



**OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM**

**BOARD MEETING AGENDA**

<b>Friday</b> <b>December 3 2021</b> <b>9:00 A.M.</b>	<b>PERS</b> <b>11410 SW 68<sup>th</sup> Parkway</b> <b>Tigard, OR</b>
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	ITEM	PRESENTER
<b>A. Administration</b>		
1.	<a href="#">October 1, 2021 Board Meeting Minutes</a>	SHENOY
2.	<a href="#">Director's Report</a>	
a.	<a href="#">Forward-Looking Calendar</a>	OLINECK
b.	<a href="#">OPERF Investment Report</a>	
c.	<a href="#">Budget Execution Report</a>	
3.	<a href="#">OSGP Advisory Committee Appointments</a>	LARSEN
4.	<a href="#">Board Scorecard Report on Agency Performance Measures</a>	RICKARD
<b>B. Administrative Rulemaking</b>		
1.	<a href="#">Adoption of Disability Rules</a>	VAUGHN
2.	<a href="#">Notice of 2021 Legislative Implementation</a>	
3.	<a href="#">Notice of Benefits-In-Force Earnings Crediting Rules</a>	
<b>C. Action and Discussion Items</b>		
1.	<a href="#">SB 1049 Implementation Update</a>	ELLEDDGE-RHODES
2.	<a href="#">Equal to or Better Than Testing</a>	WINSHIP
3.	<a href="#">2020 Valuation Update and Financial Modeling Results</a>	MILLIMAN
4.	<a href="#">Adoption of Actuarial Equivalency Factor Tables</a>	OLINECK

*PERS Board members will be attending this meeting remotely. The public will not be able to attend the meeting in person. Visit <https://www.oregon.gov/pers/Pages/Board/PERS-Board-Information.aspx> for listening options. This meeting will be recorded. An audio recording of the meeting will be available on the PERS website following the meeting.*

*Public testimony will be taken on action items at the Chair's discretion.  
Please submit written testimony to [PERS.Board@state.or.us](mailto:PERS.Board@state.or.us) (three days in advance of the meeting is preferred.)*

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

**2022 Meetings: January 31, March 28\*, May 27, July 22\*, September 30, December 2\***  
 \*Audit Committee planned for post-Board meeting

## Administration

1. October 1, 2021 Board Meeting Minutes
2. Director's Report
  - a. Forward-Looking Calendar
  - b. OPERF Investment Report
  - c. Budget Execution Report
3. OSGP Advisory Committee Appointments
4. Board Scorecard Report on Agency Performance Measures

# OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEETING MINUTES

October 1, 2021

## **Board members present:**

Chair Sadhana Shenoy, Vice Chair Lawrence Furnstahl, Jardon Jaramillo, Stephen Buckley, and John Scanlan attended virtually.

## **Staff present:**

Kevin Olineck, Jason Stanley, Sam Paris, Richard Horsford, Heather Case, Katie Brogan, Stephanie Vaughn, Jonathan Yost, Susannah Bodman, El Rossman, James Allen, Alyse Greer, Amanda Marble, Ann Gabourel, Anne Marie Vu, Chris Geier, Colin Campi, Daniel Rivas, Janice Ness, Janice Richards, Katie Davis, Mary Lang, MaryMichelle Sosne, Matthew Graves, Melanie Chandler, Michelle H, Michiru Farney, Neil Jones, Phuongnam Tran, and Theavy Chhor attended virtually.

## **Others present:**

Matt Larrabee, Scott Preppernau, Abraham Shadbeh, Aruna Masih, Caleb Ford, Cari Pickett, Carol Samuels, Cindi Peterson, Cyril Espanol, David Barenberg, David Moore, David Randall, Deborah Tremblay, Eric Arellano, Gay Lynn Bath, Glenda Villamar, Jacqueline Knights, Jan Lewis, Jeff Gudman, Jennifer Jones, Jeremy Whittlesey, John Borden, Joshua Eggleston, Kali Leinenbach, Katie Kicza, Kevin Graine, Kim Tran, Kristi Jenkins, Kristoffer Aas, Lori Sattenspiel, Megan Mumey, Nancy Brewer, Nate Carter, Peter Hulseman, Robert Burket, Ryan Martin, Sam Hutchison, Scott Winkels, Shauna Tobiasson, Steven Manela, Steven White, Tahni Fagerberg, Thomas Andrews, Trudy Vidal, Twylla Miller, and Tyler Janzen attended virtually.

Chair Shenoy called the meeting to order at 9:00 a.m.

## **ADMINISTRATION**

### **A.1. MEETING MINUTES OF JULY 23, 2021**

Board Member Buckley moved to approve the minutes as presented from the July 23, 2021, PERS Board meeting. Vice Chair Furnstahl seconded the approval of the minutes. The motion passed unanimously.

### **A.2. DIRECTOR'S REPORT**

Director Kevin Olineck presented the Director's Report. The Director's Report contains information on other activities that the organization is working on that do not appear on the agenda. Olineck noted the agency had been working towards having staff coming back to the office in September. Given the rise in the Delta variant, statewide guidance was provided to continue the current work from home arrangements to the greatest extent possible. It will be January 1, 2022, at the earliest, before the agency will reopen to the public. The December board meeting will be held virtually. Staff are also working through the implications of the Executive Order on mandating vaccines that takes effect on October 18.

Olineck presented the forward looking calendar. The dates for the 2022 meetings are included on the calendar with a scheduled start time of 9:00 a.m. Audit Committee dates also are listed.

The Oregon Public Employees Retirement Fund (OPERF) returns, for the period ending August 31, 2021, were 16.45%.

Operating expenditures for July, preliminary expenditures for August, and preliminary expenditures for September are \$3,639,718, \$3,923,775 and \$10,200,863 respectively. Final

expenditures for September will close in the Statewide Financial Management System on October 15 and will be included in the December 2021 report to the board.

Through September 12, 2021, the agency has expended a total of \$7,714,095 or 6.3% of PERS' legislatively approved operations budget of \$123,378,866. At this time, the agency's projected variance is \$2,837,399.

Olineck reviewed the meeting agenda. In regards to agency reopening, Olineck shared that staff were surveyed on preferred work locations to determine where staff will work as we move out of the pandemic guidelines.

Board Member Buckley asked about the net promoter score in the Employee Satisfaction Survey. Olineck shared that future surveys will be at the division level to help with understanding this score.

Olineck noted that public testimony from Doug Berg was received, had been attached to this meeting's materials, and was provided to the board. (See A.1. attachment 1.)

### A.3. AGENCY STRATEGIC PLAN UPDATE

The 2018-23 Strategic Plan Update was included in the packet for review. Many of the initiatives are still under development through the end of this current biennia as work was deferred given the agency's continued focus on the implementation of Senate Bill (SB) 1049. A draft of the 2023-28 strategic plan will be presented at the September 30, 2022 meeting. The final plan will be presented at the December 2, 2022, meeting.

At the request of Chair Shenoy, Olineck outlined what the agency is doing to grow the Enterprise Risk Management program.

No board action was required.

## ADMINISTRATIVE RULEMAKING

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

### B.1. NOTICE OF DISABILITY RULES

Notice of Rulemaking for Disability Rules: 459-015-0001, Definitions, 459-015-0005, Eligibility for Disability Retirement Allowances, 459-015-0010, Criteria for Granting and Denying Disability Retirement Allowances, 459-015-0025, Application Processing – Independent Examinations and Appeals, 459-015-0050, Periodic Reviews, 459-076-0001, Definitions, 459-076-0005, Eligibility for Disability Benefits, 459-076-0010, Criteria for Granting and Denying Disability Benefits, 459-076-0025, Application Processing – Independent Examinations and Appeals and 459-076-0050, Periodic Reviews.

No rulemaking hearing will be held because the PERS building is closed to the public. The public comment period ends on October 25, 2021, at 5:00 p.m.

No board action was required.

## ACTION AND DISCUSSION ITEMS

### C.1. SB 1049 IMPLEMENTATION UPDATE

James Allen, Program Manager, presented.

Allen reviewed the ongoing activities of the individual projects that make up the SB 1049 Implementation Program. He highlighted program activities that have been completed, or are in

process, since the last board meeting. PERS staff will continue to update the board as project implementation continues throughout the next year.

Program health will remain in yellow status as Member Redirect is scheduled past the end of the 2021-2023 biennium. The open projects are in green status.

No board action was required.

### C.2. MEMBER & EMPLOYER SURVEY RESULTS

Jonathan Yost, Susannah Bodman, and Shawn Dempewolf of PERS Communications section presented.

The communications team shared 2021 member satisfaction survey and employer satisfaction survey key findings.

Overall, PERS' 2021 results for members show a decrease in satisfaction from 2020 and were fairly similar to 2019 results, following the trend of lower satisfaction during years when the state legislature is in regular session; this trend is illustrated in the accompanying presentation.

2021 results for employers show a small decrease in overall satisfaction. The results also reflect a much lower response rate from 2020.

No board action was required.

### C.3. FINAL ADOPTION OF VALUATION METHODS & ASSUMPTIONS INCLUDING ASSUMED RATE OF RETURN

Kevin Olineck, Director presented.

At the July 31, 2021 meeting, the board approved the preliminary adoption of the recommended changes to the actuarial methods and assumptions as presented by Milliman in the 2020 Experience Study.

Vice Chair Furnstahl moved to adopt, on a final basis, the recommended actuarial methods and assumptions, as presented by Milliman in the 2020 Experience Study. Board Member Jaramillo seconded. The motion passed unanimously.

### C.4. ADOPTION OF ASSUMED RATE OAR

Stephanie Vaughn, Policy Analysis and Compliance Section Manager, presented adoption of Rulemaking for Assumed Rate Rule: OAR 459-007-0007, Assumed Rate.

No rulemaking hearing was held because the PERS building is closed to the public. The public comment period ended August 24, 2021, at 5:00 p.m. No public comment was received regarding this rulemaking action, however public comment was submitted directly to the PERS Board regarding the assumed rate before both the July 23 and October 1 board meetings.

Vice Chair Furnstahl moved to adopt the Assumed Rate rule with the 6.9% rate of return, as presented. Board Member Buckley seconded. The motion passed unanimously.

### C.5. BOARD FUNDING POLICY REVIEW

Kevin Olineck, Director presented.

The October 2019 Secretary of State Actuarial Review entitled "A Review of the Oregon Public Employees Retirement System," recommended management develop a single written funding policy document that incorporates the entire rate setting policy, including rate collaring. This funding policy (the "Policy" in these minutes) was originally adopted at the October 2020 board

meeting. Management updated the Policy to incorporate the Valuation Methods and Assumptions that were adopted on a preliminary basis in July, and are going through final adoption at this meeting.

Vice Chair Furnstahl motioned to adopt the Board Funding Policy, as presented. The motion was seconded by Board Member Jaramillo. The motion passed unanimously.

#### C.6. DECEMBER 31, 2020 SYSTEM-WIDE VALUATION RESULTS

Scott Preppernau and Matt Larrabee of Milliman presented.

The presentation reviewed valuation results that form the basis for advisory rates for 2023-25. Formal, detailed results will be issued in the December 31, 2020 System-Wide Actuarial Valuation Report. Milliman will return to the December 3, 2021 board meeting with detailed advisory employer contribution rates and funded status projections along with the System-Wide Actuarial Valuation Report.

No board action was required.

#### C.7. EQUAL TO OR BETTER THAN TESTING

Scott Preppernau and Matt Larrabee of Milliman presented.

Matt Larrabee discussed the “equal to or better than” study process for those police and fire employers who do not participate in PERS but who are required to provide retirement benefits that are “equal to or better (ETOB).” In accordance with the 2007 legislative changes, tests of those employer-funded benefits to determine their compliance with the revised ETOB requirements will need to be done. Statutorily, these tests are to be completed at least every 12 years. The PERS Board should complete this test in 2022.

The PERS Board directed staff to make a recommendation at the December 3, 2021 meeting as to whether Milliman should perform the testing or if a third party actuarial service should be retained.

Chair Shenoy adjourned the board meeting at 11:07 a.m.

Respectfully submitted,



Kevin Olineck, Director

To say that your discussion and decision on the assumed rate of return at your July 23 meeting was disappointing does not adequately capture the appalling display put on by this board.

Your discussion preceding your decision to reduce the assumed rate to 6.9% could not have been more orchestrated. Each of you gave your justification for the rate in short statements. Each suggested the rate should be exactly 6.9%. There was no back-and-forth discussion. And the theme throughout was that you wanted smooth reductions in the rate, not “jerky” ones. More than one of you used the term “smooth glide path”.

Smooth glide path? How quickly history is rewritten. In 2019, Chairperson Shenoy, still in her rookie year on the board, cast the deciding vote to keep the assumed rate unchanged after her predecessor, John Thomas, steadily reduced the rate from 8.0% to 7.2% over six years. Now, under pressure from your actuaries, you reduce the rate 0.3 percent this year. That’s not “smooth”, and to try now to label yourself as the board of smooth reductions is not only dishonest, but also reveals how politics influences this board more than its fiduciary responsibility to PERS beneficiaries. To present a narrative that is demonstrably false amounts to gaslighting, a misdirection tactic usually used only by the most partisan of politicians.

Now we see the “agency of tomorrow” (Kate Brown’s stated expectation of Chairperson Shenoy) is actually the agency of the bad old days when board after board shirked its fiduciary duty to PERS members and did everything in their power not only to keep contributions from public employers low, but also create an unsustainable system that produced pension benefits for many that far exceeded what they earned while working.

You appear destined to lurch from one rate-setting period to the next, doing as little as your actuaries will let you get away with. The irony of this approach is that by holding rates unchanged in 2019 then being forced by your actuaries to cut rates dramatically this year, you have produced the very shock to public employers that you say you are trying to avoid. Today’s Milliman report shows that your actions will produce an increase in contributions of \$1.175 billion in 2023-2025, over twice as much as for the 2021-2023 period. If you had continued the John Thomas’s smooth lowering of rates in 2019, public employers would have had two more years to adapt.

Once again, we have no public entity working to improve the actuarial health of PERS. The legislature continues to throw sand in the gears with measures like Senate Bill 1049, which significantly extended the amortization period for the unfunded liability, actually worsening the funding situation over the next few years and costing PERS tens of millions to implement. And the governor has shown where her priorities lie with the appointment of Chairperson Shenoy.

There is no free lunch. The system needs a lot more money going into it. Investments returns, high as they currently are, come nowhere near to being enough. The only question is how the additional money will come in. Will it be from measured increases in contributions from public employers over a period of years? Or will it come when PERS is on the brink of collapse, and an

Testimony to the PERS Board, October 1, 2021

emergency special session of the Legislature is convened to come up with the billions to save the system?

This board needs to do better, but that now seems impossible. While the PERS time bomb ticks, we will likely have to wait four more years for the possibility that this board will again have at least three board members with the courage, professionalism, and independence to do the right thing for the PERS system and its beneficiaries while avoiding rate shocks to public employers.

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# Director's Report

## OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

Kevin Olineck, Director



## Overview

This Director's Report tries to encapsulate, at a high level, noteworthy changes that have taken place since the last board meeting, while highlighting staff accomplishments.

### Ongoing efforts

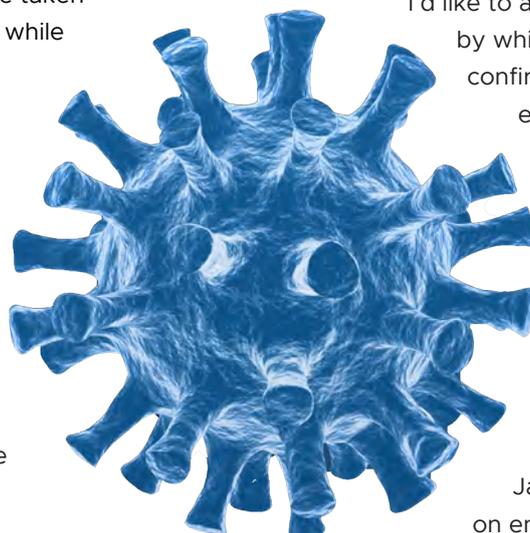
#### Senate Bill 1049 (SB 1049)

Work continues on the Work After Retirement, Member Redirect, and Technical Debt projects. More detailed SB 1049 implementation reports on the overall program and projects will be provided in the board packet.

**COVID-19 Response** In August, Governor Brown announced, through Executive Order 21-29, a vaccine requirement for all state employees. The order specified that all employees of the state of Oregon be vaccinated against COVID-19 six weeks from the date that the U.S. Food and Drug Administration (FDA) fully approved a vaccination against COVID-19, or by October 18, whichever date was later.

This requirement applied to all executive branch employees, including PERS' employees—regardless of remote work status. The October 18 implementation date allowed unvaccinated employees time to become vaccinated. Employees unable to be vaccinated due to disability or sincerely held religious belief were able to apply for an exception, as required by state and

federal law. Employees were not given the option of weekly testing instead of showing proof of vaccination. Those staff who did not comply with the vaccination requirement faced personnel consequences up to and including separation from employment.



I'd like to acknowledge that the interactions by which vaccinations or exceptions were confirmed, were done with as much empathy, discretion, and cooperation as possible. Our Human Resources group took the time to ensure they worked individually with any staff member who had questions or required assistance to finalize staff members' status.

**Reopening Update** PERS is now poised to reopen to the public on January 3, 2022. We remain focused on ensuring the safety of our staff and visitors, while adhering to a few key principles:

1. We are working to align with the state's reopening guidelines and are reimagining how work gets done now that the nature of how we work has changed significantly.
2. We will try, as best possible, to honor staff members' work location preferences while always keeping business needs at the forefront.
3. We will employ a growth mindset by regularly reviewing, adapting, and adopting new methods of doing business as we continue moving forward.

Our plans include having staff move back into our offices in phases, with member-facing staff being the first to return.

# Highlights

I want to continue to highlight where PERS staff have not only made great progress with standard operational processes, but also made significant advances on strategic initiatives. The following are accomplishments that deserve to be highlighted, with staff publicly acknowledged for their efforts.

## Agency initiatives and accomplishments

**PERS Expo** For the second year in a row, PERS hosted a virtual, two-day retirement expo in conjunction with National Retirement Security Week. The PERS Expo is an opportunity to promote PERS as a retirement education resource by bringing PERS, OSGP, and PERS Health

Insurance Program (PHIP) resources together to do the following:

- Allow public employees to attend education sessions with a variety of providers, on topics such as retirement readiness, investments, and health care in retirement.
- Enable public employees to obtain documentation that assists them in preparation for their individual retirement.
- Provide an opportunity for public employees to ask questions and get answers surrounding areas where they may be confused or unaware.

We had an internal contest for the Expo theme and Shiba Paul, one of our FSD staff, came up with the winning tagline, 'Your Gateway to a Secure Retirement,' aligned with previous Expos, thereby creating continuity and a great transition into this year's event and topics.

Staff procured an online hosting platform that allowed members to access videos, live sessions, and linked



For the second year in a row, PERS held its Retirement Expo virtually. Attendees could access their sessions and tools from this dashboard.

# Privileged Identity



An identity that is historically linked to social or political advantages in this society; privileged identities include not only racial (White), but also sexual orientation (Heterosexual) and ability (Able-bodied) identity (Walt, 2007)

*Engaging Across Differences was one of the many topics covered at this year's Diversity, Equity, and Inclusion Conference. The topic dealt with recognizing differences in people and stereotypes that often develop as a result of racial, gender, sexual, cultural, and physical differences.*

documents; this platform also enabled participants to interact online with our staff. Out of 7,500 registrants, we had 5,100 attendees, which is a great conversion rate. We hosted eight PERS and 16 OSGP sessions with 17,000 total session visits. There were over 7,500 resource downloads, with the near-retirement checklist ranking as the most accessed document and the mid-career download second.

Given the success of using the online hosting platform, we are considering hosting a similar event next year, as it is more accessible than an onsite Expo, and allows for broader member participation. Additionally, the information on the site remains available months after the event, so that members can look at the information at any time going forward.

**DEI Conference** This year's Statewide Diversity, Equity, & Inclusion Conference took place, in virtual form, the week of September 13 – 17. The annual conference offered state employees a selection of engaging educational sessions. The goals of the workshop presentations were to be

practical and engaging, provide resources and tools for employees to take and apply to their daily life and work, and to create learning opportunities related to current topics.

The virtual nature of the conference allowed for greater engagement from PERS staff in various topics. Overall, many staff were able to participate in a significant number of sessions, including our PERS Community Committee members.



