized action plan. That report will be provided under separate cover.

Action Requested
None.

Legislation Affected
None.

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January 25, 2016

VIA E-MAIL

Steve Rodeman
Executive Director
Oregon PERS

Re: Request Number: 2016-002
Analysis of Potential Legislative Concepts

Dear Steve:

Per the request noted above, we have estimated the system-wide average effects of several potential legislative concepts for modifying the benefits and/or financing of PERS. Our analysis is based upon our understanding of each concept as informed by discussions with PERS staff.

Based on these discussions, our analysis includes the following concepts:

- **Redirect IAP contributions:** The 6% member contribution currently made to the IAP would be redirected to fund Tier 1/Tier 2 and OPSRP benefits. These contributions would not add to the Money Match-eligible account balance for Tier 1/Tier 2 members. For estimating financial impact, we assumed redirected contributions would commence January 2017.
- **Money Match Annuitization:** The Money Match annuitization interest rate to convert account balances to monthly lifetime annuities would be lowered, possibly tied to a market index, and would be independent of the long-term investment return assumption adopted by the PERS Board. For estimating financial impact, we used an interest rate of 3.5% and assumed this provision was first effective for 2017 retirements.
- **OPSRP Final Average Salary Cap:** The Final Average Salary (FAS) definition for OPSRP benefits would be limited to no more than $100,000 on a prospective basis. This limit would not be indexed. If an OPSRP member's FAS is greater than $100,000 at the time the concept is implemented, we understand the FAS amount will be frozen and will apply to all service in the member's benefit calculation. For estimating financial impact, we assumed this provision took effect in 2015.
- **Tier 1/Tier 2 Sick Leave and Vacation Payments**: We understand concepts have been discussed that could limit the amount of unused sick leave or vacation time payments that are included in a Tier 1/Tier 2 member's FAS calculation. While we have not analyzed a specific proposal, we estimated the financial impact if such a concept either reduced or eliminated the benefit increase we assume (based on recent experience) to result from such payments. For estimating financial impact, we assumed any such change affected benefit amounts beginning with 2017 retirements.

The first concept can be considered a financing modification, as it does not change the projected benefits paid under Tier 1/Tier 2 and OPSRP but rather adds an additional source of contributions used to fund those benefits. (Of course, this change would modify IAP benefits by lowering the account balance members are projected to accumulate in the IAP.) The remaining concepts can be considered benefit modifications. They would reduce the projected benefits paid under Tier 1/Tier 2 and OPSRP and hence the system's accrued liability.

Other than as described herein, our analysis used the same assumptions as the December 31, 2014 actuarial valuation. Changes in member retirement patterns could significantly affect the liability reduction ultimately realized if these concepts were enacted. In particular, if a window of time existed for retirements prior to the effective date of changes reducing benefits for future retirees, we would expect to see at least some "anti-selection", where a portion of members who would be most affected by the changes accelerate their retirements to precede the effective date.

The analysis estimates the impact on accrued liability and system-wide average advisory contribution rates calculated in the December 31, 2014 actuarial valuation of the changes and assumed implementation dates described above.

The consultants who worked on this assignment are pension actuaries. We have not explored any legal issues with respect to these change concepts. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

SUMMARY OF LIABILITY RESULTS

The table below summarizes key December 31, 2014 valuation results for pension benefits prior to reflecting any legislative concept.

"Accrued Liability" refers to the net present value of projected future benefits allocated to service already completed as of the valuation date in accordance with the current actuarial cost allocation method, while "Total Liability" includes the value attributable to anticipated future service for current active members. The contribution rate shown is a blended rate reflecting the weighted averages of Tier 1, Tier 2 & OPSRP payroll as of the valuation date. The base contribution rate is shown on an "uncollared" basis.

	12/31/2014 Total Liability ($B)	12/31/2014 Accrued Liability ($B)	2017-2019 Advisory Uncollared Base Pension Employer Contribution Rates (% of Payroll)		
			Normal Cost	UAL	Total
12/31/2014 Pension Valuation Results	$81.0	$73.5	12.3%	14.7%	27.0%

ANALYSIS OF FINANCING MODIFICATION: REDIRECTING MEMBER IAP CONTRIBUTIONS

The offset to the employer contribution rate provided by member contributions represents 6% of payroll for the affected member population. The estimated dollar amount of contributions can be calculated for each biennium and converted to a percentage of system-wide payroll that would offset the share of the total contribution paid by employers. If the member contributions were only redirected for Tier 1/Tier 2 members, the amount of this offset would diminish over time as the payroll associated with the closed Tier 1/Tier 2 group declines. If contributions were redirected for all members, the offset would remain at 6% of system payroll. The estimated impact by biennium using the valuation assumptions is shown in the following table.

System-Wide Average Employer Rate Offset Provided by Redirecting Member Contributions Starting January 2017 to Fund Defined Benefits

	Redirect Tier 1/Tier 2 Only	Redirect for All Members*
2015-2017	0.7%	1.6%
2017-2019	2.5%	6.0%
2019-2021	2.1%	6.0%
2021-2023	1.7%	6.0%
2023-2025	1.4%	6.0%
2025-2027	1.1%	6.0%
2027-2029	0.8%	6.0%

*Redirection is shown prior to any estimated effects of a return of member contributions for OPSRP members who fail to satisfy minimum vesting requirements. Estimating any such effects would require an articulated policy regarding interest crediting on returned member contributions.

The 2015-2017 impact is lower than the 2017-2019 impact because the assumed implementation date falls 18 months into the 2015-2017 biennium. The estimates under the option for redirecting only Tier 1/Tier 2 contributions are sensitive to the actual rates of retirement and termination for Tier 1/Tier 2 members and employer hiring practices.