**Cybersecurity Awareness Month**

October was Cybersecurity Awareness month. Our Information Security Team held numerous events throughout the month to increase staff members' awareness on Cybersecurity, including online games and training.

Additionally, Information Security and Risk Officer Shane Perry invited staff to attend lunch and learn presentations, with many staff attending these virtual events. Topics covered included cybercrime,

malware, bots, physical cyberattacks, and social engineering.

**Microsoft 365 migration** In October, PERS moved to Microsoft 365 (M365). In addition to Outlook, Word, PowerPoint, OneNote, and Teams, staff will soon have access to OneDrive and other productivity apps. This ultimately enables staff to access files, share documents, and collaborate more readily with colleagues from the office or while working from home.

PERS was part of a statewide project to align with the Governor's technology modernization initiative which outlines the strategy to modernize and consolidate email and productivity systems. By centralizing these services, this will reduce email infrastructure, reduce software updates/upgrades, and improve response times.

On the surface, this would appear to be a relatively easy transition, however, we also changed our default browser from Internet Explorer to Microsoft Edge. The PERS project team responsible for this effort had to ensure that all old databases, reports, and other customized tools were able to operate in this new environment and browser. This took months of planning and testing before we could reach deployment; these staff members' efforts are truly appreciated.



*PERS staff once again showed their generosity for the community by delivering a large donation of school supplies and Halloween treats to the Community Transitional School.*



*This year's Charitable Fund Drive poster wanted employees to know that by donating to charities of their choice they became superheroes for a great cause.*

## Supporting our community

**Community Transitional School Halloween** For over 25 years, PERS has hosted an annual Halloween event for the students from the Community Transitional School (CTS). Typically, we host over 70 children at our headquarters location, so that they can participate in judging our Halloween Costume Parade, have lunch with staff, and trick-or-treat. For the second year in a row, given we couldn't host this event in person, staff decided to participate in a donations drive to provide CTS students with both Halloween treats, as well as much-needed classroom supplies; these donations allow the school to continue its great work and provide for a bit of fun for the students.

**Charitable Fund Drive** PERS staff are ardent supporters of the Charitable Fund Drive (CFD), a cross-governmental annual fundraising initiative. Staff are engaged in supporting the CFD through direct monetary pledges and other fundraising activities. By raising over \$16,892 and counting, we are one of the top governmental fundraising entities for similar-sized organizations. In fact we had the fourth-most pledges out of the forty-nine participating agencies and have raised the seventh highest amount at the time of this writing.

# PERS Board Meeting Forward-Looking Calendar

## Monday, January 31, 2022

Preliminary Earnings Crediting  
Legislative Preview (including legislative concepts)

## Monday, March 28, 2022\*

Final Earnings Crediting  
Board Approval to File Legislative Concepts  
Agency Budget Preview  
Oregon Investment Council Annual Review  
Oregon Savings Growth Plan Report Out

## Friday, May 27, 2022

PERS Health Insurance Program (PHIP) Renewals and Rates  
Agency Budget Development  
POBMS Presentation  
PHIP Report Out  
Review Board Education Policy and Training

## Friday, July 22, 2022\*

Approval to Submit Agency Request Budget  
CEM Benchmarking Presentation

## Friday, September 30, 2022

Board Adoption of Actual Employer Rates  
Legislative Update (if needed)  
2023-28 Strategic Plan Preview  
Member and Employer Survey Results

## Friday, December 2, 2022\*

Presentation of Legislative Concept Drafts before Filing  
POBMS Presentation  
2023-28 Strategic Plan Approval

*\*Audit Committee planned for post-board meeting*

Returns for periods ending OCT-2021

Oregon Public Employees Retirement Fund

OPERF	Regular Account			Historical Performance (Annual Percentage)								
	Policy <sup>1</sup>	Target <sup>1</sup>	\$ Thousands <sup>2</sup>	Actual	Year-To-Date <sup>3</sup>	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS	7 YEARS	10 YEARS
Public Equity	25.0-35.0%	30.0%	\$ 26,067,330	27.5%	17.50	39.19	18.41	15.85	11.40	13.99	10.40	11.48
Private Equity	15.0-27.5%	20.0%	\$ 25,247,611	26.6%	39.04	46.75	26.08	21.96	20.66	20.05	15.64	14.92
<b>Total Equity</b>	<b>45.0-55.0%</b>	<b>50.0%</b>	<b>\$ 51,314,942</b>	<b>54.1%</b>								
Opportunity Portfolio	0-5%	0%	\$ 2,114,451	2.2%	19.60	27.41	16.21	11.29	10.68	10.44	8.84	9.72
<b>Total Fixed</b>	<b>15-25%</b>	<b>20.0%</b>	<b>\$ 19,619,804</b>	<b>20.7%</b>	<b>(1.13)</b>	<b>0.21</b>	<b>3.23</b>	<b>5.55</b>	<b>3.89</b>	<b>3.43</b>	<b>3.21</b>	<b>3.76</b>
Risk Parity	0.0-3.5%	2.5%	\$ 2,235,513	2.4%	11.70	21.31						
Real Estate	7.5-17.5%	12.5%	\$ 10,184,804	10.7%	11.17	13.89	7.67	7.14	7.74	8.24	8.49	9.70
Real Assets	2.5-10.0%	7.5%	\$ 5,933,461	6.3%	15.48	17.97	7.11	3.82	4.33	5.60		
Diversifying Strategies	2.5-10.0%	7.5%	\$ 3,446,129	3.6%	7.51	9.89	(3.73)	(2.88)	(3.75)	(1.70)		
Cash w/Overlay	0-3%	0%	\$ 9,728	0.0%	0.14	0.22	1.02	1.80	1.79	1.69	1.44	1.28
<b>TOTAL OPERF Regular Account</b>		<b>100.0%</b>	<b>\$ 94,858,831</b>	<b>100.0%</b>	<b>17.30</b>	<b>26.30</b>	<b>13.79</b>	<b>12.39</b>	<b>10.24</b>	<b>11.20</b>	<b>8.98</b>	<b>9.64</b>
OPERF Policy Benchmark					14.10	23.22	14.73	13.18	10.94	11.82	9.60	10.32
Value Added					3.20	3.09	(0.94)	(0.80)	(0.70)	(0.62)	(0.62)	(0.69)

Target Date Funds

3,404,654

TOTAL OPERF Variable Account

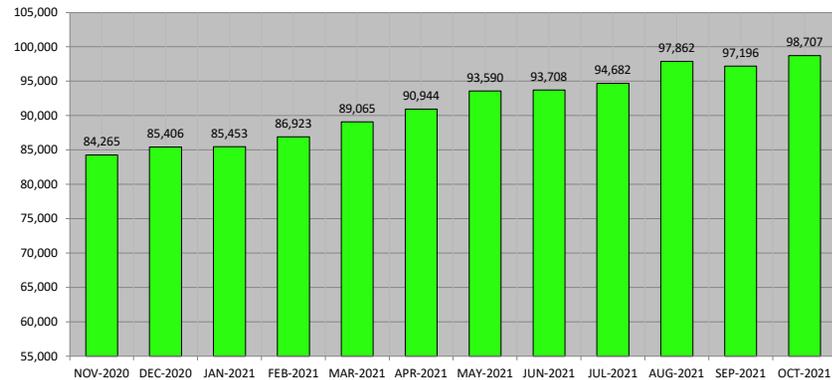
\$ 443,934

17.13	38.54	20.38	17.64	12.81	14.96	10.98	11.72
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Asset Class Benchmarks:

RUSSELL 3000	22.77	43.90	25.90	21.62	17.67	18.91	14.56	16.10
OREGON MSCI ACWI EX US IMI NET	9.19	30.90	13.11	12.38	6.77	9.97	6.53	6.93
MSCI ACWI IMI NET	16.84	38.18	20.06	17.32	12.46	14.59	10.59	11.34
RUSSELL 3000+300 BPS QTR LAG	35.17	44.03	27.32	21.30	20.76	21.43	17.37	18.13
CPI + 5%	10.57	11.51	8.84	8.17	8.04	7.86	7.31	7.11
OREGON CUSTOM FI BENCHMARK	(0.92)	0.33	3.09	5.37	3.72	3.21	2.94	3.29
S&P Risk Parity - 12% Target Volatility	16.31	33.91	15.92	17.52	12.68	12.73	9.64	10.18
OREGON CUSTOM REAL ESTATE BENCHMARK	7.83	8.02	4.48	4.72	5.42	5.83	7.44	8.59
CPI + 4%	9.69	10.45	7.81	7.14	7.01	6.83	6.29	6.10
HFRI FOF: CONSERVATIVE INDEX	7.42	13.33	7.72	6.10	4.87	4.93	3.80	3.97
91 DAY TREASURY BILL	0.04	0.06	0.48	1.12	1.26	1.15	0.87	0.63

Total OPERF NAV  
(includes Variable Fund assets)  
One year ending OCT-2021  
(\$ in Millions)



<sup>1</sup>OIC Policy revised June 2021. Beginning October 1, 2021, the Alternatives Portfolio has been split up into two new portfolios: Real Assets and Diversifying Strategies.

<sup>2</sup>Includes impact of cash overlay management.

<sup>3</sup>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.



# Oregon

Kate Brown, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
888-320-7377  
TTY (503) 603-7766  
[www.oregon.gov/pers](http://www.oregon.gov/pers)

December 3, 2021

TO: Members of the PERS Board  
FROM: Gregory R. Gabriel, Budget Officer  
SUBJECT: December 2021 Budget Report

### 2021-23 OPERATING BUDGET

Operating expenditures for September, October, and preliminary expenditures for November are \$8,957,681, \$4,247,725 and \$4,198,367 respectively. Final expenditures for November will close in the Statewide Financial Management System on December 17 and will be included in the January 2022 report to the board.

- Through November 12, 2021, the agency has expended a total of \$20,857,819 or 16.9% of PERS' legislatively approved operations budget of \$123,378,866.
- At this time, the agency's projected variance is \$2,899,882.
- SB 1049 expenditures for September, October, and preliminary expenditures for November are \$1,784,276, \$421,873 and \$1,244,558 respectively. As of November 12, the agency has expended \$3,103,768 of the legislatively approved budget of \$23,614,797.
- At this time the SB 1049 projected variance is \$7,158,701.

### 2019-21 OPERATING BUDGET

Operating expenditures paid July through November 2021 were \$896,285. The current projected positive variance is \$7,765,847 or approximately 6.7% of the operations budget.

To date, the agency has expended a total of \$108,451,450 or 93.3% of PERS' legislatively approved operations budget of \$116,441,606. PERS will continue to pay invoices for goods received and for services rendered as of June 30, 2021 in the following months up until December 31, 2021.

2021-23 NON-LIMITED BUDGET

The adopted budget includes \$12,886,613,593 in total estimated non-limited expenditures. Non-limited expenditures include benefit payments, health insurance premiums, and third-party administration payments for both the PERS Health Insurance Program (PHIP) and the Individual Account Program (IAP).

- Non-Limited expenditures through November 12, 2021 are \$2,134,402,602.

*A.2.c. Attachment – 2021-23, 2019-21, SB1049 Agency-wide Budget Execution Summary Analysis*

# PERS Monthly Budget Report

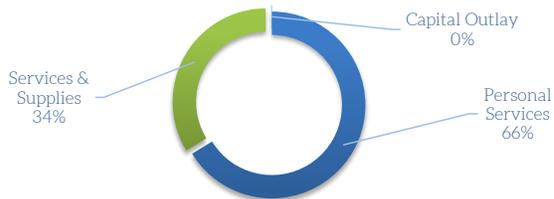
2021-23 Agency-Wide Budget Execution  
Preliminary Summary for the Month of November 2021

## Limited - Operating Budget

### 2021-23 Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expenditures	2021-23 LAB	Variance
Personal Services	13,821,468	76,652,880	90,474,348	87,815,865	(2,658,483)
Services & Supplies	7,014,906	20,660,639	27,675,545	34,094,093	6,418,548
Capital Outlay	21,445	2,307,646	2,329,091	1,468,908	(860,183)
Unscheduled				0	0
<b>Total</b>	<b>20,857,819</b>	<b>99,621,165</b>	<b>120,478,984</b>	<b>123,378,866</b>	<b>2,899,882</b>

### Actual Expenditures



### Projected Expenditures



### Monthly Summary

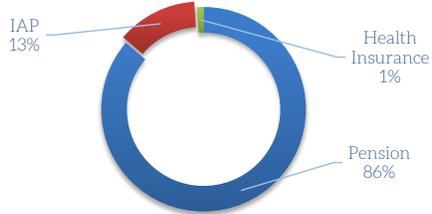
Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Monthly Projected Exp.
Personal Services	3,566,631	3,695,991	129,360	3,436,491	3,332,734
Services & Supplies	600,426	622,203	21,777	2,063,418	898,289
Capital Outlay	31,309	32,445	1,136	7,148	100,332
<b>Total</b>	<b>4,198,367</b>	<b>4,350,639</b>	<b>152,272</b>	<b>5,507,057</b>	<b>4,331,356</b>

## Non-Limited Budget

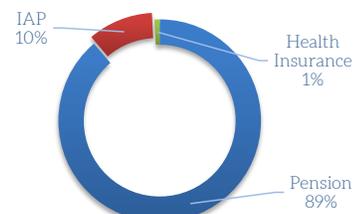
### 2021-23 Biennial Summary

Programs	Actual Exp To Date	Projected Expenditures	Total Est. Expenditures	Non-Limited LAB	Variance
Pension	1,841,282,841	9,312,583,338	11,153,866,179	11,215,517,678	61,651,499
IAP	271,174,809	1,039,545,550	1,310,720,360	1,298,603,848	(12,116,512)
Health Insurance	21,994,952	81,516,268	103,511,220	372,492,067	268,980,847
<b>Total</b>	<b>2,134,452,602</b>	<b>10,433,645,157</b>	<b>12,568,097,759</b>	<b>12,886,613,593</b>	<b>318,515,834</b>

### Actual Expenditures



### Projected Expenditures



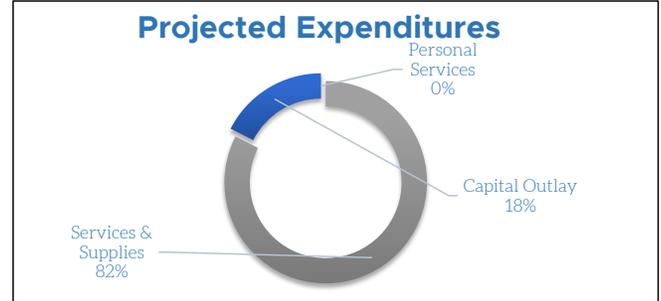
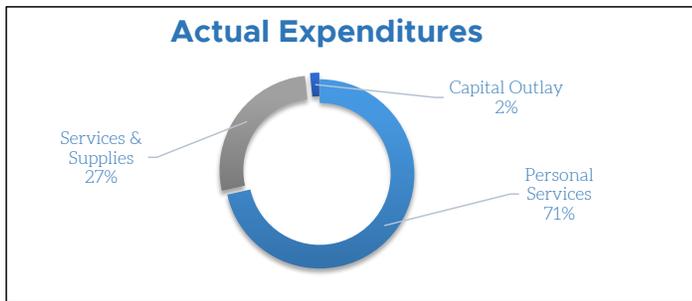
# PERS Monthly Budget Report

2019-21 Agency-Wide Budget Execution  
Preliminary Summary for the Month of November 2021

## Limited - Operating Budget

### 2019-21 Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expenditures	2019-21 LAB	Variance
Personal Services	77,522,788	0	77,522,788	81,510,947	3,988,159
Services & Supplies	29,220,004	185,007	29,405,011	32,757,328	3,352,317
Capital Outlay	1,708,659	39,301	1,747,960	2,173,331	425,371
<b>Total</b>	<b>108,451,451</b>	<b>224,308</b>	<b>108,675,759</b>	<b>116,441,606</b>	<b>7,765,847</b>



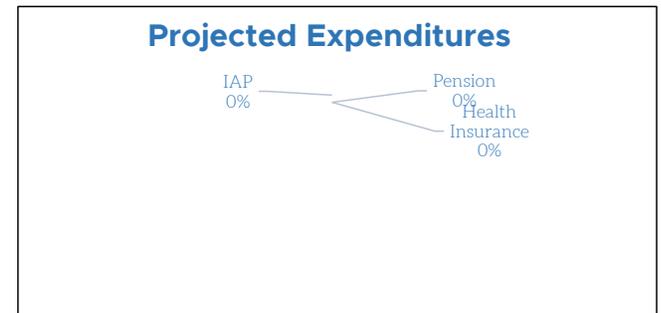
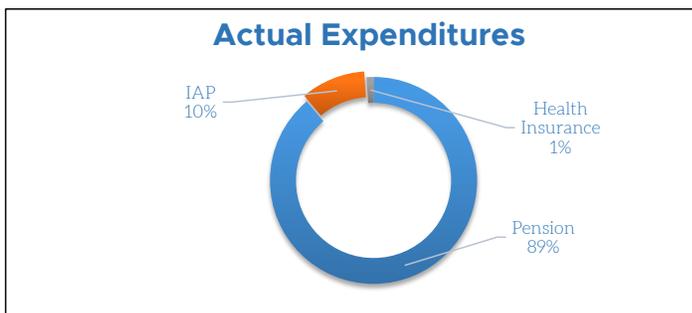
### July - November Summary

Category	Actual Exp.	Projections	Variance	Avg. Monthly Actual Exp.	Avg. Monthly Projected Exp.
Personal Services	73,908	74,000	93	3,523,763	3,465,769
Services & Supplies	632,977	635,000	2,023	1,328,182	1,464,410
Capital Outlay	189,400	189,400	0	77,666	165,598
<b>Total</b>	<b>896,285</b>	<b>898,401</b>	<b>2,116</b>	<b>4,929,611</b>	<b>5,095,778</b>

## Non-Limited Budget

### 2019-21 Biennial Summary

Programs	Actual Exp To Date	Projected Expenditures	Total Est. Expenditures	Non-Limited LAB	Variance
Pension	10,386,216,906	0	10,386,216,906	10,347,780,673	(38,436,233)
IAP	1,181,026,808	0	1,181,026,808	1,423,365,167	242,338,359
Health Insurance	127,105,368	0	127,105,368	733,481,352	606,375,984
<b>Total</b>	<b>11,694,349,082</b>	<b>0</b>	<b>11,694,349,082</b>	<b>12,504,627,192</b>	<b>810,278,110</b>



# Core Retirement Systems Application

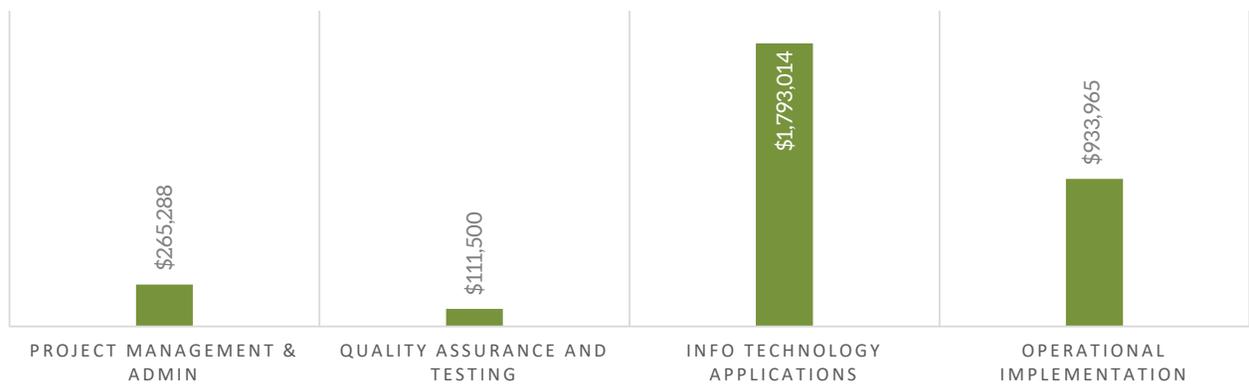
## Summary Budget Analysis

Preliminary for the Month of November 2021

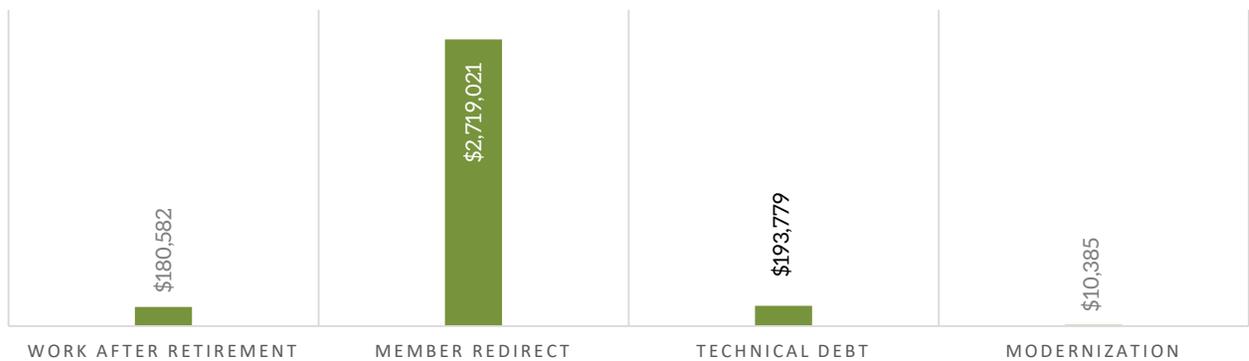
### Biennial Summary

Category	Actual Exp. To Date	Projected Expenditures	Total Est. Expend.	2021-23 LAB	Variance
Personal Services	919,940	6,247,449	7,167,389	6,003,697	(1,163,692)
Services & Supplies	2,183,828	7,104,879	9,288,707	17,556,100	8,267,393
Capital Outlay				55,000	55,000
<b>Total</b>	<b>3,103,768</b>	<b>13,352,328</b>	<b>16,456,096</b>	<b>23,614,797</b>	<b>7,158,701</b>

### EXPENDITURES BY PACKAGE



### EXPENDITURES BY PROJECT



## Administration

1. October 1, 2021 Board Meeting Minutes
2. Director's Report
  - a. Forward-Looking Calendar
  - b. OPERF Investment Report
  - c. Budget Execution Report
3. OSGP Advisory Committee Appointments
4. Board Scorecard Report on Agency Performance Measures



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December 3, 2021

TO: Members of the PERS Board  
FROM: Debby Larsen, Deferred Compensation Program Manager  
SUBJECT: Appoint Advisory Committee Members for Oregon Savings Growth Plan

### OVERVIEW

Action: Appoint three new members to the Oregon Savings Growth Plan (OSGP) Advisory Committee to fill expiring vacancies.