This analysis assumes that total system payroll grows at the valuation assumption of 3.5% per year. The projected system payroll for each biennium is shown below.

Estimated System Payroll – Subject Salary ($Billions)	
2015-2017	$18.9
2017-2019	$20.2
2019-2021	$21.7
2021-2023	$23.2
2023-2025	$24.9
2025-2027	$26.6
2027-2029	$28.5

Another way to illustrate the effect of redirecting IAP contributions is to consider the present value of the future employee contributions that would fund the pension benefits under such a concept. At the December 31, 2014 valuation, considering only active members of the system at that date and assuming that contributions were redirected beginning in 2017, the present value of the redirected 6% IAP contributions for Tier 1/Tier 2 members is approximately $1.4 billion. The present value for OPSRP members is approximately $2.0 billion. As a result, if the full IAP contribution was redirected for all members, the present value would be $3.4 billion. For reference, the system's unfunded actuarial liability, excluding side accounts, for pension benefits as of December 31, 2014 was $17.9 billion.

ANALYSIS OF BENEFIT MODIFICATIONS

The decrease in both Total Liability and Accrued Liability associated with each benefit modification concept is shown separately below. **Please note that if multiple concepts are implemented together, the resulting effect would not be the cumulative amount of the separate concepts illustrated below. Instead, the interactions between the various benefit modifications would produce a liability reduction of smaller magnitude than the sum of the reductions shown below. If more than one concept will be incorporated into a legislative proposal, a separate analysis should be conducted to study the combined effects.**

The effects of the different change concepts are discussed individually below.

Annuitize Money Match at 3.5%

The Money Match benefit formula calculation for Tier 1/Tier 2 members annuitizes the member account balance plus the matching employer amount. The annuitization calculation uses the system's life expectancy tables and an annuitization interest rate.

For a given account balance, using a lower annuitization interest rate provides a smaller initial monthly benefit, all else equal. Mathematically, the conversion from account balance to monthly annuity is accomplished by assuming the member lives to his or her life expectancy while receiving level monthly payments and that the unused portion of the account balance increases with the annuitization interest rate due to investment returns. Please note the emphasis on the word “level” in the prior sentence, as the annuitization calculation for Money Match retirees has historically been performed without regard to future cost of living allowance (COLA) increases. This means that account balances are annuitized to provide a lifetime annuity without COLA, and then employer contribution rates are calculated in a way to provide 100% employer funding of the COLA increase on the calculated annuity benefits, as directed by statute.

Currently the interest rate used for the annuitization calculation is the same as the Board’s adopted assumption for long-term future average investment return. For retirements in 2016, this rate is currently 7.5%. We understand the legislative concept under discussion would require a different, lower rate for the calculation. For our analysis, we showed the effect of using a 3.5% annuitization interest rate.

The impact on system liability attributable to the lower annuitization interest rate is shown in the table below. The change primarily results from the effect of the annuitization change on Tier 1 General Service active members and on inactive members, who have not yet commenced benefits. These two groups are most affected because they are the not-yet-retired members most likely to receive benefits under the Money Match formula.

	12/31/2014 Total Liability ($B)	12/31/2014 Accrued Liability ($B)	2017-2019 Advisory Uncollared Base Pension Employer Contribution Rates (% of Payroll)		
			Normal Cost	UAL	Total
12/31/2014 Pension Valuation Results	$81.0	$73.5	12.3%	14.7%	27.0%
Change in Money Match Interest Rate	(1.1)	(0.9)	(0.3%)	(0.7%)	(1.0%)

For reference, we provided an analysis of a similar concept in a letter dated February 1, 2013, which illustrated a 4% annuitization rate. While several aspects of the analysis have changed since that time (including the investment return assumption, the proposed annuitization rate, and the actuarial cost method), a comparison to the prior analysis illustrates the diminishing impact of such a change over time due to changes in the demographics of not-yet-retired members. The prior analysis, which assumed the lower annuitization rate would apply to retirements beginning in 2012, reduced Total Liability by $2.7 billion. As shown in the table above, our current analysis shows a Total Liability reduction of $1.1 billion, approximately 40% of the effect from the prior analysis. This is largely due to the passage of five years between the effective dates of the annuitization change in the two studies. Because the share of members whose benefits are determined by the Money Match formula is declining, a change in the Money Match annuitization factors has a diminishing impact over time.

The table below shows the percentage decrease in the factors of a single life annuity retirement for non-disabled Tier 1 / Tier 2 members at two sample retirement ages.

	Change to Money Match Benefit Factor*	
	Age 55 Retirement	Age 65 Retirement
3.5% Annuitization Rate	-36.7%	-30.9%

**Based on mortality assumption in effect for 2016-2017 retirements*

Tier 1/Tier 2 members have benefits calculated under both Money Match and Full Formula, and get the larger of the two calculated benefits. (Members eligible for the Formula Plus Annuity benefit have a comparison of three benefit formulas.) Of members currently projected to have their benefit determined by Money Match, some would continue to be projected as Money Match retirements when valued under the lower annuitization rate while others would be projected to retire under Full Formula after reflecting the lower rate. For the first group of members, the changes shown above for the Money Match benefit factor are representative of their anticipated changes in their initial benefits. For the second group of members, the changes would be less than shown above because the Full Formula calculation, which is unaffected by the annuitization rate change, would serve as a floor limiting the decrease in the initial benefit amount.

The combined impact of these two outcomes would be to reduce benefits for some members and to accelerate the system's transition towards Full Formula serving as the dominant benefit formula. This reduces both the Accrued Liability and Normal Cost determined under the actuarial cost method.

Of the $0.9 billion reduction in Accrued Liability shown above, approximately $0.6 billion is attributable to the effect of the change on inactive members. Inactive members no longer work in PERS-covered employment but have not yet commenced receipt of benefits. Many of these members, particularly those with the highest individual liabilities, may currently be eligible to retire immediately. A change to the Money Match annuitization rate that lowered benefits may cause inactive members who otherwise would have deferred retirement to accelerate their retirement to before the effective date of the change. This could significantly limit the liability reduction associated with a change and lead to a smaller effect than shown above.

Please note that the rate changes illustrated above are calculated assuming a 20-year amortization period is used to reflect the decreased Accrued Liability arising out of this change. If a shorter period was used – such as an average expected future working lifetime of affected members – the reduction in near-term contribution rates could be larger.

OPSRP Final Average Salary Cap

We analyzed the effect of implementing a limit of $100,000 on the three-year Final Average Salary (FAS) used in OPSRP benefit calculations. For our illustration, we assumed the cap went into effect for benefits calculated in 2015. Based on our understanding of the proposed concept, we assumed this limit applied prospectively to the final result of the FAS calculation. This means that if an OPSRP member had a FAS of $120,000 immediately before the cap was introduced, the FAS would remain at $120,000 for the remainder of the member's career. Finally, the $100,000 amount was not indexed for future inflation, which means it would affect a growing percentage of members over time. Our analysis assumed that employer contribution rates would continue to apply to all subject salary.

The change in system-wide December 31, 2014 valuation results is shown below.

	12/31/2014 Total Liability ($B)	12/31/2014 Accrued Liability ($B)	2017-2019 Advisory Uncollared Base Pension Employer Contribution Rates (% of Payroll)		
			Normal Cost	UAL	Total
12/31/2014 Pension Valuation Results	$81.0	$73.5	12.3%	14.7%	27.0%
OPSRP FAS Cap of $100,000	(1.2)	(0.5)	(0.7%)	(0.4%)	(1.1%)

As shown in the table, the decrease in the Total Liability is much larger than the decrease in Accrued Liability. The fixed dollar limit on FAS has a growing impact in the future, and so the reduction in benefits to be earned over the entire working career is larger than the reduction in those benefits considered accrued as of the valuation date under the actuarial cost method.

While noting OPSRP normal cost and UAL rates are pooled at a statewide level, the liability effects of this concept differ significantly between school district general service members and all other general service members. For school district members this concept would decrease key active member liability metrics by approximately 8%. In contrast, for non-school district general service members this concept would decrease active member liability metrics by approximately 20%. This difference in effects based on employer type is primarily caused by differences in the salary distribution between school districts and other types of general service employers. The effects of this concept differ significantly from member to member; members with low salaries may not be impacted by the concept while more highly-paid members are significantly impacted by the concept.

Finally, we understand some versions of this concept would exclude Police & Fire members from the FAS cap. That would change the results of our analysis as shown:

	12/31/2014 Total Liability ($B)	12/31/2014 Accrued Liability ($B)	2017-2019 Advisory Uncollared Base Pension Employer Contribution Rates (% of Payroll)		
			Normal Cost	UAL	Total
12/31/2014 Pension Valuation Results	$81.0	$73.5	12.3%	14.7%	27.0%
OPSRP FAS Cap of $100,000 *(Excluding Police & Fire)*	(0.8)	(0.35)	(0.5%)	(0.3%)	(0.8%)

Tier 1/Tier 2 Sick Leave and Vacation Payments

Currently, certain Tier 1 and Tier 2 members are eligible to receive an increase in their FAS on account of two separate provisions. First, employees of employers who participate in the unused sick leave program can have the value of one-half of their accumulated unused sick leave added to the gross salary used to determine their FAS. This benefit is available to both Tier 1 and Tier 2 members whose employers elect to participate. Second, Tier 1 members are eligible to include the value of any lump sum payment for accrued vacation that occurs in their averaging period as part of the salary that will be used to calculate their FAS. The effect of both provisions is to increase FAS and, ultimately, benefits paid from the system under Tier 1/Tier 2 benefit formulas that use FAS.

OPSRP members are not eligible for an increase to their FAS on account of either unused sick leave or lump sum vacation payouts.

We understand various legislative concepts have been discussed that may reduce the amount of unused sick leave or lump sum vacation payouts a Tier 1/Tier 2 member is likely to have included in FAS. Such changes could take different forms, such as not allowing leave accrued after a specific date to count in the FAS calculation.

The FAS amount calculated for a Tier 1/Tier 2 member affects the benefits determined under both the Full Formula and Formula Plus Annuity benefit formulas, but does not affect the Money Match calculation. Because of this, the effect of reducing such amounts in the salary considered would have a varying effect between members, depending on which formula produces the greatest benefit.

For our analysis, we have not attempted to model the specific effect of any one proposal, but instead have illustrated a range of potential impacts from reducing unused sick leave and lump sum vacation payouts. We did this by calculating system-wide December 31, 2014 actuarial valuation results under two alternate assumption sets: 1.) the estimated FAS increase due to such payments is cut in half compared to that observed in the most recent experience study, or 2.) the estimated FAS increase due to such payments is completely eliminated. For both assumption sets, we assumed the change first affect retirements in 2017. The results are illustrated in the table below.

	12/31/2014 Total Liability ($B)	12/31/2014 Accrued Liability ($B)	2017-2019 Advisory Uncollared Base Pension Employer Contribution Rates (% of Payroll)		
			Normal Cost	UAL	Total
12/31/2014 Pension Valuation Results	$81.0	$73.5	12.3%	14.7%	27.0%
Sick Leave/Vacation Cut in Half	(0.35)	(0.3)	(0.1%)	(0.2%)	(0.3%)
Sick Leave/Vacation Eliminated	(0.7)	(0.6)	(0.2%)	(0.5%)	(0.7%)

The second assumption set – which illustrates the complete elimination of sick leave and vacation adjustments – is shown to estimate the share of system liabilities associated with these provisions for members active as of December 31, 2014, not because we understand legislation to completely eliminate the amounts is being considered.