Reason: The Advisory Committee consists of seven members appointed by the PERS Board.

### BACKGROUND

ORS 243.505 provides an advisory committee for OSGP that consists of seven members with knowledge of deferred compensation plans. According to that statute (attached), the committee shall study and advise the Public Employees Retirement Board on policies and procedures and such other matters as the board may request.

Advisory committee members must be OSGP participants and have knowledge of the current program. One member shall be retired from state service. Two members shall be participants with separate local government plan sponsors who offer OSGP. Four members shall be employees of separate state agencies.

Appointment is for a three year term of office, but a member serves at the pleasure of the board. If there is a vacancy during an unexpired term, the board's appointment will become immediately effective for the unexpired term.

Three current advisory committee members' terms expire(d):

- Richard Bailey's term expired on 6/30/2019.
- Celeste Van Cleave's term expired on 6/30/2020.
- Mike Marostica announced his 1/2022 retirement and resigned from the OSGP Advisory Committee, effective 12/31/2021. This resignation takes place during his first term, which will expire on 6/30/2022.

The criteria used in selecting advisory committee members includes the following:

1. Current participation in OSGP.
2. Meeting the qualifications for the vacancy to be filled.

3. Possessing a mixture of expertise, knowledge, and experience useful to the OSGP Advisory Committee.
4. Sincere interest in promoting and improving the deferred compensation program.
5. Willing and able to work in a group setting to review and recommend policies governing the program.

### RECOMMENDED APPOINTMENTS

Staff recommends appointing:

Kyle Niemeyer from Oregon State University to fill Richard's seat. This will be to fill a first full term, to fill an expired position for employees of state agencies.

Jeff Gibbs from Gresham-Barlow School District to fill Celeste's seat. This will be a first full term, to fill an expired local government position.

Zechariah Heck from the Oregon Department of Transportation to fill Mike's seat. This will be to fill an unexpired, first-term position for employees of state agencies, which will end on 6/30/2022.

Proposed membership of the Advisory Committee follows:

Name	Position	Employer	Appoint/Reappoint	Term	Term End Date
Colin Benson	State	Department of Justice	---	First	Jun-22
Eugene Bentley	Retiree	Retiree	---	First	Jun-22
Mary Jo Evers	Local Govt	Ontario School District	---	First	Jun-22
Christine Valentine	State	Oregon State Board of Geologist Examiners	---	First	Jun-22
<i>Kyle Niemeyer</i>	<i>State</i>	<i>Oregon State University</i>	<i>Appoint</i>	<i>First</i>	<i>Jun-22</i>
<i>Jeff Gibbs</i>	<i>Local Govt</i>	<i>Gresham-Barlow School District</i>	<i>Appoint</i>	<i>First</i>	<i>Jun-22</i>
<i>Zechariah Heck</i>	<i>State</i>	<i>Oregon Dept of Transportation</i>	<i>Appoint</i>	<i>First</i>	<i>Jun-22</i>

### BOARD ACTION

The PERS Board's option for appointments to the OSGP Advisory Committee are as follows:

1. Accept the recommendations to appoint Jeff Gibbs and Kyle Niemeyer to fill expired vacancies with an immediate effective date of 1/1/2022 and term expiration date of 6/30/22. Additionally, accept Zechariah Heck to fill an unexpired vacancy with an immediate effective date of 1/1/2022 and term expiration date of 6/30/2022.
2. Request staff to solicit further applications for review.

### STAFF RECOMMENDATION

Staff recommend the board to adopt Option 1.

Reason: Staff believe Jeff Gibbs, Kyle Niemeyer, and Zechariah Heck meet the criteria and service needs of the OSGP Advisory Committee. It is important to note that it is our intent to approach the board in May of 2022 for approval of their first full term appointment.

**Relevant Oregon Savings and Growth Plans Statutes and Administrative Rules:**

**ORS 243.505 Deferred Compensation Advisory Committee**

(1) The Deferred Compensation Advisory Committee shall be appointed by the Public Employees Retirement Board, consisting of seven members with knowledge of deferred compensation plans.

(2) At the direction of the board, the committee shall advise the Public Employees Retirement Board on policies and procedures and such other matters as the board may request.

(3) The term of office of each member is three years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the board shall appoint a successor, whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the Deferred Compensation Advisory Committee is entitled to compensation and expenses as provided in ORS 292.495.

(5) The Deferred Compensation Advisory Committee shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the committee determines.

(6) A majority of the members of the committee constitutes a quorum for the transaction of business.

(7) The Deferred Compensation Advisory Committee may meet at a place, day and hour determined by the committee. The committee also may meet at other times and places specified by the call of the chairperson or of a majority of the members of the committee. [1991 c.618 §10; 1997 c.179 §19; 1999 c.406 §1]

**OAR 459-050-0025**

**Deferred Compensation Advisory Committee**

(1) The seven members of the Deferred Compensation Advisory Committee provided for under ORS 243.505, shall be subject to the following qualifications and limitations:

(a) Each member shall be a participant in a deferred compensation plan established under ORS 243.401 to 243.507, and shall have knowledge of the Program.

(b) Four members shall be participants in the state deferred compensation plan.

- (c) Two members shall be participants in a local government deferred compensation plan.
  - (d) One member shall be a retired deferred compensation plan participant.
  - (e) No two members may be employed by the same state agency or local government except that a member who transfers employment to the employer of another member may continue to serve on the Advisory Committee, but only for the balance of the term of appointment of the transferring member.
  - (f) No member may serve more than two consecutive full terms.
  - (g) No member may be an employee of PERS during the term of appointment.
- (2) The Advisory Committee shall study and advise the Board on all aspects of the Program, including but not limited to:
- (a) The Program fee structure and procedures;
  - (b) State and federal legislative issues relative to the administration of deferred compensation plans;
  - (c) The administration of the catch-up and the financial hardship provisions in Section 457 of the Internal Revenue Code;
  - (d) Ways and means to inform and educate eligible employees about the Program;
  - (e) The expressed desires of eligible employees as to the Program; and
  - (f) The actuarial characteristics of eligible employees.
- (3) Upon the request of the OIC, the Advisory Committee shall study and advise the Board on the following:
- (a) Investment programs, including options and providers; and
  - (b) Information furnished by the OIC or the State Treasurer concerning the types of available investments, the respective balance of risk and return of each investment, and the administrative costs associated with each investment.
- (4) The Advisory Committee shall meet at least four times during a calendar year.
- (5) A majority of the Advisory Committee shall constitute a quorum for transacting business. However, the Advisory Committee may establish such other procedures for conducting business that it deems necessary.

(6) Pursuant to the Public Meetings Law, ORS 192.610 to 192.690, the Deferred Compensation Manager shall distribute to the Advisory Committee, and other interested parties, an agenda for a regular meeting a reasonable time prior to the meeting.

(7) Nominations of candidates for the Advisory Committee shall be made as follows:

(a) Notice of a position on the Advisory Committee expected to become vacant upon the expiration of a term of appointment shall be published not later than April 15 of each calendar year.

(b) Persons interested in serving on the Advisory Committee must apply in writing to the Manager not later than May 15 following the publication of a vacancy.

(c) The Manager shall review the written applications of interested persons for completeness, accuracy, and satisfaction of the minimum requirements of the vacant position on the Advisory Committee.

(d) A committee consisting of the Manager and two members of PERS executive or managerial staff designated by the PERS Executive Director shall review the acceptable applications and recommend to the Board candidates for appointment to the Advisory Committee that:

(A) Reflect a cross section of state agencies, participating local governments, and classification levels;

(B) Reflect a mixture of expertise, knowledge, and experience useful to the Advisory Committee;

(C) Appear to have a sincere interest in the Program; and

(D) Appear to be willing and able to work in a group setting to review and recommend policies governing the Program.

(e) In the event of a vacancy for an unexpired term, the Manager may select applications from the most recent list of interested persons established under subsection (c) of this section and the applications of other persons as deemed appropriate for consideration. A committee consisting of the Manager and two members of PERS executive or managerial staff designated by the PERS Executive Director shall review the selected applications and recommend to the Board candidates for appointment to the Advisory Committee. The appointment shall be immediately effective for the remainder of the unexpired term. If no candidate is recommended or appointed, the vacancy must be filled under the provisions of subsections (a) through (d) of this section.

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.505

Hist.: PERS 2-1993, f. & cert. ef. 9-23-93; PERS 2-1995, f. 10-13-95, cert. ef. 11-1-95; PERS 5-2000, f. & cert. ef. 8-11-00; PERS 3-2007, f. & cert. ef. 1-23-07; PERS 11-2014, f. & cert. ef. 7-25-14

## Administration

1. October 1, 2021 Board Meeting Minutes
2. Director's Report
  - a. Forward-Looking Calendar
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4. Board Scorecard Report on Agency Performance Measures



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December 3, 2021

TO: Members of the PERS Board  
FROM: POBMS Council  
SUBJECT: Board Scorecard Report on Agency Performance Measures

A key part of PERS' Outcome-Based Management System is a Quarterly Target Review of scorecards that evaluate our effectiveness in a number of outcome and process measures. These measures foster accountability and transparency in key operating areas. The scorecard results help direct strategic planning, resource allocation, and risk assessment.

The attached Board Scorecard Report for the third quarter 2021 focuses on several measures we currently track based on essential business operations. A targeted performance range is created for each measure:

- Green – performance is at or above targeted goals.
- Yellow – performance is marginally below targeted goals.
- Red – performance is significantly below; corrective action such as assigning a problem solving team should be directed.

Highlights include:

- Six of the eight measures reflected improved performance.
- Six consecutive quarters in the green range for both Estimates Completed and Eligibility Reviews Completed.
- A 100% rating in Accuracy of Calculations for three quarters in a row.
- Four of the eight measures performing in the green ranges.

The next report will be presented at the June, 2022 meeting, showing the scorecard results for the first quarter 2022. If you would like us to report on any different measures, please let us know.

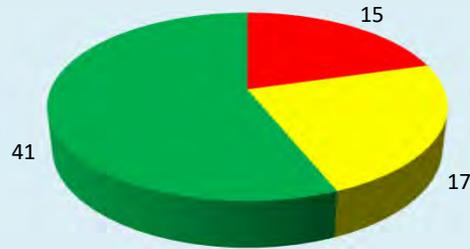
A.4. Attachment 1 – *Board Scorecard Report for Third Quarter 2021*

# PUBLIC EMPLOYEES RETIREMENT SYSTEM

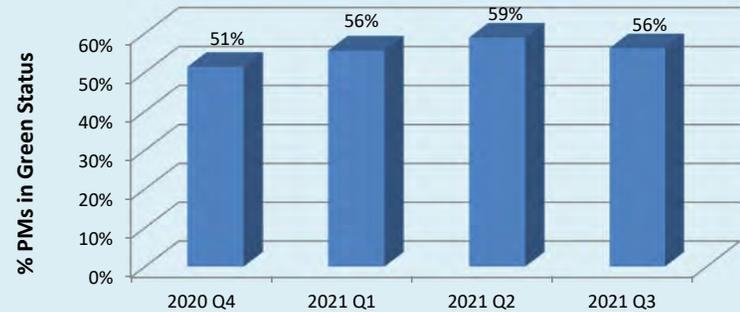
## Outcome-Based Performance Review

### PERS Board Scorecard Report - QTR: 2021 Q3 - Quarter ended September 30, 2021

**Outcome & Process Measure Performance**



**Quarterly Green Performance**



### Operating Processes - Highlighted Measures

	Measure Name	Measure Calculation	RANGE			Target	Desired Perform Trend	Data Collection Frequency	Q4 2020	Q1 2021	Q2 2021	Q3 2021	Trend	Corrective Action & Comments
			Red	Yellow	Green									
OP3c	Estimate KPM	% of estimate requests completed within 30 days of receipt	<75%	75-85	>85%	95%	↑	Quarterly	98.2%	98.0%	99.0%	98.6%	-	
OP4a	Eligibility review completed	% of applications completed by the eligibility team within 30 days of the effective retirement	<50%	50-70	>70%	80%	↑	Monthly	83.0%	86.0%	84.0%	86.0%	+	
OP5b	Accuracy of calculations	% of sample calculations that are accurate within plus or minus \$5	<95%	95-99	>99%	100%	↑	Monthly	97.0%	100.0%	100.0%	100.0%	=	
OP5c	Timely benefit calculation	% of calculations completed within 15 calendar days from completed application date	<93%	93-96	>96%	100%	↑	Monthly	81.6%	79.4%	93.2%	95.6%	+	Improvement over last year at the same time: 92.2% Q3 2020

# PUBLIC EMPLOYEES RETIREMENT SYSTEM

## Outcome-Based Performance Review

### Supporting Processes - Highlighted Measures

	Measure Name	Measure Calculation	RANGE			Target	Desired Perform Trend	Data Collection Frequency	Q4 2020	Q1 2021	Q2 2021	Q3 2021	Trend	Corrective Action & Comments
			Red	Yellow	Green									
OP1f	Call Wait Time	Average length of wait before caller reaches live person	>6 minutes	6-4 minutes	<4 minutes	2 minutes	↓	Monthly	16.3	19.5	13.2	11.0	+	Wait time decrease; still receiving repeat calls from members awaiting status of retirement and/or changes to their accounts
SP2c	Appeal reversal rate	% of staff determinations that are reversed on appeal	>15%	15-10	<10%	5%	↓	Quarterly	10.2%	32.5%	16.0%	8.2%	+	4 reversals out of 49 determinations
SP3h	System uptime	% of time systems are available during the service window	<97%	97-98	>98%	100%	↑	Monthly	99.53%	97.83%	96.10%	96.74%	+	Total Outage (min): 2185 Due to long Batch: 1350 (61.7% of total) Batch failure: 532 (PDW) jClarety outages: 93 Filenet outage: 16 Mainframe: 89 (ETS issue) HQ Power outage/Phones: 105
SP5c	Recruitment	% of recruitments closed (from requisition to closure) within 8 weeks	<70%	70-80	>80%	90%	↑	Quarterly	40%	24%	10%	24%	+	5 out of 21 recruitments were closed within 8 weeks

December 3, 2021  
PERS Board Meeting Agenda

## Administrative Rulemaking

1. Adoption of Disability Rules
2. Notice of 2021 Legislative Implementation
3. Notice of Rulemaking for Benefits-In-Force Earnings Crediting Rule



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Kate Brown, Governor

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December 3, 2021

TO: Members of the PERS Board

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

SUBJECT: Adoption of Disability Rules:

- 459-015-0001, *Definitions*
- 459-015-0005, *Eligibility for Disability Retirement Allowances*
- 459-015-0010, *Criteria for Granting and Denying Disability Retirement Allowances*
- 459-015-0025, *Application Processing – Independent Examinations and Appeals*
- 459-015-0050, *Periodic Reviews*
- 459-076-0001, *Definitions*
- 459-076-0005, *Eligibility for Disability Benefits*
- 459-076-0010, *Criteria for Granting and Denying Disability Benefits*
- 459-076-0025, *Application Processing – Independent Examinations and Appeals*
- 459-076-0050, *Periodic Reviews*

### OVERVIEW

- Action: Adopt Disability Rules
- Reason: Revision to disability rules to clarify PERS' standards and practices, and to provide improved guidance to members applying for a disability retirement allowance (Tier One and Two) or disability benefit (OPSRP).
- Policy Issue: None identified.

### BACKGROUND

PERS administers two disability programs—one for the Chapter 238 Plan and another for the OPSRP Pension Plan. The statutory standards for both programs are similar, but not identical. PERS uses the same administrative standards and processes for the two programs to the extent permitted by statute, as unified standards and practices are more cost-effective to administer and easier for members to understand. Accordingly, the proposed changes to Division 15 (Chapter 238 disability rules) and Division 76 (OPSRP disability rules) are largely identical.

Staff have identified several common issues in the disability application and periodic review processes where improved clarity in the rules would provide better guidance to members regarding PERS' standards and practices. These include clarifications regarding how and when PERS treats business income as earned income; how PERS calculates years of service when evaluating non-duty disability eligibility; how a member's receipt of unemployment benefits impacts disability eligibility; and the medical and financial information PERS requires during a member's periodic review.

The proposed revisions also include two notable changes to PERS' disability standards. First, staff have modified the specialist requirement for mental and emotional disorders in OAR 459-015-0010 and 459-076-0010 to require *either* a supportive psychiatrist *or* doctor of psychology.<sup>1</sup>

The current standard requires a second supportive physician when the mental health provider is a psychologist. In many cases, the second physician does not participate in the member's mental health treatment and thus the standard adds complexity for members but is not particularly useful in evaluating the member's disabling condition. The proposed revision reduces the complexity for members while still complying with PERS' statutory requirements for establishing eligibility.

The second notable change is a proposed revision to OAR 459-015-0025 and OAR 459-076-0025 that outlines PERS' use of independent medical examinations, physical capacity evaluations, and vocational evaluations. Staff frequently receive reports that the disability application process can impose financial barriers and hardship for members. This is often because the member's health insurance will not cover an examination conducted for purposes of evaluating disability eligibility, as opposed to an examination related to medical treatment.

Additionally, members who reside in rural areas frequently report an inability to see an appropriate specialist because there are no such specialists in their area. Staff are also increasingly encountering an issue where physicians of certain hospital systems simply refuse to complete PERS' disability forms or provide an opinion as to a member's disability. The amendments to the rule outline some specific circumstances when PERS can exercise its discretion to arrange independent examinations and evaluations when these situations arise.

#### PUBLIC COMMENT AND HEARING TESTIMONY

No rulemaking hearing was held because the PERS building was closed to the public. The public comment period ended on October 25, 2021 at 5:00 p.m.

A public comment was received from Nelson Hall of Bennett/Hartman law firm on September 29, 2021, requesting a work group be formed for the disability rules.

There was a work group on these disability rules several years ago and the current revisions are essentially the long-overdue amendments as a result of that process. To form a work group now would have been superfluous.

#### LEGAL REVIEW

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

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<sup>1</sup> The phrase "doctor of psychology" is intended to exclude psychologists who have obtained only a master's degree, as these providers do not meet the definition of "physician" in OAR 459-015-0001 or OAR 459-076-0001.

IMPACT

Mandatory: No.

Benefit: Edits to improve administration of the Chapter 238 and OPSRP disability programs by providing additional clarity to members and staff.