The assumptions used as a starting point for this analysis are shown below and were developed in the most recent biennial review of assumptions and methods, which was published in September 2015. As part of that study, we evaluated an appropriate assumed increase attributable to both unused sick leave and lump sum vacation payouts to use in the actuarial valuation based on a review of recent retirements. The assumed increases to FAS for active members developed in that study and used in the December 31, 2014 actuarial valuation are shown below. The vacation increase in the table is applied to all Tier 1 members, while the unused sick leave increase in the table is applied only to Tier 1/Tier 2 members who work for an employer that elects to participate in the unused sick leave program.

Assumed Increase to Active Final Average Salary (FAS)	
Unused Sick Leave	
State General Service Male	6.25%
State General Service Female	3.75%
School District Male	7.25%
School District Female	5.75%
Local General Service Male	4.75%
Local General Service Female	3.25%
State Police & Fire	4.75%
Local Police & Fire	7.50%
Dormant members	3.00%

Assumed Increase to Active Final Average Salary (FAS)	
Vacation Pay	
Tier 1 State General Service	1.60%
Tier 1 School District	0.25%
Tier 1 Local General Service	2.20%
Tier 1 State Police & Fire	1.80%
Tier 1 Local Police & Fire	2.90%

DATA, METHODS, ASSUMPTIONS AND PROVISIONS

Other than the exceptions and additions discussed in this letter, the data, methods, assumptions, and plan provisions used to calculate employer contribution rates are the same as those used in the December 31, 2014 system-wide actuarial valuation report. That information, including a discussion of the inherent limitations of use of actuarial valuation results, is herein incorporated to this letter by reference.

Our valuation assumptions portion of the analysis does not include any assumed change in participant behavior such as retirement patterns due to the proposed changes in policy, or to bargaining agreements or employer pay practices as a result of any legislative changes. Such potential impacts merit consideration. In particular, an announced change in the annuitization interest rate to take effect at a future date could lead some affected members who otherwise would have retired after the effective date to accelerate retirement. This would limit the liability reduction associated with a change. Actual experience will vary from assumption, and sometimes the variance from assumption will be significant. The variance will affect the long-term financial impact of any proposed legislation.

In our analysis, it was assumed that a standalone annuitization interest rate change would not affect future interest crediting on Tier 1 member accounts over time.

In calculating the illustrative changes in uncollared employer base contribution rates shown above, we assumed all changes in Accrued Liability were amortized over a 20-year period as a level percent of payroll using current valuation assumptions. This is the method currently used in the valuation when establishing new Tier 1/Tier 2 amortization bases. If a different amortization method were used, the overall impact on employer rates could be significantly different than shown in this letter.

Actuarial Basis and Qualifications

In preparing this letter and the valuation report on which it is based, we relied, without audit, on information (some oral and some in writing) supplied by Oregon PERS. This information includes, but is not limited to, statutory provisions, employee data, and financial information. We found this information to be reasonably consistent and comparable with information used for other purposes. The updated estimates depend on the integrity of this information. If any of this information is inaccurate or incomplete our results may be different and our calculations may need to be revised.

All costs, liabilities, rates of interest, and other factors for the System have been determined on the basis of actuarial assumptions and methods which are individually reasonable (taking into account the experience of the System and reasonable expectations); and which, in combination, offer a reasonable estimate of anticipated experience affecting the System.

Future actuarial measurements may differ significantly from the current measurements presented in this estimate due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period, additional cost or contribution requirements based on the plan's funded status, or a change in the cost allocation method); and changes in plan provisions or applicable law. Due to the limited scope of this estimate, we did not perform an analysis of the potential range of future measurements. The Board has the final decision regarding the valuation assumptions and adopted the assumptions used in the December 31, 2014 valuation in September 2015.

Actuarial computations presented in this estimate are for purposes of providing a high-level analysis of the requested change concepts to the System. As such, they cannot be relied upon for financial reporting or other purposes, and calculations for purposes other than this use may be significantly different from the estimates contained in this letter. Accordingly, additional determinations may be needed for other purposes.

Milliman's work is prepared solely for the use of Oregon PERS. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work product. No third party recipient of Milliman's work product should rely upon Milliman's work product. Such recipients should engage qualified professionals for advice appropriate to their own specific needs.

The consultants who worked on this assignment are pension actuaries. We have not explored any legal issues with respect to the change concepts. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

The signing actuaries are independent of the System. We are not aware of any relationship that would impair the objectivity of our work.

On the basis of the foregoing, we hereby certify that, to the best of our knowledge and belief, this report is complete and accurate and has been prepared in accordance with generally recognized and accepted actuarial principles and practices. We are members of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

If you have any questions about our response or need any additional information, please let us know.

Sincerely,

Matt Larrabee, FSA, EA, MAAA
Principal and Consulting Actuary

Scott D. Preppernau, FSA, EA, MAAA
Principal and Consulting Actuary

MRL:sdp
encl.

cc: Debra Hembree, Marjorie Taylor

Oregon

Kate Brown, Governor

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January 29, 2016

TO: Members of the PERS Board

FROM: Mary Dunn, Assistant Chief Administration Officer
Kyle J. Knoll, Chief Administration Officer

SUBJECT: 2015 Preliminary Earnings Crediting and Reserving

OVERVIEW

- Action: Preliminarily allocate 2015 earnings.
- 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 2015 to the PERS Fund's accounts and reserves.

The PERS Board is charged with crediting the 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.

EARNINGS ALLOCATIONS DIRECTED BY STATUTE OR RULE

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

1. **Administrative Expenses:** PERS administrative costs are funded by earnings when they are sufficient, as they were in 2015 (ORS 238.610(1)). As directed by House Bill 4155 (2014 Regular Session), the administrative costs to comply with Governmental Accounting Standards Board (GASB) 68 reporting standards were $190,400, and will be recovered from earnings on employer's contributions.
2. **Heath 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 2015, the preliminary crediting rate for these accounts is estimated to be 2.74% for RHIA, 0.3635% for RHIPA, and 0.5884% for SRHIA (invested in the Treasury Short-Term Fund).
3. **Employer Lump Sum Payment Accounts:** These accounts are credited with actual earnings or losses of the PERS Fund Regular Account less administrative expenses, as authorized by ORS 238.225. For 2015, the preliminary crediting rate for these accounts is estimated to average 2.21%.
4. **Variable Annuity Account:** This account is credited with earnings and losses on its distinct asset allocation of the PERS Fund. The Variable Annuity Account is only invested in equities and therefore its earnings are discrete from those of the more diversified PERS Fund Regular Account. As there are insufficient Variable Annuity Account 2015 earnings to pay for administrative

expenses, per OAR 459-007-0005, those expenses will be charged to the Regular Account 2015 earnings. For 2015, preliminary Variable Annuity Account earnings are estimated to be (1.60%).

5. **Individual Account Program (IAP):** These member accounts are credited with actual earnings or losses of the PERS Fund Regular Account as required by ORS 238A.350(1). Preliminary IAP earnings for 2015 are estimated to be 1.87% after deducting IAP expenses.
6. **Tier One Rate Guarantee Reserve:** This reserve, established under ORS 238.255(1), is used to fund crediting of the assumed rate to Tier One member regular accounts when earnings are less than the assumed rate. A transfer of $280.8 million from the existing reserve will be credited to Tier One member regular accounts for 2015 earnings crediting, resulting in a remaining balance of $167.9 million.

CONTINGENCY RESERVE ALLOCATION

When the PERS Fund's calendar year earnings exceed the assumed rate, the PERS Board can make an allocation to the Contingency Reserve. Because 2015 earnings did not exceed the assumed earnings rate of 7.75%, the PERS Board cannot allocate any earnings to the Contingency Reserve, but there is an existing balance of $588.6 million.

Attached is a separate memo about the policy issues related to the adequate funding and use of the Contingency Reserve. The attached memo is intended to begin the discussion on those issues with the intention that PERS staff will return to the PERS Board's March 28, 2016 meeting with a recommendation to address those policy issues. Any stakeholders that would like to provide their views on those questions should contact us in the next few weeks so we can integrate those views into the recommendation.

2015 PRELIMINARY ALLOCATIONS

The PERS Board's Annual Earnings Crediting rule (see OAR 459-007-0005 attached) directs the crediting to the Judge and Tier Two member regular accounts, as well as the OPSRP Pension Program, Benefits-in-Force, and Employer reserves. Staff recommends the following allocations be adopted preliminarily by the PERS Board:

Non-Discretionary Allocations

Credit administrative expenses, health insurance accounts, employer lump sum accounts, variable annuity accounts, and accounts in the Individual Account Program in the manner described above. Credit Tier One member regular accounts with the assumed earnings rate (7.75%) in effect during 2015.

Judge Member Accounts

Credit Judge Member Accounts with the assumed earnings rate (7.75%) in effect during 2015.

Tier Two Member Regular Accounts

Tier Two member regular accounts usually are credited with a proportional share of available PERS Fund Regular Account earnings, which will result in a preliminary rate of 1.88%.

Benefits-in-Force and Employer Reserves

Credit the Benefits-in-Force and Employer Reserves evenly with the remaining available PERS Fund Regular Account earnings. The preliminary crediting rate to those accounts is 1.88%.

<u>BOARD ACTION – PRELIMINARY EARNINGS CREDITING</u>

The Board's options for 2015 preliminary earnings crediting include:

1. Pass a motion to "adopt the preliminary crediting of earnings as presented for calendar year 2015, subject to final adoption at the March 28, 2016 PERS Board meeting."
2. Pass a motion preliminarily allocating 2015 earnings in a different proportion to the accounts and reserves to which the PERS Board has the discretion to allocate earnings, subject to final adoption at the March 28, 2016 PERS Board meeting.

<u>STAFF RECOMMENDATION</u>

Staff recommends the Board choose Option #1.

<u>NEXT STEPS</u>

Once the Board makes its preliminary allocation, staff will prepare and present the required report to the Joint Legislative Committee on Ways and Means. Any comments received from the committee will be presented to the Board prior to the final crediting decision at its meeting on March 28, 2016.