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

RULEMAKING TIMELINE

September 30, 2021	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
October 1, 2021	PERS Board notified that staff began the rulemaking process.
October 1, 2021	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice was sent to employers, legislators, and interested parties. Public comment period began.
October 25, 2021	Public comment period ended at 5:00 p.m.
December 3, 2021	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

BOARD OPTIONS

The PERS Board may:

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

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

- B.1. Attachment 1 - OAR 459-015-0001-3, *Definitions*
- B.1. Attachment 2 - OAR 459-015-0005-2, *Eligibility for Disability Retirement Allowances*
- B.1. Attachment 3 - OAR 459-015-0010-2, *Criteria for Granting and Denying Disability Retirement Allowances*
- B.1. Attachment 4 - OAR 459-015-0025-1, *Application Processing – Independent Examinations and Appeals*
- B.1. Attachment 5 - OAR 459-015-0050-1, *Periodic Reviews*
- B.1. Attachment 6 - OAR 459-076-0001-2, *Definitions*
- B.1. Attachment 7 - OAR 459-076-0005-1, *Eligibility for Disability Benefits*
- B.1. Attachment 8 - OAR 459-076-0010-2, *Criteria for Granting and Denying Disability Benefits*
- B.1. Attachment 9 - OAR 459-076-0025-1, *Application Processing – Independent Examinations and Appeals*
- B.1. Attachment 10 - OAR 459-076-0050-1, *Periodic Reviews*

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1 **459-015-0001**

2 **Definitions**

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

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

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

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

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

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

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



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- 1      (D) Consulting;
- 2      (E) Property management;
- 3      (F) Gambling, other than income from sweepstakes, lotteries, bingo, keno, or slot machines;
- 4      (G) Hobby income; or
- 5      (H) Book advances.

6      (c) “Earned income” does not include:

- 7      (A) Investment income;
- 8      (B) Rent; and
- 9      (C) Royalties.

10      (d) Earned income is deemed to be received by the member on the date it is issued by the  
11 payer, except retroactive payments included in ORS 238.008 shall be deemed to be received  
12 by the member during the period for which the payment is allocated.

13      (e) Earned income includes the net profits of any business entity owned solely or jointly  
14 by a member and for which the member materially participates in the business, as defined  
15 by the Internal Revenue Service under 26 CFR 1.469-5T, as in effect on July 1, 2021.

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

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

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

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

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

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

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

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

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

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

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

3           (a) Employment before the date of disability; or

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

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

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

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

13          **(19) “Physical capacity evaluation” means a comprehensive and objective evaluation**  
14 **performed by a physician, physical therapist, or occupational therapist to determine a**  
15 **member’s physical or functional capacity to perform work. The evaluation may include an**  
16 **analysis of the member’s ability to perform a specified job based on a position description**  
17 **and the member’s abilities or limitations.**

18          ~~[(19)]~~ **(20)** “Physician” means a *[medical]* doctor **of medicine**, a doctor of osteopathy, a  
19 doctor of oral surgery, a chiropractic doctor, a naturopathic doctor, **a doctor of podiatric**  
20 **medicine**, or a doctor of psychology practicing only within the purview of their license issued by  
21 the designated authority of a state.

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1      ~~[(20)]~~(21) “Pre-existing condition” means a condition that was not sustained in actual  
2 performance of duty in a qualifying position with a participating employer.

3      ~~[(21)]~~(22) “Protected health information” means health information created or received by a  
4 health care provider, health plan, or health care clearinghouse, where an individual has a  
5 reasonable belief that the information can identify the individual, which relates to:

- 6      (a) The past, present, or future physical or mental health of an individual;
- 7      (b) The provision of health care to an individual; or
- 8      (c) The past, present, or future payment for the provision of health care to an individual.

9      ~~[(22)]~~(23) “Similar in compensation” means salary or other earned income, excluding  
10 overtime, equaling at least 80% of the monthly salary.

11      ~~[(23)]~~(24) “Total disability” means the inability to perform any work for which qualified for  
12 an extended duration due to physical or mental incapacitation.

13      ~~[(24)]~~(25) “Training or vocational rehabilitation program” means a comprehensive,  
14 coordinated program, usually state or federally funded, to train and assist individuals with  
15 disabilities in securing gainful employment commensurate with their abilities and capabilities.

16      ~~[(25)]~~(26) “Vocational evaluation” means an evaluation conducted by a certified vocational  
17 consultant, to determine the ability of an applicant to perform any work for which they are  
18 qualified.

19      ~~[(26)]~~(27) “Work related stress” means conditions or disabilities resulting from, but not  
20 limited to:

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- 1            (a) Change of employment duties;
  - 2            (b) Conflicts with supervisors;
  - 3            (c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;
  - 4            (d) Relationships with supervisors, coworkers, or the public;
  - 5            (e) Specific or general job dissatisfaction;
  - 6            (f) Work load pressures;
  - 7            (g) Subjective perceptions of employment conditions or environment;
  - 8            (h) Loss of job or demotion for whatever reason;
  - 9            (i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
  - 10           (j) Objective or subjective stresses of employment; or
  - 11           (k) Personnel decisions.
- 12    Stat. Auth.: ORS 238.650
- 13            Stats. Implemented: ORS 238.320 - 238.345
- 14    Hist.: PERS 15-2005, f. & cert. ef. 10-3-05; f. & cert. ef. 2-12-09; f. & cert. ef. 5-28-2010; f. &
- 15    cert. ef. 10-5-11; f. & cert. ef. 10-2-20

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1    **459-015-0005**

2    **Eligibility for Disability Retirement Allowances**

3           (1) A member must be totally, not partially, disabled and unable to perform any work for  
4 which qualified for an extended duration to be eligible for a disability retirement allowance.

5           (2) In determining a member’s eligibility for a disability retirement allowance, the burden of  
6 proof is upon the applicant. The Board is not required to prove whether the applicant is or is not  
7 eligible for a disability retirement allowance.

8           (3) Eligibility requirements for duty disabilities.

9           (a) To be eligible for a duty disability a member must prove:

10           (A) The mental or physical incapacitation arose out of and in the course of duty and was not  
11 intentionally self-inflicted; and

12           (B) The on the job injury must be the material contributing cause of the disability even if the  
13 member has a pre-existing condition.

14           (b) For work related stress to be considered the material contributing cause of the disability  
15 all of the following criteria must be met:

16           (A) The employment conditions producing the work-related stress exist in a real and  
17 objective sense;

18           (B) The employment conditions producing the work-related stress are conditions other than  
19 conditions generally inherent in every working situation or reasonable disciplinary, corrective or

1 job performance evaluation actions by the employer, or cessation of employment or employment  
2 decisions attendant upon ordinary business or financial cycles;

3 (C) There is a diagnosis of a mental or emotional disorder which is generally recognized in  
4 the medical or psychological community; and

5 (D) There is evidence that the work-related stress arose out of and in the course of  
6 employment.

7 (4) Eligibility requirements for non-duty disabilities. A member applying for non-duty  
8 disability retirement must have a minimum of 10 years of employment in a PERS qualifying  
9 position *[ as calculated pursuant to ORS 238.320(6) ]*. Years of employment are calculated  
10 pursuant to ORS 238.320(6) as follows:

11 (a) Members with no prior service credit under ORS 238.442 receive:

12 (A) One year of employment for each 12-month period or major fraction thereof,  
13 calculated from the date on which the member begins the six-month waiting period  
14 required for establishing membership under ORS 238.015 to the date of disability; and

15 (B) Up to 90 days for sick leave used after the date of disability. No other leave of  
16 absence after the date of disability will count toward years of employment.

17 (b) Members with prior service credit under ORS 238.442 receive:

18 (A) One year of employment for each year of prior service credit; and

19 (B) One year of employment for any minor fraction of a year of prior service, if  
20 continuous as certified by the employer and for which no prior service credit was granted;  
21 and

1 (C) One year of employment for each 12-month period or major fraction thereof,  
2 calculated from the date on which membership is established in the system to the date of  
3 disability; and

4 (D) Up to 90 days for sick leave used after the date of disability. No other leave of  
5 absence after the date of disability will count toward years of employment.

6 (5) A member’s disability retirement allowance shall be calculated based on:

7 (a) Creditable service; and

8 (b) Granted service if the member had not attained:

9 (A) Age 55 if the last qualifying position was as a police officer or a firefighter.

10 (B) Age 58 if the last qualifying position was as other than a police officer or firefighter.

11 (6) Granted service is:

12 (a) Not included in the calculation of increased benefits payable under ORS 238.364.

13 (b) Included in the calculation of increased benefits payable under ORS 238.366.

14 (7) Termination of membership. Disability retirement allowances are available only to  
15 PERS members. Former PERS members who have terminated their membership pursuant to  
16 ORS 238.095 are not eligible to receive PERS disability retirement allowances.

17 Stat. Auth.: ORS 238.650

18 Stats. Implemented: ORS 238.320 - 238.345

19 Hist.: PERS 2-1992, f. & cert. ef. 1-14-92; PERS 15-2005, f. & cert. ef. 10-3-05; f. & cert. ef. 5-  
20 28-2010; f. & cert. ef. 11-23-11

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1 **459-015-0010**

2 **Criteria for Granting and Denying Disability Retirement Allowances**

3 **(1) PERS shall determine eligibility for disability retirement allowances based on an**  
4 **applicant's capacity and qualifications as set forth below.**

5 ~~[(1)]~~(2) Medical documentation is required by PERS. Each disability retirement applicant  
6 shall supply any treating or consulting physician's examination report or other medical  
7 information requested by PERS. PERS may base its determination on either a treating or  
8 consulting physician's medical examination report or have the applicant examined by one or  
9 more physicians selected by PERS, or both.

10 ~~[(2)]~~(3) All claims of a disability must be supported by at least one physician's report,  
11 resulting from a ~~[physical]~~ **medical** examination, documenting how the injury or disease  
12 incapacitates the member. **A physician assistant's examination report will be accepted as a**  
13 **physician's report when signed by a supervising physician who has examined the member.**

14 ~~[(3)]~~(4) In addition, a disability retirement applicant shall be required to furnish the  
15 following:

16 (a) For claims of mental or emotional disorder, at least one report ~~[ of examination ]~~ by a  
17 **treating or consulting** psychiatrist or ~~[at least one report of evaluation by a psychologist when~~  
18 ~~accompanied by a report of physical examination by a treating or consulting physician]~~ **doctor**  
19 **of psychology;**

20 (b) For claims of orthopedic injury or disease, at least one report of a treating or consulting  
21 orthopedic **or physical medicine and rehabilitation** specialist;

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

3 (d) For claims of fibromyalgia, at least one documented diagnosis by a rheumatologist,  
4 and at least one report of a treating or consulting rheumatologist or physical medicine and  
5 rehabilitation specialist; and

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

7 ~~[(4)]~~(5) To demonstrate that he or she is unable to perform any work for which qualified, as  
8 defined in OAR 459-015-0001(1), the applicant shall document how the injury or disease  
9 incapacitates the applicant. The standard is subjective (that is, whether the applicant is actually  
10 incapacitated) not objective (that is, whether a “normal” member would have been incapacitated  
11 by the same events).

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

14 (A) Previous employment experience;

15 (B) Formal education;

16 (C) Formal training;

17 (D) Transferable skills;

18 (E) Age; and

19 (F) Physical or mental impairment.

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

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

6 **(d) An applicant’s receipt of weekly unemployment insurance benefits after the date of**  
7 **disability shall create a rebuttable presumption that the member was able, available, and**  
8 **willing to perform any work for which qualified during the week for which the applicant**  
9 **received the benefits.**

10 ~~[(5)]~~(6) When there is a dispute among medical experts, more weight will be given to those  
11 medical opinions that are both well-reasoned and based on complete information.

12 ~~[(6)]~~(7) The Board may deny any application or discontinue any disability retirement  
13 allowance if an applicant:

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

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

17 Stat. Auth.: ORS 238.650

18 Stats. Implemented: ORS 238.320 & 238.335

19 Hist.: PERS 2-1992, f. & cert. ef. 1-14-92; PERS 4-1992, f. & cert. ef. 5-4-92; PERS 15-2005, f.

20 & cert. ef. 10-3-05; f. & cert. ef. 7-25-1

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1 **459-015-0025**

2 **Application Processing – Independent Examinations and Appeals**

3 (1) Following the timely filing of a completed application, PERS may, at its discretion,  
4 request an independent medical exam, physical capacity evaluation, or *[ a ]* vocational  
5 evaluation. If PERS requests one or more of these exams or evaluations, PERS will pay the  
6 reasonable associated expenses.

7 (a) PERS is not required or obligated to request any examination or evaluation. The  
8 burden of proof for eligibility for a disability retirement allowance is upon the applicant,  
9 whether or not PERS requests any examination or evaluation. Situations in which PERS  
10 may exercise its discretion to request an examination or evaluation include, but are not  
11 limited to:

12 (A) When PERS receives conflicting opinions from two physicians of the same  
13 specialty;

14 (B) When an applicant cannot afford to see a physician of the appropriate specialty  
15 under OAR 459-015-0010(4) because:

16 (i) The applicant does not have health insurance;

17 (ii) The examination or evaluation will not be covered by the applicant’s health  
18 insurance; or

19 (iii) No such physician practices medicine within 50 miles of the applicant’s home and  
20 the cost of traveling to such a physician would create a financial hardship for the applicant.

1 (C) When an applicant has been examined by a physician of the appropriate specialty  
2 under OAR 459-015-0010(4), but the physician declines to provide an opinion to PERS as  
3 to the applicant's claimed disability.

4 (b) For independent medical exams and physical capacity evaluations, PERS shall inform  
5 the applicant in writing and postmarked not less than ten days prior to a scheduled examination  
6 or evaluation of the identity of the *[physician(s)]* person or entity selected to examine or  
7 evaluate the applicant, together with location, date and time.

8 *[(b)]* (c) For vocational evaluations, the vocational consultant or locator service shall inform  
9 the applicant of the location, date and time of the scheduled examination.

10 *[(c)]* (d) If the applicant fails to meet the scheduled appointment or fails to reschedule the  
11 examination within five days of notification, PERS will not reschedule an examination at PERS'  
12 expense unless the applicant can demonstrate good cause for having failed to meet the scheduled  
13 appointment or reschedule the appointment as required.

14 *[(d)]* (e) Good cause includes, but is not limited to:

15 (A) Physical or mental incapacitation preventing the member from meeting or rescheduling  
16 the examination;

17 (B) Failure of PERS or the vocational consultant or locator service to send the member  
18 notice as described above; or

19 (C) A death in the member's immediate family.

20 *[(e)]* (f) Good cause does not include:

21 (A) A member's refusal to attend the scheduled appointment;

1 (B) A member’s failure to meet the appointment with no reason provided; or

2 (C) A member’s failure to make appropriate transportation arrangements.

3 (2) When PERS requires an applicant to travel to be examined by a physician, vocational  
4 consultant, or other professional, PERS will reimburse the applicant’s reasonable transportation  
5 costs based on the least costly alternative and on availability. Travel by private vehicle shall be  
6 compensated at the rate applicable to travel by unrepresented state employees on state business.  
7 Transportation by taxi, bus, rail, or other public carrier shall be paid only upon presentation of  
8 receipts from the providers. Lodging and subsistence shall be allowed only when an overnight  
9 stay is necessary and shall be paid at the rate applicable to unrepresented state employees  
10 traveling on state business. Reimbursements will be reduced by the amount of any penalty  
11 assessed by PERS because of a member’s failure to meet a scheduled appointment.

12 (3) In the event a member fails to meet a scheduled appointment in accordance with section  
13 (1) of this rule, and PERS is assessed a penalty by the service provider for the failure to meet the  
14 scheduled appointment, the disability applicant shall bear the cost of the penalty as follows:

15 (a) If the disability application is not approved, by making direct payment to the service  
16 provider who assessed the penalty; or

17 (b) If the disability application is approved:

18 (A) By making direct payment to the service provider who assessed the penalty; or

19 (B) By having the amount of the penalty deducted from the monthly disability retirement  
20 allowance, as provided for under ORS 238.715, payable to the member until the invoice is  
21 satisfied.

1 (4) The Director, or the Director’s designee, is hereby authorized to approve or deny a  
2 disability retirement application. Upon receipt and review of all necessary documentation, staff  
3 shall present applicant’s claim to the Director, or the Director’s designee, with a  
4 recommendation to approve or to deny a disability retirement allowance. The Director, or the  
5 Director’s designee, may accept or reject the staff’s recommendation, or refer the application  
6 back to staff for further documentation and review.

7 (a) If the Director, or the Director’s designee, approves a disability claim, the staff will  
8 notify the applicant and the applicant’s employer of such approval.

9 (b) If the disability claim is denied, the staff shall issue an Intent to Deny letter by regular  
10 and certified mail, return receipt requested. The denial letter shall advise the applicant that  
11 additional information to substantiate the claim, or a request for an extension of 30 days to  
12 present additional information, may be submitted to the staff in writing within 30 days of the  
13 date of the Intent to Deny letter.

14 (c) An applicant who is otherwise eligible for a service retirement allowance shall have 30  
15 days from the date of the Intent to Deny letter to apply for a service retirement allowance and be  
16 entitled to establish an effective date of service retirement for the first of the month that the  
17 application for disability retirement allowance was received by PERS.

18 (d) The application for a service retirement allowance as provided for in subsection (c) of  
19 this section shall not preclude a disability applicant from requesting a contested case hearing  
20 under OAR 459-015-0030.

21 (5) Following the issuance of an Intent to Deny letter, staff will review any additional  
22 information which is submitted within 30 days from the issuance of the Intent to Deny letter.

1 (a) If the additional information results in a recommendation to approve the application,  
2 staff shall resubmit the application to the Director, or the Director’s designee, with the  
3 recommendation.

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

7 (c) If no additional information is received, PERS will issue a final denial letter by regular  
8 and certified mail, return receipt requested.

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

11 (7) PERS will notify the most recent employer of the approval or the denial of an  
12 application for a disability retirement allowance, a request for review of the Director’s  
13 determination, and the Director’s final action. Such notification will not contain any confidential  
14 information as defined in OAR 459-015-0001(3).

15 Stat. Auth.: ORS 238.650

16 Stats. Implemented: ORS 238.320 & 238.335

17 Hist.: PERS 2-1992, f. & cert. ef. 1-14-92; PERS 5-1992, f. & cert. ef. 5-4-92; PERS 15-2005, f.  
18 & cert. ef. 10-3-05

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

1    **459-015-0050**

2    **Periodic Reviews**

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

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

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

13          (4) PERS will establish review dates for each member subject to a periodic review  
14   depending on type of disability, extent of disability, *[and]* medical reports, and earned income  
15   unique to each individual case.

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

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

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

19            (B) Updated physician or specialist reports;

20            (C) Independent medical or vocational examinations; or

1 (D) Employment and wage information, including but not limited to, tax returns or  
2 information from the State Employment Department.

3 (c) PERS may immediately discontinue the disability retirement allowance of any person  
4 who ~~[refuses]~~fails to provide current medical evidence; submit requested employment, wage,  
5 income, or tax information; or refuses to submit to a~~[n]~~ medical or vocational examination.

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

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

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

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

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

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

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

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

5 Stat. Auth.: ORS 238.650

6 Stats. Implemented: ORS 238.320 & 238.335

7 Hist.: PERS 2-1992, f. & cert. ef. 1-14-92; PERS 5-1992, f. & cert. ef. 5-4-92; PERS 15-2005, f.

8 & cert. ef. 10-3-05; f. & cert. ef. 10-5-11

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

1   **459-076-0001**

2   **Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

12           (a) Salary or wages received as an employee;

13           (b) Self-employment income from:

14           (A) Services industry;

15           (B) Sales;

16           (C) Assembly or manufacturing;

17           (D) Consulting;

18           (E) Property management;

19           (F) Gambling, other than income from sweepstakes, lotteries, bingo, keno, or slot machines;

20           (G) Hobby income; or

1 (H) Book advances.

2 (c) “Earned income” does not include:

3 (A) Investment income;

4 (B) Rent; and

5 (C) Royalties.

6 (d) Earned income is deemed to be received by the member on the date it is issued by the  
7 payer, except retroactive payments included in ORS 238.008 shall be deemed to be received  
8 by the member during the period for which the payment is allocated.

9 (e) Earned income includes the net profits of any business entity owned solely or jointly  
10 by a member and for which the member materially participates in the business, as defined  
11 by the Internal Revenue Service under 26 CFR 1.469-5T, as in effect on July 1, 2021.

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

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

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

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

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

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

6 (13) “Monthly salary” means salary as defined in ORS 238A.005 that is earned in the last  
7 full calendar month of employment and includes a differential wage payment, as defined in OAR  
8 459-005-0001.