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

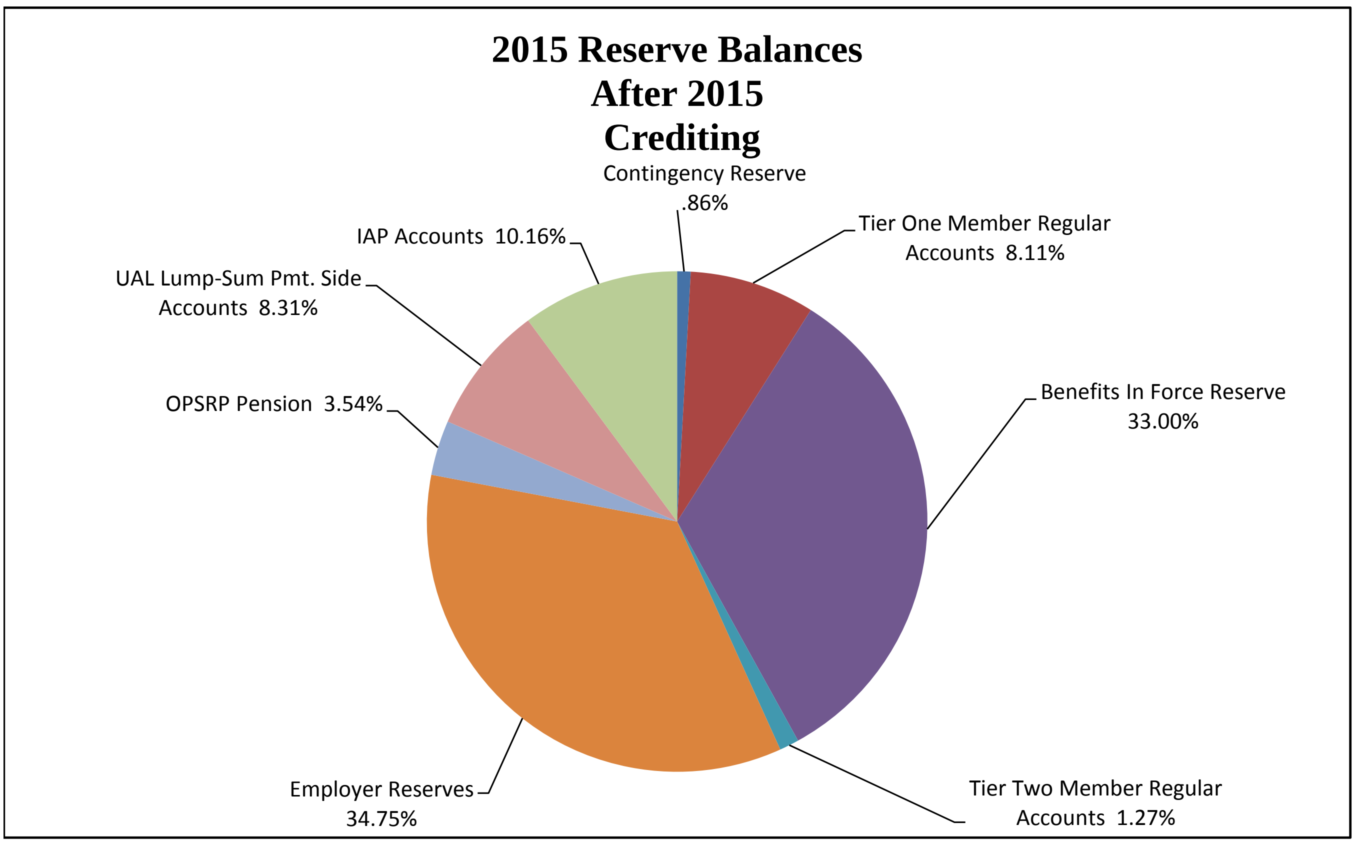
Attachments:

- C.4. Attachment 1 – Preliminary 2015 Accounts and Reserves Crediting
- C.4. Attachment 2 – ORS 238.670 – Reserve Accounts in Fund
- C.4. Attachment 3 – OAR 459-007-0005 – Annual Earnings Crediting Rule
- C.4. Attachment 4 – Contingency Reserve Policy Board Memo

Oregon Public Employees Retirement System
Preliminary 2015 Crediting and Reserving

(All dollar amounts in millions)

	Reserves Before Crediting	2015 Crediting	Reserves After Crediting	2015 Rates
Contingency Reserve	$588.6		$588.6	N/A
Tier One Member Regular Accounts	4,932.6	382.3	5,314.9	7.75%
Tier One Rate Guarantee Reserve	448.8	(280.8)	168.0	N/A
Benefits In Force Reserve	21,914.8	413.1	22,327.9	1.88%
Tier Two Member Regular Accounts	839.6	15.8	855.4	1.88%
Employer Reserves	23,082.8	434.8	23,517.6	1.88%
OPSRP Pension	2,355.8	43.1	2,398.9	1.82%
***UAL Lump-Sum Pmt. Side Accounts**	5,499.3	122.0	5,621.3	Various
***IAP Accounts**	6,745.9	122.7	6,868.6	1.87%
Total	$66,408.2	$1,253.0	$67,661.2	



*Informational only. Not affected by Board reserving or crediting decisions.
IAP accounts receiving installments have already received 2015 earnings.

ORS 238.670 Reserve accounts in fund. (1) At the close of each calendar year in which the earnings on the Public Employees Retirement Fund equal or exceed the assumed interest rate established by the Public Employees Retirement Board under ORS 238.255, the board shall set aside, out of interest and other income received through investment of the Public Employees Retirement Fund during that calendar year, such part of the income as the board may deem advisable, not exceeding seven and one-half percent of the combined total of such income, which moneys so segregated shall remain in the fund and constitute therein a reserve account. The board shall continue to credit the reserve account in the manner required by this subsection until the board determines that the reserve account is adequately funded for the purposes specified in this subsection. Such reserve account shall be maintained and used by the board to prevent any deficit of moneys available for the payment of retirement allowances, due to interest fluctuations, changes in mortality rate or, except as provided in subsection (3) or (4) of this section, other contingency. In addition, the reserve account may be used by the board for the following purposes:

(a) To prevent any deficit in the fund by reason of the insolvency of a participating public employer. Reserves under this paragraph may be funded only from the earnings on employer contributions made under ORS 238.225.

(b) To pay any legal expenses or judgments that do not arise in the ordinary course of adjudicating an individual member's benefits or an individual employer's liabilities.

(c) To provide for any other contingency that the board may determine to be appropriate.