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

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

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

15 (a) Employment before the date of disability; or

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

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

21 (16) “Periodic review” means a review of a member receiving a disability benefit to  
22 determine whether or not a continued benefit is warranted.

1 (17) “Physical capacity evaluation” means a comprehensive and objective evaluation  
2 performed by a physician, physical therapist, or occupational therapist to determine a  
3 member’s physical or functional capacity to perform work. The evaluation may include an  
4 analysis of the member’s ability to perform a specified job based on a position description  
5 and the member’s abilities or limitations.

6 ~~[(17)]~~(18) “Physician” means a ~~[ medical ]~~ doctor of medicine, a doctor of osteopathy, a  
7 doctor of oral surgery, a chiropractic doctor, a naturopathic doctor, a doctor of podiatric  
8 medicine, or a doctor of psychology practicing only within the purview of their license issued by  
9 the designated authority of a state.

10 ~~[(18)]~~(19) “Pre-existing condition” means a condition that was not sustained in actual  
11 performance of duty in a qualifying position with a participating employer.

12 ~~[(19)]~~(20) “Protected health information” means health information created or received by a  
13 health care provider, health plan, or health care clearinghouse, where an individual has a  
14 reasonable belief that the information can identify the individual, which relates to:

- 15 (a) The past, present, or future physical or mental health of an individual;  
16 (b) The provision of health care to an individual; or  
17 (c) The past, present, or future payment for the provision of health care to an individual.

18 ~~[(20)]~~(21) “Total disability” means the inability to perform any work for which qualified for  
19 an extended duration due to physical or mental incapacitation.

20 ~~[(21)]~~(22) “Vocational evaluation” means an evaluation conducted by a certified vocational  
21 consultant, to determine the ability of an applicant to perform any work for which they are  
22 qualified.

1 ~~[(22)]~~(23) “Work related stress” means conditions or disabilities resulting from, but not  
2 limited to:

- 3 (a) Change of employment duties;
- 4 (b) Conflicts with supervisors;
- 5 (c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;
- 6 (d) Relationships with supervisors, coworkers, or the public;
- 7 (e) Specific or general job dissatisfaction;
- 8 (f) Work load pressures;
- 9 (g) Subjective perceptions of employment conditions or environment;
- 10 (h) Loss of job or demotion for whatever reason;
- 11 (i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
- 12 (j) Objective or subjective stresses of employment; or
- 13 (k) Personnel decisions.

14 Stat. Auth.: ORS 238A.450

15 Stats. Implemented: ORS 238A.235

16 Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; PERS 7-2007, f. & cert. ef. 4-4-07; f. & cert. ef. 2-  
17 12-09; f. & cert. ef. 10-5-11; f. & cert. ef. 10-2-20

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

1   **459-076-0005**

2   **Eligibility for Disability Benefits**

3       (1) A *[n active]* member who was an active member as of the date of disability must be  
4   totally, not partially, disabled and unable to perform any work for which qualified for an  
5   extended duration to be eligible for a disability benefit.

6       (2) A member with disabilities arising after the member's date of termination from a  
7   qualifying position(s) is not eligible for a disability benefit.

8       (3) In determining a member's eligibility for disability benefits, the burden of proof is upon  
9   the applicant. The Board is not required to prove whether the applicant is or is not eligible for  
10  disability benefits.

11       (4) Eligibility requirements for duty disabilities.

12       (a) To be eligible for a duty disability a member must prove:

13       (A) The mental or physical incapacitation arose out of and in the course of duty and was not  
14  intentionally self-inflicted; and

15       (B) The on the job injury must be the material contributing cause of the disability, even if  
16  the member has a pre-existing condition.

17       (b) For work related stress to be considered the material contributing cause of the disability  
18  all of the following criteria must be met:

19       (A) The employment conditions producing the work related stress exist in a real and  
20  objective sense;

1 (B) The employment conditions producing the work related stress are conditions other than  
2 conditions generally inherent in every working situation or reasonable disciplinary, corrective or  
3 job performance evaluation actions by the employer, or cessation of employment or employment  
4 decisions attendant upon ordinary business or financial cycles;

5 (C) There is a diagnosis of a mental or emotional disorder which is generally recognized in  
6 the medical or psychological community; and

7 (D) There is evidence that the work related stress arose out of and in the course of  
8 employment.

9 (5) Eligibility requirements for non-duty disabilities. A member applying for non-duty  
10 disability benefits must meet the 10 or more years of service requirements pursuant to ORS  
11 238A.235(2)(a) or (b).

12 (6) Termination of OPSRP membership. Disability benefits are available only to *[active*  
13 *OPSRP Pension Program members. Former ]*OPSRP Pension Program members who have not  
14 terminated membership pursuant to ORS 238A.110 *[ are not eligible to receive OPSRP disability*  
15 *benefit]*.

16 (7) Return to work. If a member who is receiving a disability benefit becomes employed or  
17 receives earned income, the member’s disability benefit will be terminated, effective the first of  
18 the month following employment or issuance of earned income. PERS will invoice the member  
19 for, or recover under ORS 238.715, any overpayment of benefits.

20 (8) PERS may contact other public or private agencies, such as the Oregon Employment  
21 Department, the Oregon Department of Revenue, or the U.S. Internal Revenue Service to obtain  
22 employment information.

- 1 (9) Upon request by PERS, a member must provide PERS with a copy of the member's
- 2 federal income tax returns, together with copies of IRS forms W-2.
- 3 Stat. Auth.: ORS 238A.450
- 4 Stats. Implemented: ORS 238A.235
- 5 Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; f. & cert. ef. 10; f. & cert. ef. 11-23-11

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

1 **459-076-0010**

2 **Criteria for Granting and Denying Disability Benefits**

3 **(1) PERS shall determine eligibility for disability benefits based on an applicant's**  
4 **capacity and qualifications as set forth below.**

5 ~~[(1)]~~(2) Medical documentation is required by PERS. Each disability benefit applicant shall  
6 supply any treating or consulting physician's examination report or other medical information  
7 requested by PERS. PERS may base its determination on either a treating or consulting  
8 physician's medical examination report or have the applicant examined by one or more  
9 physicians selected by PERS, or both.

10 ~~[(2)]~~(3) All claims of a disability must be supported by at least one physician's report,  
11 resulting from a ~~[physical]~~**medical** examination, documenting how the injury or disease  
12 incapacitates the member. **A physician assistant's examination report will be accepted as a**  
13 **physician's report when signed by a supervising physician who has examined the member.**

14 ~~[(3)]~~(4) In addition, a disability benefit applicant shall be required to furnish the following:

15 (a) For claims of mental or emotional disorder, at least one report of ~~[examination by]~~ a  
16 **treating or consulting** psychiatrist or ~~[at least one report of evaluation by a psychologist when~~  
17 ~~accompanied by a report of physical examination by a treating or consulting physician;]~~**doctor**  
18 **of psychology;**

19 (b) For claims of orthopedic injury or disease, at least one report of a treating or consulting  
20 orthopedic **or physical medicine and rehabilitation** specialist;

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

3 (d) For claims of fibromyalgia, at least one documented diagnosis by a rheumatologist,  
4 and at least one report of a treating or consulting rheumatologist or physical medicine and  
5 rehabilitation specialist; and

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

7 ~~[(4)]~~(5) To demonstrate that he or she is unable to perform any work for which qualified, as  
8 defined in OAR 459-076-0001(1), the applicant shall document how the injury or disease  
9 incapacitates the applicant. The standard is subjective (that is, whether the applicant is actually  
10 incapacitated) not objective (that is, whether a "normal" member would have been incapacitated  
11 by the same events).

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

14 (A) Previous employment experience;

15 (B) Formal education;

16 (C) Formal training;

17 (D) Transferable skills;

18 (E) Age; and

19 (F) Physical or mental impairment.

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

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

6 (d) An applicant’s receipt of weekly unemployment insurance benefits after the date of  
7 disability shall create a rebuttable presumption that the member was able, available, and  
8 willing to perform any work for which qualified during the week for which the applicant  
9 received the benefits.

10 *[(5)](6)* When there is a dispute among medical experts, more weight will be given to those  
11 medical opinions that are both well-reasoned and based on complete information.

12 *[(6)](7)* The Board may deny any application or discontinue any disability benefit if an  
13 applicant:

14 (a) *[Refuses]* Fails to submit to an independent medical exam, physical capacity  
15 evaluation, or vocational *[examination]* evaluation; or

16 (b) *[Refuses]* Fails to submit to any medical examination or supply a completed application  
17 or review form.

18 Stat. Auth.: ORS 238A.450

19 Stats. Implemented: ORS 238A.235

20 Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; f. & cert. ef. 7-25-14

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

1 **459-076-0025**

2 **Application Processing – Independent Examinations and Appeals**

3 (1) Following the timely filing of a completed application, PERS may, at its discretion,  
4 request an independent medical exam, physical capacity evaluation, or [ a ] vocational  
5 evaluation. If PERS requests one or more of these exams or evaluations, PERS will pay the  
6 reasonable associated expenses.

7 (a) PERS is not required or obligated to request any examination or evaluation. The  
8 burden of proof for eligibility for a disability benefit is upon the applicant, whether or not  
9 PERS requests any examination or evaluation. Situations in which PERS may exercise its  
10 discretion to request an examination or evaluation include, but are not limited to:

11 (A) When PERS receives conflicting opinions from two physicians of the same  
12 specialty;

13 (B) When an applicant cannot afford to see a physician of the appropriate specialty  
14 under OAR 459-076-0010(4) because:

15 (i) The applicant does not have health insurance;

16 (ii) The examination or evaluation will not be covered by the applicant's health  
17 insurance; or

18 (iii) No such physician practices medicine within 50 miles of the applicant's home and  
19 the cost of traveling to such a physician would create a financial hardship for the applicant.

20 (C) When an applicant has been examined by a physician of the appropriate specialty  
21 under OAR 459-076-0010(4), but the physician declines to provide an opinion to PERS as

1 to the applicant's claimed disability. (b) For independent medical exams and physical  
2 capacity evaluations, PERS will inform the applicant in writing and postmarked not less than  
3 *[10 days before]* ten days prior to a scheduled examination or evaluation, of the identity of the  
4 *[physician(s)]* person or entity selected to examine or evaluate the applicant, together with  
5 location, date and time.

6 *(b)(c)* For vocational evaluations, the vocational consultant or locator service shall inform  
7 the applicant of the location, date and time of the scheduled examination.

8 *(c)(d)* If the applicant fails to meet the scheduled appointment or fails to reschedule the  
9 examination within five days of notification, PERS will not reschedule an examination at PERS'  
10 expense unless the applicant can demonstrate good cause for having failed to meet the scheduled  
11 appointment or reschedule the appointment as required.

12 *(d)(e)* Good cause includes, but is not limited to:

13 (A) Physical or mental incapacitation preventing the member from meeting or rescheduling  
14 the examination;

15 (B) Failure of PERS or the vocational consultant or locator service to send the member  
16 notice as described above; or

17 (C) A death in the member's immediate family.

18 *(e)(f)* Good cause does not include:

19 (A) A member's refusal to attend the scheduled appointment;

20 (B) A member's failure to meet the appointment with no reason provided; or

21 (C) A member's failure to make appropriate transportation arrangements.

1           (2) When PERS requires an applicant to travel to be examined by a physician, vocational  
2 consultant, or other professional, PERS will reimburse the applicant’s reasonable transportation  
3 costs based on the least costly alternative and on availability. Travel by private vehicle will be  
4 compensated at the rate applicable to travel by unrepresented state employees on state business.  
5 Transportation by taxi, bus, rail, or other public carrier will be paid only upon presentation of  
6 receipts from the providers. Lodging and subsistence will be allowed only when a stop-over is  
7 necessary and will be paid at the rate applicable to unrepresented state employees traveling on  
8 state business. Reimbursements will be reduced by the amount of any penalty assessed PERS  
9 because of a member’s failure to meet a scheduled appointment.

10           (3) In the event a member fails to meet a scheduled examination in accordance with section  
11 (1) of this rule, and PERS is assessed a penalty by the service provider for the failure to meet the  
12 scheduled appointment, the disability applicant will bear the cost of the penalty as follows:

13           (a) If the disability application is not approved, by making direct payment to the service  
14 provider who assessed the penalty; or

15           (b) If the disability application is approved:

16           (A) By making direct payment to the service provider who assessed the penalty; or

17           (B) By having the amount of the penalty deducted from the monthly disability benefit, as  
18 provided for under ORS 238.715, payable to the member until the invoice is satisfied.

19           (4) The Director, or the Director’s designee, is hereby authorized to approve or deny a  
20 disability benefit application. Upon receipt and review of all necessary documentation, staff will  
21 present applicant’s claim to the Director, or the Director’s designee, with a recommendation to  
22 approve or to deny a disability benefit. The Director, or the Director’s designee, may accept or

1 reject the staff's recommendation, or refer the application back to staff for further documentation  
2 and review.

3 (a) If the disability claim is approved, the staff will notify the applicant and the applicant's  
4 employer of such approval.

5 (b) If the disability claim is denied, the staff will issue an Intent to Deny letter by regular  
6 and certified mail, return receipt requested. The Intent to Deny letter will advise the applicant  
7 that additional information to substantiate the claim, or a request for an extension of 30 days to  
8 present additional information, may be submitted to the staff in writing within 30 days of the  
9 date of the Intent to Deny letter.

10 (5) Following the issuance of an Intent to Deny letter, staff will review any additional  
11 information submitted within 30 days from the issuance of the Intent to Deny letter.

12 (a) If the additional information results in a recommendation to approve the application,  
13 staff will resubmit the application to the Director, or the Director's designee, with the  
14 recommendation.

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

18 (c) If no additional information is received, PERS will issue a final denial letter by regular  
19 and certified mail, return receipt requested.

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

1 (7) A contested case hearing on the denial of disability benefits shall be conducted  
2 according to OAR 459-015-0030, 459-015-0035, and 459-015-0040.

3 (8) PERS will notify the most recent employer of the approval or the denial of an  
4 application for a disability benefit, a request for review of the Director’s determination, and the  
5 Director’s final action. Such notification will not contain any confidential information as defined  
6 in OAR 459-076-0001(3).

7 Stat. Auth.: ORS 238A.450

8 Stats. Implemented: ORS 238A.235

9 Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; f. & cert. ef. 10-5-11

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

1   **459-076-0050**

2   **Periodic Reviews**

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

6       (2) Periodic reviews will be used to determine that continued disability benefits are  
7   warranted. In recommending the continuance or discontinuance of a disability benefit, PERS will  
8   follow the criteria established under OAR 459-076-0005 for the original approved disabling  
9   condition or a new medical condition. If a member receiving a disability benefit becomes  
10   employed, the member's disability benefit will be terminated as provided in OAR 459-076-0005.

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

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

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

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

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

19           (B) Updated physician or specialist reports;

20           (C) Independent medical or vocational examinations; or

1 (D) Employment and wage information, including but not limited to, tax returns or  
2 information from the State Employment Department.

3 (c) PERS may immediately discontinue the disability benefit of any person who  
4 *[refuses]fails* to provide current medical evidence; submit requested employment, wage,  
5 income, or tax information; or refuses to submit to a *[n]* medical or vocational examination:.

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

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

13 (i) If the additional information results in a recommendation to *[approve the*  
14 *application]* continue the disability benefit, staff shall resubmit the *[application]* disability  
15 claim to the Director, or the Director’s designee, with the recommendation;

16 (ii) If the additional information does not result in a recommendation to *[approve the*  
17 *application]* continue the disability benefit, PERS will issue a final discontinuation letter by  
18 regular and certified mail, return receipt requested.

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

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

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

2        (6) The Director, or Director’s designee, may approve or deny the continuance of a  
3        disability benefit.

4        Stat. Auth.: ORS 238A.450

5        Stats. Implemented: ORS 238A.235

6        Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; PERS 7-2007, f. & cert. ef. 4-4-07; f. & cert. ef. 10-

7        5-11

December 3, 2021  
PERS Board Meeting Agenda

## Administrative Rulemaking

1. Adoption of Disability Rules
2. Notice of 2021 Legislative Implementation
3. Notice of Rulemaking for Benefits-In-Force Earnings Crediting Rule



# Oregon

Kate Brown, Governor

## Public Employees Retirement System

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Tigard, OR 97281-3700  
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December 3, 2021

TO: Members of the PERS Board

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

SUBJECT: Notice of Rulemaking for Rules to Implement 2021 Legislation:  
 OAR 459-005-0560, *Required Minimum Distributions, Generally*  
 OAR 459-009-0130, *Employee Contributions for Prior Periods*  
 OAR 459-005-0020, *Determination of Employee or Non-Employee Status*  
 OAR 459-010-0030, *Determination of Employee Status*  
 OAR 459-010-0032, *Determination of Independent Contractor Status*  
 OAR 459-013-0310, *Payment of Increased Benefits under ORS 238.372 to 238.384*  
 OAR 459-014-0045, *Valid Request for Distribution of Pre-Retirement Death Benefits*  
 OAR 459-080-0020, *Withdrawal of Individual Accounts*

### OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Implement 2021 legislation impacting PERS.
- Policy Issue: None identified.

### BACKGROUND

For the purpose of rulemaking, staff have compiled all the amendments to administrative rules necessary to implement several PERS-related bills enacted during the 2021 Oregon Legislative session.

#### *House Bill 2457*

House Bill (HB) 2457 became effective September 25, 2021. The bill makes amendments to various chapters of the ORS to update connection dates in conformity with the Internal Revenue Code. It also brings PERS statutes in alignment with the new required minimum distribution (RMD) age of 72, as provided by federal SECURE Act of 2019. The new RMD age has been in effect since January 1, 2020.

Proposed revision of OAR 459-005-0560 amends the rule to clarify that members who reached age 70 ½ before January 1, 2020 are still subject to the original RMD age of 70 ½ while members who were not yet 70 ½ on January 1, 2020, their RMD age is now 72.

The rule was also amended to clarify that a surviving spouse may delay death benefit distributions until the calendar year when the deceased member would have reached the RMD age. The RMD age for the deceased member should be determined as explained above.

#### *House Bill 2875*

HB 2875 became effective September 25, 2021. The bill amends three separate areas of PERS' statutes. First, the bill amended the definition of "firefighter" in ORS chapters 238 and 238A to include certain State Fire Marshal employees. Second, the bill amended certain effective dates regarding tax remedy payments. Third, the bill amended loss of membership (LOM) criteria for calendar year 2020 due to the COVID-19 pandemic. Only the tax remedy provisions of the bill require rulemaking.

The proposed revision to OAR 459-013-0310 modifies the effective date for residency status certifications that members may submit to establish eligibility for the tax remedy. The proposed rule also removes references to a December 15 administrative deadline that will be explained in letters provided to affected retirees. Before HB 2875, all residency certifications became effective on January 1 of the calendar year following receipt. After HB 2875, certifications received between January 1 and April 15 of each year are effective no later than the first day of the second calendar month following receipt.

The proposed rule provides that residency certifications received during this period will be effective on the first day of the calendar month following receipt, which is earlier than required by the bill, as staff have determined that this deadline will be the most efficient and feasible to administer. The rule also provides that certifications received on and after April 16 will continue to be effective on January 1 of the calendar year following receipt, as required by statute.

#### *Senate Bill 111*

Senate Bill (SB) 111 is effective January 1, 2022. This is a PERS-sponsored bill that presents revisions to certain provisions of SB 1049 (2019) identified by staff through implementation of that bill, and amends the definition of salary for OPSRP members. In addition, the enacted bill includes amendments addressing the OPSRP salary definition specifically for Oregon Health & Science University (OHSU) and charter schools, and expands the pre-retirement death benefit option for surviving spouses. Specifically, the bill provides the following changes or clarifications:

- Work after retirement provisions of SB 1049 (2019) – clarifies that all early retirees must be absent from all PERS employment for six months to be eligible to work unlimited hours; removes language from the unlimited hour provisions that requires an hourly limit for Social Security recipients until they attain full social security age, and; equalizes the unlimited hour standard for Tier One/Tier Two and OPSRP members (Tier One/Tier Two elected officials are still limited under the original SB 1049 language).
  - No administrative rule amendments are necessary for these provisions.

- Member redirect provisions of SB 1049 (2019) - clarify that termination of membership on OPSRP Pension withdrawal applies to all OPSRP members, not just vested members; clarify that the new Employee Pension Stability Account is required to be repaid if a member either elects, or is required to, redeposit their member account; clarifies that a member cannot withdraw their Individual Account Program (IAP) account once they attain earliest retirement age, and; requires the member to have a bona fide separation to be eligible to withdraw their IAP account.
  - To implement the new IAP withdrawal provisions, proposed amendments to OAR 459-080-0020 provide a definition of bona fide separation that is consistent with the current administration of Tier One/Two member account withdrawals and adds the requirement that the member must not have reached earliest retirement age as of the effective date of withdrawal.
- Employer programs provisions of SB 1049 (2019) - clarifies requirements of application process by removing reference to funds "projected to become" so application cycles can be clearly identified, and removes the misleading "improve the employer's funded status" from the UAL resolution program language, as pooled employers cannot individually improve their funded status.
  - No administrative rule amendments are necessary for these provisions.
- Coordination of SB 1049 and HB 2417 (both 2019) - clarifies how the new death benefit option provided under HB 2417 will be funded in light of the new EPSA established in SB 1049, and expands the spousal pre-retirement death benefit option to 100% of what the member would receive if the member dies after earliest retirement age.
  - Based on the implementation of the optional spouse death benefit provided for in HB 2417 (2019), staff identified elements of the expanded optional spouse death benefits introduced in SB 111 (2021) that would benefit from clarification in rule. The changes are specific to the benefits provided for in ORS 238 as the OPSRP pre-retirement death benefit is already limited to only spouses and the minimum payment is clearly defined in ORS 238A language.

The proposed rule amendments to OAR 459-014-0045 clarify that in order to be eligible for the optional spouse death benefit under ORS 238.395 the member's spouse must be the member's sole beneficiary under ORS 238.390. Additionally, it provides notice to members that PERS will follow the agency's practice of treating any benefit under \$200/month as an aggregate sum refund.

- Definition of salary for Chapter 238A (OPSRP members) - amends the definition of salary effective January 1, 2020, for OPSRP members so salary earned by a member that is currently non-PERS salary because it is not subject to Oregon State income tax, will still be salary for PERS purposes; specific provisions make the change in salary definition retroactive back to January 1, 2004 for OHSU and charter schools.
  - No administrative rule amendments are necessary for this provision.

*Senate Bill 112*

SB 112 became effective on June 1, 2021. SB 112 is a PERS sponsored bill to establish that common-law employees are included within the definition of “employee” under ORS 238.005(8) and “eligible employee” under ORS 238A.005(4). As promised during legislative committee hearings, PERS convened a work group of interested employee and employer stakeholders to address the agency’s implementation of SB 112 and associated rulemaking. The proposed rule, OAR 459-005-0020, incorporates stakeholder feedback received through the work group.

The proposed rule seeks to accomplish three things. First, PERS currently has two administrative rules regarding determination of employee or independent contractor status. The existing rules, 459-010-0030 and 459-010-0032, are part of Division 10, which is generally applicable to the Chapter 238 program, and therefore do not explicitly apply to OPSRP members. The proposed rulemaking activity repeals these existing rules and combines them into one new rule in Division 5 (Administration), which covers all programs. The combining of the rules is appropriate because a single legal standard applies to determining whether a person is an employee or independent contractor.

Second, in determining whether an individual is an employee for PERS purposes or not, PERS uses the current IRS standard for analyzing employment status under common law, but the current rules contain an outdated description of the IRS standard used. The proposed rule updates the categories and factors to be considered in this analysis to align with current IRS standards.

Third, the proposed rule establishes standards for presuming employment status based on employer tax reporting and also establishes a framework for how PERS will review claims of employment misclassification.

*Senate Bill 113*

SB 113 became effective on June 1, 2021. This is a PERS-sponsored bill that amends ORS 238A.330, 238A.335 and 238A.340 to provide PERS with statutory authority to charge employer earnings on late contributions into the IAP.

The policy and practice of charging employers for earnings on late IAP contributions was formally adopted by the PERS Board upon staff recommendation back in 2006 while establishing rules for the IAP remediation project. However, that adopted policy and practice were not actually reflected in the two administrative rules that were updated at the time (OAR 459-009-0200, Employer Remitting of Employee Contributions and OAR 459-080-0200, IAP Account Adjustments for Earnings or Losses). Additionally, the statutory support for the current agency practice of collecting earnings from employers for late IAP contributions was ambiguous. SB 113 now provides statutory clarity for agency practice.

OAR 459-009-0130 was originally written to only address the administrative process of invoicing employers for required employee contributions under ORS 238.205 and the associated earnings on those contributions due to late payment. The proposed amendments add references to statutory provisions for IAP employee contributions and optional employer contribution. We

have also updated the title of this rule from “Employee Contributions for Prior Periods” to “Contributions for Prior Periods” for further clarification.

Lastly, the amendments add a new subsection (2)(b) to address late submitted contributions under the federal Uniformed Services Employment and Reemployment Rights Act (USERRA). There are special rules for crediting earnings to these contributions and historically PERS has not charged prior year earnings on late-submitted USERRA contributions. Subsection (2)(b) has been added to make it clear that PERS will also be charging employers for prior year earnings on late-submitted USERRA contributions for employees returning from uniformed service.

### PUBLIC COMMENT AND HEARING TESTIMONY

No rulemaking hearing will be held because the PERS building is closed to the public. The public comment period ends on December 23, 2021, at 5:00 p.m.

### LEGAL REVIEW

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

### IMPACT

**Mandatory:** Yes, changes are necessary to bring the rules in line with changes or additions to statute made by the 2021 legislature.

**Benefit:** Updates the rules to reflect recent legislative changes and provides clarification on the agency’s administration of the plan.

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

### RULEMAKING TIMELINE

December 1, 2021	Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State.
December 1, 2021	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice was sent to employers, legislators, and interested parties. Public comment period began.
December 3, 2021	PERS Board notified that staff began the rulemaking process.
December 23, 2021	Public comment period ends at 5:00 p.m.
January 31, 2022	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

### NEXT STEPS

The rules are scheduled to be brought before the PERS Board for adoption at the January 31, 2022 board meeting.

Notice – Rules to Implement 2021 Legislation

12/3/2021

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- B.2. Attachment 1 - 459-005-0560-1, *Required Minimum Distributions, Generally*
- B.2. Attachment 2 - 459-013-0310-1, *Payment of Increased Benefits under ORS 238.372 to 238.384*
- B.2. Attachment 3 - 459-014-0045-2, *Valid Request for Distribution of Pre-Retirement Death Benefits*
- B.2. Attachment 4 - 459-080-0020-1, *Withdrawal of Individual Accounts*
- B.2. Attachment 5 - 459-005-0020-1, *Determination of Employee or Non-Employee Status*
- B.2. Attachment 6 - 459-010-0030-1, *Determination of Employee Status*
- B.2. Attachment 7 - 459-010-0032-1, *Determination of Independent Contractor Status*
- B.2. Attachment 8 - 459-009-0130-1, *Employee Contributions for Prior Periods*

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

1 **459-005-0560**

2 **Required Minimum Distributions, Generally**

3 (1) Applicable Law. Distributions under the Public Employees Retirement System  
4 (PERS) shall be made in accordance with Internal Revenue Code (IRC) Section  
5 401(a)(9), including IRC Section 401(a)(9)(G), and the Treasury Regulations and Internal  
6 Revenue Service rulings and other interpretations issued thereunder, including Treasury  
7 Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9. The provisions of this  
8 administrative rule and any other statute or administrative rule reflecting the required  
9 minimum distribution requirements of IRC Section 401(a)(9) shall override any  
10 distribution options that are inconsistent with IRC Section 401(a)(9).

11 (2) Distributions to Members. Each member's entire benefit under PERS shall be  
12 distributed to the member, beginning no later than the required beginning date, over the  
13 member's lifetime (or the joint lives of the member and a designated beneficiary), or over  
14 a period not extending beyond the member's life expectancy (or the joint life expectancies  
15 of the member and a designated beneficiary).

16 (a) Required Beginning Date. For purposes of this section, the "required beginning  
17 date" is April 1 of the calendar year after the later of the following:

18 (A) The calendar year in which the member reaches age 70 1/2 years of age if the  
19 member was born before July 1, 1949, or age 72 if the member was born after June  
20 30, 1949; or

21 (B) The calendar year in which the member retires.

1 (b) Designated Beneficiary. For purposes of this section, a "designated beneficiary"  
2 means any individual designated as a beneficiary by the member. If the member  
3 designates a trust as a beneficiary, the individual beneficiaries of the trust shall be treated  
4 as designated beneficiaries if the trust satisfies the requirements set forth in Treasury  
5 Regulation Section 1.401(a)(9)-4.

6 (c) Calculation of Life Expectancies. For purposes of this section and Chapter 238  
7 benefits and the Pension Program, which are part of the DB component of PERS, life  
8 expectancies shall not be recalculated after the initial determination, unless otherwise  
9 required by Treasury Regulation Section 1.401(a)(9)-5, Q&A-4 and Q&A-5. For  
10 purposes of this section and the Individual Account Program, life expectancies shall be  
11 recalculated but no more frequently than annually, unless otherwise required by Treasury  
12 Regulation Section 1.401(a)(9)-5, Q&A-5.

13 (d) Limitations on Benefit Changes. A retired member who has had a required  
14 beginning date shall not change a beneficiary designation, benefit option election, or any  
15 other designation or election except as permitted under Treasury Regulation Sections  
16 1.401(a)(9)-4 and 1.401(a)(9)-6.

17 (e) Limitations on Conversion of Joint Annuity to Single Life Annuity Following  
18 Divorce. A retired member who has had a required beginning date may elect to convert a  
19 joint and survivor annuity under Option 2A or 3A under Chapter 238 to a single life  
20 annuity by reason of the member's divorce from the joint annuitant, subject to the  
21 provisions of Treasury Regulation Section 1.401(a)(9)-6. This section applies to ORS  
22 Chapter 238 benefits notwithstanding ORS 238.305(5) and 238.325(3).

1 (f) Limitations on Survivor Annuity Elections. Except as otherwise required by a  
2 domestic relation order under ORS 238.465, if a member elects a 100 percent (100%)  
3 joint and survivor annuity (Option 2 or 2A under ORS 238.305(1) and under  
4 238A.190(1)(a)) and designates a nonspouse beneficiary who is more than ten years  
5 younger than the member as calculated under Treasury Regulation Section 1.401(a)(9)-6,  
6 Q&A-2, the benefit shall be actuarially adjusted to provide for a reduced survivor annuity  
7 benefit to the extent necessary to comply with federal requirements for qualified  
8 retirement plans.

9 (g) Limitation on Period-Certain Annuity Election (Chapter 238 only). If a member  
10 elects a 15-year certain option (Option 4 under ORS 238.305(1)), and attains age 85 or  
11 older during the calendar year in which the benefits commence, the benefit shall be  
12 actuarially adjusted to provide for a shorter payout period to the extent necessary to  
13 comply with federal requirement for qualified retirement plans.

14 (h) Limitation on Selection of IAP Benefit Options. Benefit payment options  
15 selected under the Individual Account Program shall be considered as payment options  
16 under a DC plan and must comply with the requirements of Treasury Regulation Section  
17 1.401(a)(9)-5.

18 (3) Distributions to Beneficiaries of Retired Members. If a retired member dies after  
19 annuity benefit payments have begun under Chapter 238 or the Pension Program or other  
20 benefit payments are required to begin under section (2) of this rule, any death benefits  
21 shall be distributed at least as rapidly as under the distribution method being used at the  
22 member's death.

1 (4) Distributions to Beneficiaries of Active and Inactive Members. If an active or  
2 inactive member dies before annuity payments have begun under Chapter 238 or the  
3 Pension Program or other benefit payments are required to begin under section (2) of this  
4 rule, any death benefits shall be distributed by December 31 of the calendar year that  
5 contains the fifth anniversary of the member's death, except as provided in the following:

6 (a) Distributions to Designated Beneficiaries. The five-year rule shall not apply to  
7 any death benefit that is payable to a member's designated beneficiary, if:

8 (A) The benefit is distributed over the designated beneficiary's lifetime or over a  
9 period not extending beyond the designated beneficiary's life expectancy; and

10 (B) The distributions begin no later than December 31 of the calendar year that  
11 contains the first anniversary of the member's death.

12 (b) Distributions to Spouse Designated Beneficiaries. Notwithstanding subsection (a)  
13 of this section, if the designated beneficiary is the member's surviving spouse as defined  
14 by the Internal Revenue Code:

15 (A) The commencement of distributions under subsection (a)(B) of this section may  
16 be delayed until December 31 of the calendar year in which the member would have  
17 reached the age [70 1/2] specified in section (2)(a)(A) of this rule; and

18 (B) If the surviving spouse dies after the member's death but before the distributions  
19 to the spouse have begun, the rules of this section shall apply to any death benefit payable  
20 to any contingent beneficiary as if the spouse were the member. Notwithstanding the  
21 foregoing, however, this subsection shall not apply to any death benefit payable to a  
22 surviving spouse of the deceased member's surviving spouse.

23 (5) The provisions of this rule are effective on January 1, 2003.

1 Statutory/Other Authority: ORS 238.630, 238.650, 238A.130, 238A.170 &  
2 238A.410

3 Statutes/Other Implemented: ORS 238.005 - 238.715

4 History:

5 PERS 21-2005, f. & cert. ef. 11-1-05

6 PERS 8-2005, f. & cert. ef. 2-22-05

7 PERS 31-2004(Temp), f. & cert. ef. 12-15-04 thru 6-1-05

8 PERS 5-1999, f. & cert. ef. 11-15-99

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 013 – RETIREMENT BENEFITS**

1    **459-013-0310**

2    **Payment of Increased Benefits under ORS 238.372 to 238.384**

3           (1) For purposes of determinations under ORS 238.372 to 238.384:

4           (a) “Person” includes a member, an alternate payee, or a beneficiary.

5           (b) The increased benefit percentage to be added to a benefit paid to a beneficiary  
6 under ORS 238.390, 238.395, 238.400, 238.405, or under an optional form of retirement  
7 allowance under ORS 238.305 or 238.325 will be determined based on:

8           (A) The increased benefit percentage(s) for which the member is otherwise  
9 eligible under ORS 238.364, 238.366 and 238.368; and

10          (B) The residency of the beneficiary.

11          (2) PERS will make the following determinations on residency status for the  
12 purpose of determining increased benefit eligibility under ORS 238.372 to 238.384,  
13 based on the yearly Oregon personal income tax return information provided by the  
14 Department of Revenue. Determinations under this section are effective the first day  
15 of the calendar year following receipt of information from the Department of  
16 Revenue.

17          (a) If the Department of Revenue notifies PERS that a person:

18           (A) Filed Oregon personal income tax as a resident, PERS will treat the person as  
19 a resident of Oregon.

20           (B) Filed Oregon personal income tax as a non-resident, PERS will treat the  
21 person as a non-resident of Oregon, except as provided in section (3) below.

1 (C) Did not file Oregon personal income tax, PERS will treat the person as a non-  
2 resident of Oregon, except as provided in section (3) below.

3 (D) Filed Oregon personal income tax as a partial-year resident and the prior year  
4 the person filed personal income tax as a resident, PERS will treat the person as a non-  
5 resident of Oregon, except as provided in section (3) below.

6 (E) Filed Oregon personal income tax as a partial-year resident and the prior year  
7 the person filed personal income tax as a non-resident, PERS will treat the person as a  
8 resident of Oregon.

9 (F) Filed Oregon personal income tax as a partial-year resident and the prior year  
10 the person did not file personal income tax, PERS will treat the person as a resident of  
11 Oregon.

12 (G) Filed Oregon personal income tax as a partial-year resident, and the person  
13 also submitted residency status information on a form provided by PERS and received  
14 by PERS in [between January 1 and December 15 of] the same calendar year, PERS will  
15 determine residency status based on the information provided on the form.

16 (b) If PERS cannot make a residency status determination based on information  
17 provided by the Department of Revenue or the person did not otherwise provide PERS  
18 with residency status information, PERS will treat the person as a non-resident of  
19 Oregon, except as provided in section (3) below.

20 (3) *[Residency status information submitted on a form provided by PERS and*  
21 *received between January 1 and December 15 of the current calendar year will, f]E*or  
22 purposes of determining increased benefit eligibility under ORS 238.372 to 238.384,  
23 residency status information submitted on a form provided by PERS and received

1 by PERS in the current calendar year will supersede any Oregon personal income tax  
2 return information provided by the Department of Revenue pursuant to section (2) of this  
3 rule.

4 (4) Residency status forms received by PERS shall be effective as follows:

5 (a) The first day of the calendar month following receipt, if received between  
6 January 1 and April 15;

7 (b) The first day of the calendar year following receipt, if received on or after  
8 April 16.

9 ~~(4)~~5 Notwithstanding sections (2) and (3) of this rule, PERS will revoke  
10 increased benefit eligibility and seek repayment if it finds a person has submitted  
11 fraudulent residency status information under section (2) or (3) of this rule.

12 Statutory/Other Authority: ORS 238.650

13 Statutes/Other Implemented: ORS 238.362, 238.364, 238.366, 238.368 & 238.372

14 - 238.384

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 014 – DEATH AND SURVIVOR BENEFITS**

1 [459-014-0045](#)

2 [Payment of Chapter 238 Pre-Retirement Death Benefits](#)

3 [\(1\) To be eligible for the benefit under ORS 238.395\(2\), the member's spouse](#)  
4 [must be the member's sole beneficiary under ORS 238.390](#)

5 [\(2\) A beneficiary who elects to receive the optional spouse death benefit under](#)  
6 [ORS 238.395\(2\) will receive actuarially determined monthly payments for life only](#)  
7 [when the total monthly amount of their benefit is at least the amount established in](#)  
8 [ORS 238.315.](#)

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 80 – OPSRP INDIVIDUAL ACCOUNT PROGRAM**

1 **459-080-0020**

2 **Withdrawal of Individual Accounts**

3 (1) Definitions. For the purposes of this rule:

4 **(a) “Bona fide separation” means a member has been absent from employment**  
5 **with all participating employers, and employers in a controlled group with a**  
6 **participating employer, for at least one full calendar month following the month of**  
7 **separation.**

8 ~~[(a)]~~**(b)** “Controlled group” means a group of employers treated as a single  
9 employer for purposes of maintaining qualified status under federal law.

10 ~~[(b)]~~**(c)** “Effective date of withdrawal” has the same meaning as given the term in  
11 OAR 459-005-0001(10).

12 ~~[(c)]~~**(d)** “Inactive member” has the same meaning given the term in ORS  
13 238A.005(8).

14 ~~[(d)]~~**(e)** “Individual account program” has the same meaning given the term in ORS  
15 238A.005(9).

16 ~~[(e)]~~**(f)** “Individual accounts” means the employee account, Employee Pension  
17 Stability Account, rollover account, and employer account of a member of the Individual  
18 Account Program (IAP) to the extent the member is vested in those accounts under ORS  
19 238A.320.

20 (2) An inactive member may withdraw the individual accounts under ORS 238A.375  
21 if:

1 (a) The member *[has separated from]* is not employ[ment]ed with *[all]* any  
2 participating employers *[and all]* or any employers in a controlled group with a  
3 participating employer;

4 (b) The member has *[been absent from service with all participating employers and*  
5 *all employers in a controlled group with a participating employer for at least one full*  
6 *calendar month following the month of separation]* a bona fide separation;

7 (c) The member has not reached earliest retirement age as of the effective date  
8 of withdrawal;

9 *[(c)]* (d) The member files with PERS a written request for withdrawal on a form  
10 acceptable to PERS; and

11 *[(d)]* (e) The member complies with the requirements of ORS 238A.375(5).

12 (3) A member may revoke a request for withdrawal of the individual accounts if  
13 PERS receives the member’s written revocation of the request before the earlier of:

14 (a) The date of distribution; or

15 (b) The date PERS receives a valid court order requiring PERS to pay the  
16 distribution to someone other than the withdrawing member.

17 (4) A member who withdraws the individual accounts terminates membership in the  
18 IAP as of the effective date of withdrawal.

19 (5) An employer account not included in the withdrawn individual accounts by  
20 reason of the member’s failure to vest in the employer account is permanently forfeited as  
21 of the date of distribution.