(2) At the close of each calendar year, the board shall set aside, out of interest and other income received during the calendar year, after deducting the amounts provided by law and to the extent that such income is available, a sufficient amount to credit to the reserves for pension accounts and annuities varying percentage amounts adopted by the board as a result of periodic actuarial investigations. If total income available for distribution exceeds those percentages of the total accumulated contributions of employees and employers, the reserves for pensions and annuities shall participate in such excess.

(3) The board may set aside, out of interest and other income received through investment of the fund, such part of the income as the board considers necessary, which moneys so segregated shall remain in the fund and constitute one or more reserve accounts. Such reserve accounts shall be maintained and used by the board to offset gains and losses of invested capital. The board, from time to time, may cause to be transferred from the reserve account provided for in subsection (1) of this section to a reserve account provided for in this subsection such amount as the board determines to be unnecessary for the purposes set forth in subsection (1) of this section and to be necessary for the purposes set forth in this subsection.

(4) The board may provide for amortizing gains and losses of invested capital in such instances as the board determines that amortization is preferable to a reserve account provided for in subsection (3) of this section.

(5) At least 30 days before crediting any interest and other income received through investment of the Public Employees Retirement Fund to any reserve account in the fund, the board shall submit a preliminary proposal for crediting to the appropriate legislative review agency, as defined in ORS 291.371 (1), for its review and comment. [Formerly 237.281; 2001 c.945 §5]

OAR 459-007-0005

Annual Earnings Crediting

(1) For purposes of this rule, “remaining earnings” means earnings available for distribution to a particular account or reserve after deduction of amounts required or authorized by law for other purposes.

(2) Except as otherwise specified in this division, earnings on all accounts and reserves in the Fund shall be credited as of December 31 of each calendar year in the manner specified in this rule.

(3) Health insurance accounts. All earnings attributable to the Standard Retiree Health Insurance Account (SRHIA), Retiree Health Insurance Premium Account (RHIPA) or Retirement Health Insurance Account (RHIA) shall be credited to the account from which they were derived, less administrative expenses incurred by each account, as provided in ORS 238.410, 238.415 and 238.420, respectively.

(4) Employer lump sum payments. All earnings or losses attributable to the employer lump sum payment accounts established under ORS 238.229 shall be credited to the accounts from which they were derived.

(5) Member variable accounts. Earnings on the Variable Annuity Account shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238.260(6). If the annual earnings from the Variable Annuity Account are insufficient to pay for the pro rata share of administrative expenses, those administrative expenses shall be paid from earnings on other accounts within the Public Employees Retirement Fund (PERF), if available. If earnings from those accounts within the PERF are insufficient to pay for the administrative expenses, those expenses shall be paid from employer accounts as required by ORS 238.610. All remaining earnings or losses attributable to the Variable Annuity Account shall be credited to the participants of that account, as provided under 238.260(6) and (7)(b).

(6) Individual Account Program accounts. Earnings on the Individual Account Program accounts shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238A.350(1). If the Individual Account Program experiences a loss, the loss shall be increased to pay a pro rata share of administrative expenses. All remaining earnings or losses attributable to the Individual Account Program shall be credited to the participant accounts of that program, as provided under 238A.350.

(7) Administrative expenses. Earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two member regular accounts, judge member regular accounts, the OPSRP Pension Program reserve, employer contribution accounts, the Contingency Reserve, the Benefits-in-Force Reserve and the Capital Preservation Reserve shall first be used to pay the system’s remaining administrative expenses under ORS 238.610.

(8) Contingency Reserve.

(a) In any year in which total earnings on the Fund equal or exceed the assumed rate, an amount not exceeding seven and one-half percent of remaining earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two regular accounts, Judge member regular accounts, the OPSRP Pension Program reserve, the Benefits-in-Force Reserve, employer contribution accounts, the Capital Preservation Reserve and the Contingency Reserve shall be credited to the Contingency Reserve to the level at which the Board determines it is adequately funded for the purposes specified in ORS 238.670(1).

(b) The portion of the Contingency Reserve allowed under ORS 238.670(1)(a) for use in preventing a deficit in the fund due to employer insolvency may only be credited using earnings attributable to employer contribution accounts.

(9) Tier One Member Rate Guarantee Reserve. All remaining earnings attributable to Tier One regular accounts, the Tier One Member Rate Guarantee Reserve, Judge member regular accounts, the Benefits-in-Force Reserve, and the Contingency Reserve may be credited to the Tier One Member Rate Guarantee Reserve established under ORS 238.255(1).

(10) Capital Preservation Reserve. Remaining earnings attributable to the Tier Two member regular accounts, Judge member regular accounts, OPSRP Pension Program reserve, employer contribution accounts, the Benefits-in-Force Reserve, the Contingency Reserve and the Capital Preservation Reserve may be credited from those sources to one or more reserve accounts that may be established under ORS 238.670(3) to offset gains and losses of invested capital.

(11) Tier One regular accounts. All remaining earnings attributable to Tier One regular accounts and the Tier One Rate Guarantee Reserve shall be credited to Tier One member regular accounts at the assumed rate in any year in which the conditions set out in ORS 238.255 have not been met. Crediting under this subsection shall be funded first by all remaining earnings attributable to Tier One regular accounts and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

(12) Judge member regular accounts. All remaining earnings attributable to Judge member regular accounts shall be credited to all active and inactive Judge member regular accounts at the Judge member rate. Crediting under this subsection shall be funded first by all remaining earnings attributable to the Judge member regular accounts and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

(13) Tier Two member regular accounts. All remaining earnings or losses attributable to Tier Two member regular accounts shall be credited to all active and inactive Tier Two member regular accounts under ORS 238.250.