1 (6) A member who withdraws the individual accounts *[and is subsequently*  
2 *employed with a participating employer ]* forfeits any service performed by the member  
3 before the separation described in subsection (2)(a) of this rule. **Forfeited service will**  
4 **not be considered** for the purpose of vesting in an employer account **if subsequently**  
5 **employed with a participating employer.**

6 (7) If a former member who has withdrawn the individual accounts returns to  
7 employment with a participating employer or an employer in a controlled group with a  
8 participating employer before the *[first day of the second calendar month following the*  
9 *month of the separation described in subsection (2)(a) of this rule]* **time required for a**  
10 **bona fide separation,** the withdrawal is cancelled and membership is restored. The  
11 member must repay to PERS in a single payment the total amount of all payments  
12 attributable to the withdrawal within 30 days following the effective date of the  
13 employment. Upon receipt by PERS of repayment under this section, account(s) forfeited  
14 under section (5) of this rule and service forfeited under section (6) of this rule are  
15 restored effective the date of distribution. The repayment amount received will be  
16 credited pro rata to the accounts from which the withdrawal amount was derived.

17 (8) If the member fails to repay as provided in section (7) of this rule, PERS shall  
18 take all reasonable steps to recover the repayment amount due, including any interest,  
19 costs, or penalties assessed by PERS, under the provisions of ORS 238.715 and OAR  
20 459-005-0610. Upon receipt by PERS of repayment under this section, account(s)  
21 forfeited under section (5) of this rule, and service forfeited under section (6) of this rule  
22 are restored effective the first day of the month following the date of repayment. The  
23 repayment amount received will be credited pro rata to the accounts from which the

1 withdrawal amount was derived effective the first day of the month following the date of  
2 repayment.

3 Statutory/Other Authority: ORS 238A.450

4 Statutes/Other Implemented: ORS 238A.375 & OL 2007 Ch. 52

5 History: PERS 9-2020, amend filed 06/23/2020, effective 06/23/2020

6 PERS 11-2019, minor correction filed 12/09/2019, effective 12/09/2019; PERS 3-2016, f.

7 & cert. ef. 5-27-16; PERS 16-2007, f. & cert. ef. 11-23-07

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

1 459-005-0020

2 Determination of Employee or Non-Employee Status

3 (1) Definitions. For purposes of this rule:

4 (a) The term “employee” means:

5 (A) For a Tier One or Tier Two member, an individual who meets the definition  
6 of “employee” provided in ORS 238.005 and OAR 459-005-0001(14), and includes  
7 an individual who has the status of a common-law employee of a public employer,  
8 under the usual common law rules applicable in determining the employer-  
9 employee relationship.

10 (B) For an OPSRP member, an individual who meets the definition of “eligible  
11 employee” provided in ORS 238A.005 and OAR 459-005-0001(14), and includes an  
12 individual who has the status of a common-law employee of a public employer,  
13 under the usual common law rules applicable in determining the employer-  
14 employee relationship.

15 (b) The term “independent contractor” means an individual or business entity  
16 providing services to a public employer where the public employer has the right to  
17 control or direct only the result of the labor or service, and not the means and  
18 manner of providing the labor or service.

19 (c) The term “non-employee” means an individual who does not meet the  
20 “employee” definition provided in this rule, even though they may provide services  
21 to a public employer, because they are not subject to the public employer’s control  
22 as to the means and manner of providing the labor or service. “Non-employee”

1 includes an “independent contractor,” or an individual who is an employee of a  
2 third-party firm or service provider.

3 (d) The term “third-party firm or service provider” means a business that  
4 provides individuals to a public employer who provide services to the public  
5 employer as part of a service contract.

6 (2) Reporting Requirement. Public employers shall report all employees to  
7 PERS as required under OAR 459-070-0100.

8 (3) Determination of whether an individual is an employee eligible for PERS  
9 benefits, or a non-employee not eligible for PERS benefits, is made under common-  
10 law rules.

11 (a) An individual is presumed to be an employee of a public employer if the  
12 public employer reports the individual’s wage and tax information to the Internal  
13 Revenue Service via Form W-2.

14 (b) An individual is presumed to be a non-employee if the public employer does  
15 not report the individual’s wage and tax information to the Internal Revenue  
16 Service via Form W-2.

17 (A) A non-employee is presumed to be an independent contractor of a public  
18 employer if the public employer reports payments for the individual or business  
19 entity’s services to the Internal Revenue Service via Form 1099.

20 (B) A non-employee is presumed to be an employee of a third party firm or  
21 service provider if a third party firm or service provider reports the individual’s  
22 wage and tax information to the Internal Revenue Service via Form W-2.

1 (4) PERS will rely on a public employer’s worker classification of an individual  
2 based upon sections (2) and (3) of this rule. However, if a claim of worker  
3 misclassification is raised in a dispute under ORS 238.285, a dispute under ORS  
4 238.450, an appeal by an individual under OAR 459-001-0030, or an appeal by an  
5 employer under OAR 459-001-0032, a public employer, or the individual who  
6 provided services to a public employer, may rebut the presumption of employee or  
7 non-employee status in section (3) of this rule by providing to PERS the following  
8 documentary evidence:

9 (a) A judgment, court order, Internal Revenue Service Form SS-8  
10 determination, or other Internal Revenue Service ruling that concludes that the  
11 appropriate classification for the individual who provided services to a public  
12 employer differs from the presumptions in section (3) of this rule;

13 (b) Other records satisfactory to PERS that establish that the appropriate  
14 classification for the individual who provided services to a public employer differs  
15 from the presumptions in section (3) of this rule.

16 (5) If a public employer, or the individual who provided services to a public  
17 employer, submits documentary evidence to rebut the presumption of employee or  
18 independent contractor status as required under section (4) of this rule, PERS shall  
19 evaluate such evidence to determine whether an individual is an employee or non-  
20 employee of the public employer under common-law rules.

21 (6) To determine an individual’s worker classification, PERS shall follow the  
22 three-category common-law analysis, in accordance with standards established by

1 the Internal Revenue Service. The three categories of evidence of control or  
2 independence are:

3 (a) Behavioral control. This category examines facts that show whether a public  
4 employer has a right to direct and control the work performed by the individual,  
5 even if that right is not exercised. Facts to be considered in evaluating behavioral  
6 control include, but are not limited to:

7 (A) Instructions. This includes the type, degree, and frequency of instructions  
8 given to the individual concerning when, where, and how the work is performed.

9 Relevant factors may include, but are not limited to:

10 (i) Setting hours of work;

11 (ii) Requiring full-time work;

12 (iii) Setting the order or sequence of work;

13 (iv) Requiring that the work be performed on the public employer’s premises;

14 and

15 (v) Requiring the services to be rendered personally by the individual, and  
16 restricting the individual’s ability to hire, supervise, or pay assistants to complete  
17 the work.

18 (B) Evaluation systems. This includes the type, degree, and frequency of  
19 evaluations. Relevant factors may include, but are not limited to:

20 (i) Requiring the individual to submit regular oral or written reports to the  
21 public employer;

22 (ii) Whether evaluation systems are used to measure how the work is done, or  
23 only the final work product (without regard to how the work is done); and

1 (iii) Whether the public employer or a third-party is performing the evaluation.

2 (C) Training. This includes the type, degree, and frequency of training an  
3 individual receives from the public employer. Relevant factors may include, but are  
4 not limited to:

5 (i) Providing training on how to do the job, or other training opportunities;

6 (ii) Frequency of training opportunities;

7 (iii) Whether the public employer or a third-part is providing the training; and

8 (iv) The source of funding for the training.

9 (b) Financial control. This category examines facts that show whether a public  
10 employer has the right to control the economic aspects of the individual’s labor or  
11 services. Facts to be considered in evaluating financial control include, but are not  
12 limited to:

13 (A) Whether the public employer furnishes the tools and equipment used to  
14 perform the work;

15 (B) Whether the public employer is responsible for obtaining all assumed  
16 business registrations, professional occupation licenses, or certificates required by  
17 state or local government ordinances for the individual to conduct business;

18 (C) Whether the individual is reimbursed for business and/or travel expenses;

19 (D) The extent to which the individual can realize a personal profit or loss;

20 (E) Whether the individual’s services are available to the public;

21 (F) Whether the individual may provide labor or services to more than one  
22 employer at a time; and

1 (G) Whether the public employer pays the individual wages on a regular  
2 schedule, upon completion of a job, on a lump-sum or straight commission basis, or  
3 on an annual or periodic retainer basis.

4 (c) Relationship of the parties. This category examines facts that show how the  
5 individual and public employer perceive their relationship to each other. Facts to be  
6 considered in evaluating the relationship of the parties include, but are not limited  
7 to:

8 (A) The terms of any written contracts that describe whether the employer has  
9 the legal right to control both the method and the result of the labor or service.  
10 Other important factors include who can modify the contracts, and how  
11 modifications are made to such contracts;

12 (B) Whether the public employer provides employee benefits to the individual;

13 (C) Whether the individual provides services on an ongoing basis, or whether  
14 the relationship ends once the labor or services are completed;

15 (D) The extent to which the individual is integrated into the public employer's  
16 business activities;

17 (E) Whether the individual's services are a key activity of the public employer's  
18 business; and

19 (F) Whether the public employer or the individual have the right to discipline,  
20 discharge, or terminate the relationship before services are completed, and the  
21 consequences of discipline, discharge, or termination.

22 (7) Other important considerations.

1 (a) Standard of review. The employee or non-employee determination will be  
2 based upon the totality of the circumstances. The degree and importance of each  
3 factor will vary depending on the labor or services to be performed, and the context  
4 in which the labor or services are performed.

5 (b) If, under the common-law rules, PERS determines that there is an  
6 employee/employer relationship, it is immaterial how the relationship is described  
7 by the parties. The substance of the relationship, not the label, governs the  
8 individual’s status for PERS purposes. PERS will disregard any contractual  
9 designation of the individual as an “independent contractor” or “non-employee” if  
10 the facts demonstrate an employee/employer relationship.

11 (c) A non-employee who provides services to a public employer shall be  
12 reported to PERS as a common-law employee of the public employer if an analysis  
13 under this rule results in the finding of an employee/employer relationship between  
14 the individual and the public employer.

15 (i) If an employee of a third party firm or service provider is determined to be a  
16 common-law employee of a public employer, the third party firm or service  
17 provider shall disclose all information regarding an employee’s wages that is  
18 reasonably necessary to enable a public employer to make PERS contributions.

19 (ii) If a public employer is not able to obtain information regarding the  
20 employee’s wages from the third party firm or service provider, the employee shall  
21 submit to the board any payroll and tax records relating to the services provided to  
22 the public employer and the board shall fix a wage which shall be the basis for  
23 computing the amounts of the contributions. If the employee provided services to

1 multiple employers, adjustments will be made to reflect the actual hours of service  
2 provided to the public employer responsible for the PERS contributions.

3 (d) For purposes of determining whether an individual provides services as an  
4 independent contractor, the creation or use of a business entity, such as a  
5 corporation or limited liability company, by an individual for the purpose of  
6 providing services does not, by itself, establish that the individual provides services  
7 as an independent contractor. When the individual provides services through a  
8 business entity, such as a corporation or a limited liability company, services as an  
9 independent contractor may be satisfied by the individual or the business entity.

10 Statutory/Other Authority: ORS 238.650

11 Statutes/Other Implemented: ORS 238.005

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 010: MEMBERSHIP**

1 **[459-010-0030]**

2 **[Determination of Employee Status ]**

3 *[(1) The term "employee" shall have the same meaning as provided in ORS 238.005 and*  
4 *OAR 459-005-0001(14).]*

5 *[(2) Determination of whether an individual is an employee is made under common-law*  
6 *rules. Under common-law rules, every individual who performs labor or services subject to the*  
7 *direction and control of an employer, both as to what must be done and how it must be done, is*  
8 *an employee. It does not matter that the employer allows the employee discretion and freedom of*  
9 *action, so long as the employer has the legal right to control both the method and the result of*  
10 *the labor or services, resulting in an employee/employer relationship.]*

11 *[(3) If, under the common-law rules, there is an employee/employer relationship, it makes*  
12 *no difference how it is described. It is not controlling whether the employee is called an*  
13 *employee. It is not controlling how the payments are measured, how they are made, or what they*  
14 *are called. It is not controlling whether the individual is employed full time or part time. There is*  
15 *no distinction made between classes of employees. Superintendents, executives, managers,*  
16 *supervisors, and other supervisory personnel are all employees.]*

17 *[(4) In applying the common-law rules, the 20-factor test as described in Internal Revenue*  
18 *Service Ruling 87-41 shall be used in determining whether or not an individual is an employee.*  
19 *The degree of importance of each factor varies depending on the labor or services to be*  
20 *performed and the context in which the labor or services are performed. The 20 factors are:]*

21 *[(a) Instructions;]*

- 1     *[(b) Training;]*
- 2     *[(c) Integration;]*
- 3     *[(d) Services Rendered Personally;]*
- 4     *[(e) Hiring, Supervising, and Paying Assistants;]*
- 5     *[(f) Continuing Relationship;]*
- 6     *[(g) Set Hours of Work;]*
- 7     *[(h) Full Time Required;]*
- 8     *[(i) Doing Work on Employer's Premises;]*
- 9     *[(j) Order of Sequence Set;]*
- 10    *[(k) Oral or Written Reports;]*
- 11    *[(l) Payment by Hour, Week, Month;]*
- 12    *[(m) Payment of Business and/or Traveling Expenses;]*
- 13    *[(n) Furnishing of Tools and Materials;]*
- 14    *[(o) Significant Investment;]*
- 15    *[(p) Realization of Profit or Loss;]*
- 16    *[(q) Working for More than One Employer at a Time;]*
- 17    *[(r) Making Service Available to General Public;]*
- 18    *[(s) Right to Discharge; and]*
- 19    *[(t) Right to Terminate.]*

- 1 Stat. Auth.: ORS 238.650
- 2 Stats. Implemented: ORS 238.005(7)
- 3 Hist.: PER 8, f. 12-15-55; PERS 7-1992, f. & cert. ef. 11-9-92; PERS 12-1998, f. & cert. ef.
- 4 12-17-98; PERS 21-2005, f. & cert. ef. 11-1-05. ef. 12-17-98

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 010: MEMBERSHIP**

1 **[459-010-0032]**

2 **[Determination of Independent Contractor Status]**

3 *[(1) An individual who qualifies as an employee under OAR 459-010-0030 is not an*  
4 *independent contractor. Unless it is clearly established under this rule that a person is an*  
5 *independent contractor, that person shall be deemed to be an employee.]*

6 *[(2) An individual or business entity is an independent contractor if the employing entity has*  
7 *the right to control or direct only the result of the labor or service and not the means and*  
8 *methods accomplishing the labor or services. The terms of the contract and the actual*  
9 *arrangement under which labor or services are performed will determine whether an individual*  
10 *or a business entity is subject to direction and control. When the elements of direction and*  
11 *control are present in determining the means and methods of performing labor or service as*  
12 *provided in OAR 459-010-0030, any disclaimers to the contrary are not binding for the purpose*  
13 *of determining an employee/employer relationship by the system.]*

14 *[(3) In determining whether or not an individual is an independent contractor, the following*  
15 *factors shall be considered. The degree of importance of each factor varies depending on the*  
16 *labor or service to be performed and the context in which the labor or service are performed:*

17 *[(a) Labor or service are performed only pursuant to written contracts;]*

18 *[(b) The individual or business entity assumes financial responsibility for defective*  
19 *workmanship or for service not provided as evidenced by the ownership of performance bonds,*  
20 *warranties, errors and omission insurance, or liability insurance relating to the labor or services*  
21 *to be provided;]*

1        *[(c) The individual or business entity providing labor or service furnishes the tools,*  
2 *equipment, and supplies necessary for performance of the contracted labor or services; or has a*  
3 *significant investment in the facilities used in performing the labor or services;]*

4        *[(d) Payment for labor or service is made upon completion of the performance of specific*  
5 *portions of the project or is made on the basis of an annual or periodic retainer. Normal*  
6 *expenses incurred as part of providing labor or service are included in the stipulated payment*  
7 *and are not reimbursed by the employing entity as a routine cost of doing business;]*

8        *[(e) The individual or business entity providing labor or services has the authority to hire*  
9 *and fire employees to perform the labor or services. The individual or business entity is not*  
10 *required to perform the labor or services personally; but may subcontract part or all of the labor*  
11 *or service to be performed to another party;]*

12        *[(f) Labor or services are performed for two or more different persons and/or business*  
13 *entities concurrently within a period of one year;]*

14        *[(g) The individual or business entity providing labor or services is responsible for*  
15 *obtaining all assumed business registrations, professional occupation licenses, or certificates*  
16 *required by state or local government ordinances for the individual or business entity to conduct*  
17 *business;]*

18        *[(h) The individual or business entity actively advertises the availability of the labor or*  
19 *services and represents to the public that the labor and services are to be provided by an*  
20 *independently established business. The following are evidence of “actively advertising”:]*

1 *[(A) Commercial advertising or business cards as is customary in operating similar*  
2 *businesses are purchased for the business, or the individual or business entity has a trade*  
3 *association membership;]*

4 *[(B) Telephone listing and service are used for the business that is separate from the*  
5 *personal residence listing and service used by an individual who performs the labor or services.*

6 *[(i) Federal and state income tax returns in the name of the business or a business Schedule*  
7 *C or farm Schedule F as part of the person income tax return were filed for the previous year if*  
8 *the individual or business entity performed labor or services as an independent contractor in the*  
9 *previous years.]*

10 *[(4) An individual represented as a Professional Corporation or a sole proprietorship shall*  
11 *qualify as an independent contractor providing the criteria of this rule are met and the element*  
12 *of direction and control in OAR 459-010-0030 are not present.]*

13 Statutory/Other Authority: ORS 238.650

14 Statutes/Other Implemented: ORS 238.005

15 History:

16 PERS 3-2020, minor correction filed 02/12/2020, effective 02/12/2020

17 PERS 12-1998, f. & cert. ef. 12-17-98

18 PERS 7-1992, f. & cert. ef. 11-9-92

OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 009 – PUBLIC EMPLOYER

1 **459-009-0130**

2 ***[Employee ]*Contributions for Prior Periods**

3 (1) When *[employee ]* contributions under *[(]ORS 238.205[)]*, **ORS 238A.330, ORS**  
 4 **238A.335, or ORS 238A.340** are determined by PERS to be required for salary paid in  
 5 previous calendar years, or allocated to such years pursuant to ORS 238.005, *[or]*  
 6 238A.005 **or USERRA**, PERS must notify both the employee and the employer of the  
 7 amount of contributions required, the pay period and salary for which the contributions  
 8 are to be paid, and the information relied upon by PERS in determining that the  
 9 contributions are due. The employer must forward the required contributions to PERS.

10 (2) The notice provided under section (1) will also include a determination of the  
 11 amount of earnings owed on the contributions, the amount of earnings the employer must  
 12 pay, and *[the]any* amount of earnings PERS will pay.

13 (a) In determining the amount of earnings the employer must pay, PERS will not  
 14 include earnings attributable to periods after the date the employer submitted the  
 15 contributions if:

16 (A) The employer submitted the contributions before PERS sent the notice that they  
 17 were owed, and

18 (B) PERS returned or failed to accept the contributions.

19 **(b) Notwithstanding subsection (a) of this section, when an employer is late with**  
 20 **a contribution required under USERRA, PERS will charge the employer with**  
 21 **earnings that would have been credited to a member's account if the contribution**  
 22 **was timely made. For the purpose of applying earnings for prior periods, an**

1 employer is considered late if an employer submits a contribution required under  
2 USERRA after the later of:

3 (A) a date after when contributions are due under 20 CFR §1002.262, or

4 (B) a date after the annual earnings would have been credited to an employee's  
5 account for the calendar year of the member's reemployment.

6 (c) Any earnings paid by PERS will be charged to current year earnings in the year  
7 that the earnings are actually credited to the employee's account.

8        Statutory/Other Authority: ORS 238.650

9        Statutes/Other Implemented: ORS 238.200 & 238.705

10        History: PERS 4-2008, f. & cert. ef. 4-2-08; PER 8, f. 12-15-55; PER 4-1980(Temp),  
11 f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. &  
12 ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PERS 1-1995, f. 9-12-95, cert. ef. 1-1-96;  
13 PERS 1-1996; f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(4); PERS 10-1998,  
14 f. & cert. ef. 6-17-98

December 3, 2021  
PERS Board Meeting Agenda

## Administrative Rulemaking

1. Adoption of Disability Rules
2. Notice of 2021 Legislative Implementation
3. Notice of Rulemaking for Benefits-In-Force Earnings Crediting Rule



# Oregon

Kate Brown, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
888-320-7377  
TTY (503) 603-7766  
[www.oregon.gov/pers](http://www.oregon.gov/pers)

December 3, 2021

TO: Members of the PERS Board  
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section  
SUBJECT: Notice of Rulemaking for Benefits-In-Force Earnings Crediting Rule:  
OAR 459-007-0005, *Annual Earnings Crediting*

### OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Remove cap currently in rule for earnings crediting to the Benefits-In-Force reserve. The OAR is not currently in line with our actual earnings crediting practice.
- Policy Issue: None identified.