(14) OPSRP Pension Program Reserve. Remaining earnings attributable to the OPSRP Pension Program Reserve, the Contingency Reserve, and the Capital Preservation Reserve may be used to credit the OPSRP Pension Program reserve.

(15) Benefits-in-Force Reserve. Remaining earnings attributable to the Benefits-in-Force Reserve, the Contingency Reserve, the Capital Preservation Reserve and employer contribution accounts, in that order, shall be used, to the extent available, to credit the Benefits-in-Force Reserve with earnings up to the assumed rate for that calendar year in accordance with ORS 238.670(2).

(16) Employer contribution accounts. All remaining earnings attributable to employer contribution accounts shall be credited to employer contribution accounts.

(17) Remaining earnings. Any remaining earnings shall be credited to accounts and reserves in the Fund at the Board’s discretion.

Stat. Auth.: ORS 238.650, 238A.450
Stats. Implemented: ORS 238, 238A.350
Hist.: PERS 8-2004, f. & cert. ef. 4-15-04; PERS 18-2005(Temp), f. & cert. ef. 10-26-05 thru 4-19-06; PERS 1-2006, f. & cert. ef. 2-1-06; PERS 4-2009, f. & cert. ef. 4-6-09; PERS 9-2012, f. & cert. ef. 5-24-12

Oregon

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January 29, 2016

TO: Members of the PERS Board

FROM: Kyle J. Knoll, Chief Administration Officer, and
Mary Dunn, Assistant Chief Administration Officer

SUBJECT: Policy Development on the Funding and Use of the Contingency Reserve

OVERVIEW

- Action: No action to be taken at this time.
- Reason: This is an informational message alerting the Board and public that PERS seeks clarification and policy development around the use of the Contingency Reserve.
- Policy Issues:
  1. What is the appropriate methodology to determine adequate funding for the Contingency Reserve?
  2. What criteria should be applied to PERS Board approval of requests for use of the Contingency Reserve?

BACKGROUND

The PERS Board is authorized by ORS 238.670(1) to establish a reserve account with earnings and other income in years that the earnings on the PERS Fund (PERF) equal or exceed the assumed interest rate. The statute also states the PERS Board will continue to fund the account until they determine the reserve is “adequately funded for the purposes specified.” As outlined in statute, the purpose of the Contingency Reserve is to prevent fund deficits due to insolvent PERS employers, cover legal expenses or judgements not associated with an individual member or employer, and “to provide for any other contingency that the board may determine to be appropriate.”

In 2015, two requests for Contingency Reserve funds were presented to the PERS Board. The first request, approved September 25, 2015, funded restored COLA payments as a result of the Oregon Supreme Court’s decision in the *Moro* case. The second request to the Board, also in September 2015, was to cover under-remitted contributions and earnings which resulted from inconsistent administration of OPSRP contribution start dates. That request, however, was deferred until the Board can consider a policy around “appropriate use” and “adequate funding” levels of the Contingency Reserve.

POLICY ISSUE:

- *What is the appropriate methodology to determine adequate funding for the Contingency Reserve?*

The Contingency Reserve had a zero balance from 1977-2002. A court decision from Judge Lipscomb in the *City of Eugene* case found that the PERS Board abused its discretion by not considering whether to fund the Contingency Reserve in the years when earnings above the assumed rate were available. When 1999 earnings were reallocated in 2003, and ever since, the Contingency Reserve has had an average balance of $578.9 million – with the balance ranging from $1.4 billion in 2004 to $250 million in 2005.

The only stated rationale for determining whether the reserve is adequately funded status has come from statements from the PERS staff such as in a March 12, 2012 PERS Board memo, where staff posited that maintaining a Contingency Reserve balance equal to 1% of the PERF was "a reasonable funding level." Subsequently, for 2012 Final Earnings Crediting, earnings were distributed to the Contingency Reserve to maintain a year-end balance funding level of 1% of the OPERF, and that level has been maintained in years when sufficient earnings have been available to top up the funding.

Note, however, that the 1% funding level was during the legislative consideration of PERS Reforms that were likely to trigger substantial challenges and possible damages. For the most part, those challenges have been resolved and the *Moro* decision has reset the landscape to focus any further reforms on prospective benefits only, reducing the size of potential claims against the system should future reforms be considered.

- *What criteria should be applied to PERS Board approval of requests for use of the Contingency Reserve?*

Since 2002, the PERS Board has approved the use of the Contingency Reserve on eight separate occasions. None of those requests has been to address any insolvent employer deficit, which is the first use of these funds as listed in statute. PERS recognizes the need for an annual review of non-reporting employers and criteria to determine if they are insolvent. As part of our clarification of use of the Contingency Reserve, PERS staff would develop a review process for these employers, and a reporting mechanism for Board consideration of Contingency Reserve use to cover employer insolvency.

The second defined use of the Contingency Reserve is to cover legal expenses not associated with individual members or employers. Of the eight Board approved requests, three were related to legal settlements. These three requests ranged from $2 million to $63 million. The remaining five approved uses of the Contingency Reserve fell within "appropriate use as determined by the PERS Board." Examples of these requests include annual earnings crediting distribution in a low earning year, Tier One Rate Guaranty Reserve distribution to satisfy a negative reserve balance, and covering costs associated with new or revised interpretation of PERS statutes.

As these Board-approved uses have a broad degree of variation, yet fall within the statute, PERS staff suggests that criteria be established to evaluate future requests.

NEXT STEPS

PERS staff will continue to refine the criteria that meet the definition of insolvency for deficit employers as well as define an annual review process of non-reporting employers to meet set criteria. Staff will also gather best practices from other pensions systems regarding funding levels and usage criteria for Contingency Reserves if they exist. A policy may be presented for consideration at the March 28, 2016 PERS Board meeting.