### BACKGROUND

The Benefits-In-Force (BIF) Reserve is the reserve established under ORS 238.670(2) and is the reserve from which all Tier One and Tier Two benefits are paid. When a Tier One/Two member retires, staff determines the amount actuarially required to fund the benefit for the member's (and the member's beneficiary, if the member elects a survivorship option) anticipated life expectancy and that amount is transferred to the BIF from the member account and the employer reserves. The current OAR 459-007-0005(16) limits the amount of earnings that can be applied to the BIF to no more than the assumed rate in any given calendar year. This limitation is not required by statute and does not align with our actual earnings crediting practice.

ORS 238.670(2) states that "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." While the statute provides the board with discretion regarding earnings crediting to the BIF, staff was unable to uncover the origin or purpose of placing a cap on crediting earnings to the BIF.

In order to bring the OAR in line with our practice, the proposed amendment to the rule deletes the words "up to the assumed rate" from the rule to clarify that the application of earnings to the BIF in a calendar year is not limited by the assumed rate.

### PUBLIC COMMENT AND HEARING TESTIMONY

No rulemaking hearing will be held because the PERS building is closed to the public. The public comment period ends on December 23, 2021, 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.

Benefit: Updates the rule to reflect current practice and provides clarification on the agency’s administrative rule.

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

RULEMAKING TIMELINE

December 1, 2021	Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State.
December 1, 2021	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
December 3, 2021	PERS Board notified that staff began the rulemaking process.
December 23, 2021	Public comment period ends at 5:00 p.m.
January 31, 2022	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

The rules are scheduled to be brought before the PERS Board for adoption at the January 31, 2022 board meeting.

B.3. Attachment 1 - 459-007-0005, *Annual Earnings Crediting*

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 007 – EARNINGS AND INTEREST DISTRIBUTION**

1 **459-007-0005**

2 **Annual Earnings Crediting**

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

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

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

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

17 (5) Member variable accounts. Earnings on the Variable Annuity Account shall first  
18 be used to pay a pro rata share of administrative expenses in accordance with ORS  
19 238.260(6). If the annual earnings from the Variable Annuity Account are insufficient to  
20 pay for the pro rata share of administrative expenses, those administrative expenses shall  
21 be paid from earnings on other accounts within the Public Employees Retirement Fund  
22 (PERF), if available. If earnings from those accounts within the PERF are insufficient to

1 pay for the administrative expenses, those expenses shall be paid from employer accounts  
2 as required by ORS 238.610. All remaining earnings or losses attributable to the Variable  
3 Annuity Account shall be credited to the participants of that account, as provided under  
4 238.260(6) and (7)(b).

5       (6) Individual Account Program accounts. Earnings on the Individual Account  
6 Program accounts established under ORS 238A.350 shall first be used to pay a pro rata  
7 share of administrative expenses in accordance with ORS 238A.350(1). Losses on  
8 Individual Account Program target date funds shall be increased by a pro rata share of  
9 administrative expenses. After administrative expenses, each Individual Account Program  
10 account established under ORS 238A.350 shall be credited with the earnings or losses of  
11 the specific target date fund to which the account is allocated, except for account balances  
12 allocated to the retirement installments fund, which shall be credited with earnings or  
13 losses on a monthly basis.

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

20       (8) Contingency Reserve.

21       (a) In any year in which total earnings on the Fund equal or exceed the assumed rate,  
22 an amount not exceeding seven and one-half percent of remaining earnings attributable to  
23 Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two regular

1 accounts, judge member regular accounts, the OPSRP Pension Program reserve,  
2 Employee Pension Stability Accounts, the Benefits-in-Force Reserve, employer  
3 contribution accounts, the Capital Preservation Reserve and the Contingency Reserve  
4 shall be credited to the Contingency Reserve to the level at which the Board determines it  
5 is adequately funded for the purposes specified in ORS 238.670(1).

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

9 (9) Tier One Member Rate Guarantee Reserve. All remaining earnings attributable to  
10 Tier One regular accounts, the Tier One Member Rate Guarantee Reserve, judge member  
11 regular accounts, the Benefits-in-Force Reserve, and the Contingency Reserve may be  
12 credited to the Tier One Member Rate Guarantee Reserve established under ORS  
13 238.255(1).

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

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

1 by all remaining earnings attributable to Tier One regular accounts and the Tier One Rate  
2 Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

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

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

11       (14) Employee Pension Stability Account (EPSA). All remaining earnings or losses  
12 attributable to the EPSAs shall be credited to all active and inactive EPSAs under ORS  
13 238A.353. For administrative expenses:

14       (a) EPSA accounts of Tier One and Tier Two members will be treated as Tier Two  
15 funds.

16       (b) EPSA accounts of OPSRP members will be treated as OPSRP Pension Program  
17 Reserve funds.

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

21       (16) Benefits-in-Force Reserve. Remaining earnings attributable to the Benefits-in-  
22 Force Reserve, the Contingency Reserve, the Capital Preservation Reserve and employer  
23 contribution accounts, in that order, shall be used, to the extent available, to credit the

1 Benefits-in-Force Reserve with earnings *[up to the assumed rate ]* for that calendar year in  
2 accordance with ORS 238.670(2).

3 (17) Employer contribution accounts. All remaining earnings attributable to  
4 employer contribution accounts shall be credited to employer contribution accounts.

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

7 Statutory/Other Authority: ORS 238.650 & 238A.450

8 Statutes/Other Implemented: ORS 238 & 238A.350

9 History:

10 PERS 9-2020, amend filed 06/23/2020, effective 06/23/2020

11 PERS 9-2019, amend filed 12/06/2019, effective 12/06/2019

12 PERS 2-2018, amend filed 02/02/2018, effective 02/02/2018

13 PERS 7-2017, temporary amend filed 12/01/2017, effective 12/01/2017 through  
14 05/29/2018

15 PERS 9-2012, f. & cert. ef. 5-24-12

16 PERS 4-2009, f. & cert. ef. 4-6-09

17 PERS 1-2006, f. & cert. ef. 2-1-06

18 PERS 18-2005(Temp), f. & cert. ef. 10-26-05 thru 4-19-06

19 PERS 8-2004, f. & cert. ef. 4-15-04

## Action and Discussion Items

1. SB 1049 Implementation Update
2. Equal to or Better Than Testing
3. 2020 Valuation Update and Financial Modeling Results
4. Adoption of Actuarial Equivalency Factor Tables



# Oregon

Kate Brown, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
888-320-7377  
TTY (503) 603-7766  
[www.oregon.gov/pers](http://www.oregon.gov/pers)

December 3, 2021

TO: Members of the PERS Board  
FROM: Yvette Elledge-Rhodes, Deputy Director  
SUBJECT: SB 1049 Implementation Update

Senate Bill (SB) 1049 was signed into law by the Governor on June 11, 2019. PERS staff continue to focus on completing work in an efficient and effective manner.

### PROGRAM/PROJECT IMPLEMENTATION

The SB 1049 Implementation Program is being managed as one comprehensive program, with the following six individual projects. All projects go through the Enterprise Information Services (EIS) stage gate process.

Project	Effective Date	Project Health and Status (as of 11/12/21)
SB 1049 Program		Program health: Yellow <ul style="list-style-type: none"> <li>Program health will remain in Yellow status as Member Redirect is scheduled past the end of the 2021-23 biennium.</li> <li>Cross Project Effort health has returned to Red due to delays in Work Package (WP) 6 schedule.</li> </ul>
Employer Programs Project	Effective 7/1/2019	Project ended 7/16/21.
Salary Limit Project	Effective 1/1/2020	Project ended 5/28/21.
Work After Retirement Project	Effective 1/1/2020	Project health: Green <ul style="list-style-type: none"> <li>User Acceptance Testing began for WP4 on 11/10/21. On track for a 12/16/21 deployment.</li> </ul>
Member Redirect Project	Effective 7/1/2020	Project health: Green <ul style="list-style-type: none"> <li>Successful deployment of WP5 (Voluntary Contributions Maintenance) on 10/14/21.</li> <li>Business Functional Testing (BFT) for WP4.3 (EPSA CMA) in process; on track for 12/15/21 completion date.</li> <li>Project team analyzing a possible Change Request to combine SB111A implementation and WP8 (EPSA Death).</li> </ul>
Member Choice Project	Effective 1/1/2021	Project ended 8/4/21.
Technical Debt		<ul style="list-style-type: none"> <li>BFT for WP1 began on 11/17/21.</li> <li>Change Request in development for WP2.</li> </ul>

**Highlighted activities completed or in progress since early October 2021:**

- Program and project activities
  - iQMS activities
    - Quarterly QA Status and Improvement report for October 2021 received 11/5/2021
    - Periodic Quality Status Report in progress
    - Gartner will conduct a Lessons Learned; delivered by early February 2022
- EIS Stage Gate process requirements
  - PERS received a Non-Stage Gate Endorsement Memo for the Technical Debt project on 9/23/21
- Budget reporting
  - Continuing monthly meetings with the Chief Financial Office, Legislative Fiscal Office, and the Governor’s Office.
- Communications
  - November [Employer News](#) articles
    - “Questions and answers about Work After Retirement”
    - “System-wide advisory valuation predicts possible rate changes for 2023-25”
  - PERS staff presented at the Oregon Government Finance Officers Association fall conference in October.

**PROGRAM/PROJECT BUDGET**

The high-level budget information is contained within Page 2 of the attachment to agenda item A.3.c. The detailed budget can be viewed in the attached Monthly Status Report.

PERS staff will continue to update the board as program implementation continues throughout the year.

C.2. Attachment 1 – *Monthly Project Status Report and Roadmap*

### Program information:

**Program start:** July 1, 2019 | **Program end:** June 19, 2024

### Subprojects:

#### Project 1: Employer Programs

- Project start: July 1, 2019 | Project end: July 16, 2021
- Project status: **Complete**

#### Project 2: Work After Retirement (WAR)

- Project start: July 1, 2019 | Project end: February 28, 2022
- Project status: **Green**

#### Project 3: Salary Limit

- Project start: July 1, 2019 | Project end: May 28, 2021
- Project status: **Complete**

### Program statement:

SB 1049 is comprehensive legislation intended to address the increasing cost of funding Oregon's Public Employees Retirement System (PERS), reduce system Unfunded Actuarial Liability (UAL) obligations, and provide relief to escalating contribution rate increases for public employers. Implementation will occur across five subprojects.

#### Project 4: Member Redirect

- Project start: July 1, 2019 | Project end: April 25, 2024
- Project status: **Green**

#### Project 5: Member Choice

- Project start: October 23, 2019 | Project end: August 4, 2021
- Project status: **Complete**

#### Project 6: Technical Debt

- Project start: June 22, 2021 | Project end: August 31, 2022
- Project status: **Green**

For details regarding individual project status, please refer to the respective project section(s) below.

### Overall program status: **Yellow**

The program status continues to be yellow. Member Redirect has activities that continue into the 2023-2025 biennium, and that budget has neither been requested nor approved. In addition, the Cross Project Effort (CPE) is red due to a delay to the design of the WP6 IAP Balance Comparison Tool.

The Member Redirect, WAR and Technical Debt projects all continue to progress on schedule, and all three projects are in a green status. User Acceptance Testing for WAR WP4 Side Account plus Defect Remedy is in process and the project remains on target for their 12/16/2021 deployment. This is the final work package for WAR, and project closure activities will begin immediately after this deployment.

The SB 1049 Technical Debt team reviewed a prioritized list of SB 1049 Technical Debt issues with the SB 1049 Steering Team on 11/9/2021 and received approval to pursue four of the issues. The project team has begun creating change requests for these issues and, if approved by the SB 1049 Steering Team, will be added as future work packages. The addition of future work packages is expected to extend the current end date of the SB 1049 Technical Debt project.

# SB 1049 Implementation Program

## Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

**Budget health: Yellow**

Work is planned for Member Redirect beyond the 2021-2023 biennium, but that budget has not been requested/approved yet.

29560- SB 1049 Implementation Program by Project					
Other Funds Lmt	21-23 Budget	Actual to Date	Projections	21-23 Total	Variance
Work After Retirement	\$ 927,730	\$ 188,187	\$ 588,896	\$ 777,083	\$ 150,647
Member Redirect	\$ 19,296,337	\$ 2,700,011	\$ 9,471,587	\$ 12,171,599	\$ 7,124,738
Technical Debt	\$ 2,590,730	\$ 201,777	\$ 489,774	\$ 691,551	\$ 1,899,179
				\$ -	\$ -
<b>Total</b>	<b>\$ 22,814,797</b>	<b>\$ 3,089,975</b>	<b>\$ 10,550,258</b>	<b>\$ 13,640,233</b>	<b>\$ 9,174,564</b>

29560- SB 1049 Implementation Program by POP					
Other Funds Lmt	21-23 Budget	Actual to Date	Projections	21-23 Total	Variance
Project Management & Admin	\$ 2,044,800	\$ 265,288	\$ 1,382,072	\$ 1,647,360	\$ 397,440
Quality Assurance and Testing	\$ 812,500	\$ 111,500	\$ -	\$ 111,500	\$ 701,000
Info Technology Applications	\$ 13,337,000	\$ 1,793,015	\$ 4,195,020	\$ 5,988,035	\$ 7,348,965
Operational Implementation	\$ 6,620,497	\$ 920,172	\$ 4,973,166	\$ 5,893,338	\$ 727,159
<b>Total</b>	<b>\$ 22,814,797</b>	<b>\$ 3,089,975</b>	<b>\$ 10,550,258</b>	<b>\$ 13,640,233</b>	<b>\$ 9,174,564</b>

### Schedule health: **Yellow**

There is one Cross Project Effort work package whose design is delayed due to the complexity of the requirements and due to resource contention with the M365 project (external to SB 1049). No major business impact is expected from this delay. Otherwise, all projects have a schedule health of green and are on track to deliver required functionality according to their schedules.

### Scope health: **Green**

The program and project scope is understood and has been incorporated into program-level plans and schedules.

#### Quality Assurance activities:

- iQMS Deliverable 4.1.7 Quarterly QA Status and Improvement Report started on 9/9/2021, completed 11/17/2021.
- iQMS Deliverable 3.3.7 Periodic Quality Status Report started on 9/30/2021, due 12/13/2021.
- Amendment is in process to extend the iQMS contract with Gartner from 12/31/2021 to 6/30/2023.

#### Emerging concerns/needs/impacts:

- Resource allocation analysis across SB 1049 and non-SB 1049 work continues. Results indicate there are SB 1049 resource concerns in the mid-2022 timeframe that need to be resolved. Activities are in process to address and mitigate these concerns.
- Lack of Project Portfolio Management across multiple PERS projects running concurrent with SB 1049 is putting SB 1049 resources and schedule at some risk. While the impact is not expected to be severe at this time, the SB 1049 program is in the process of identifying, documenting, and proactively mitigating this risk to minimize potential impacts to SB 1049.
- The SB 1049 team has downgraded the risk of losing SB 1049 staff as a result of Executive Order 21-29, which requires COVID-19 vaccinations for all PERS staff. No future SB 1049 staff loss is expected from lack of compliance with this Executive Order.

# SB 1049 Implementation Program

## Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

### Program Risks and Mitigation

Listed below are the most critical risks for this project.

For the complete Risk Log, please see the Risk Log tab in the most recent weekly status report: [SB 1049 Program Weekly Status Report](#)

#	Risk Description	Mitigation and/or Contingency Plan	Notes
81	<b>Technology Risk:</b> Complexity and fragility of jClarety system.	➤ Some or all of the SB 1049 projects may require attention to fixing technical debt or finding appropriate work arounds.	
39	<b>Critical Resources Allocated to non-SB 1049 Work:</b> Critical SB 1049 resources are allocated to non-SB 1049 work, impacting availability for SB 1049 work and causing schedule delays.	<ul style="list-style-type: none"> <li>➤ Assess project and resource plans for any new work effort to determine impact to SB 1049</li> <li>➤ Proactively manage any identified resource constraints and work with managers to mitigate SB 1049 impact.</li> </ul>	Non-SB 1049 work efforts include, but are not limited to: <ul style="list-style-type: none"> <li>• M365</li> <li>• W-4 Tax Form Project</li> <li>• Maintenance and Enhancements</li> <li>• Modernization</li> </ul>
63	<b>Lack of Project Portfolio Management:</b> Lacking a comprehensive project portfolio tool hampers our ability to confidently prepare and assign resources.	➤ SB 1049 Program resource allocations are regularly reviewed. The Project Management Office has also commenced regular meetings to evaluate resource enterprise impacts of projects in the agency portfolio.	

### Program Issues and Action Plans

Listed below are the most critical issues for this project.

For the complete Issue Log, please see the Issue Log tab in the most recent weekly status report: [SB 1049 Program Weekly Status Report](#)

No	Issue	Resolution / Notes	Estimated Resolution Date
20	<b>Internal Staffing:</b> Resource shifting, competing priorities, or over allocation impact the availability of dedicated project resources	➤ Technical resources were diverted from CPE WP6 IAP Balance Comparison Tool to address critical M365 issues, causing delays to WP6. Staff has returned to work on WP6 and is currently on-track to complete their 12/16/2021 commitments.	12/16/2021

# SB 1049 Implementation Program

## Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

**Program information: Cross Project Effort**

**Start:** May 28, 2020 | **End:** TBD  
**Project Manager:** Susan K. Mundell

**Cross Project Effort objective:**

The Cross Project Effort is focused on technical tools, and extracts that are used across multiple SB 1049 projects. Originally, these efforts were included as Work Packages within the individually impacted projects. The scope of this effort has not changed, but the work has been restructured to ensure it receives an appropriate level of coordination and ensure the success of the necessary inter-project integrations.

**Overall status:** **RED**

**Narrative:** Cross Project Effort (CPE) will continue to be red until the technical requirements documentation for Work Package 6 (WP6): Individual Account Program (IAP) Balance Comparison tool has been delivered. The WP6 technical team is developing a System Requirements Specification and a Flow/User Interface Specification that is due on 12/16/2021. WP6 has 3 dependent activities that include a jClarety IAP Out of Balance Freeze Flag and two reports from Voya (PERS Third Party Administrator). The IAP Out of Balance Freeze Flag is in UAT and scheduled to deploy on 12/16/2021. The two reports are being added to PERS Central Data Management warehouse and are planned to be in place before development of the tool begins. The draft schedule for WP6 has been completed and is in team review. WP5.2: PYE Invoicing tool elaboration is underway with development scheduled to begin on 3/30/2022. The schedule for WP7.3: Payouts Actuarial Extract is in development. Due to dependencies on Member Redirect releases, WP7.3 cannot be developed until the last Member Redirect dependent release that is scheduled in December 2023. This puts development for this extract into 2024.

**Schedule Deliverables and Milestones**

Milestones Schedule				
Milestone	Percent Complete	Baseline Finish Date	Actual / Forecast Finish Date*	Status/ Notes
WP3: IAP Divorce Tool Deployed	0%	2/22/2022	2/22/2022	
WP5.2: Prior Year Earnings Invoice Tool Deployed	0%		5/20/2022	
WP4.2: IAP Adjustment Calculator Deployed	0%		6/01/2022	
WP6: jClarety IAP Out of Balance Freeze Flag	0%		12/16/2021	
WP6: IAP Balance Comparison Tool	0%		TBD	
WP7.3: Payouts Actuarial Extract	0%		TBD	

\*Finish Date Color: Green = on Schedule, Yellow = in Jeopardy, Red = Late

# SB 1049 Implementation Program

Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen



## Senate Bill (SB) 1049 Implementation Road Map 2019-2021 Biennium

	2019						2020						2021											
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
<b>Employer Programs</b>	<ul style="list-style-type: none"> <li>7/1/19 – Effective Date</li> <li>9/3/19 – Employer Incentive Fund (EIF) Application #1 Opens</li> <li>11/27/19 – EIF Application #1 Closes</li> <li>12/2/19 – EIF Application #2 Opens</li> </ul>												<ul style="list-style-type: none"> <li>8/6/20 – Employer Rate Projection Tool (ERPT) Assessment Complete</li> <li>12/1/20 – EIF Application #2 Closes</li> <li>3/30/21 – Work Package (WP) 1 Migrate and Adapt ERPT →</li> <li>6/30/21 – WP2 ERPT Stakeholder Acceptance and Deployment →</li> </ul>											
<b>Salary Limit</b>							<ul style="list-style-type: none"> <li>12/24/19 – Work Package (WP) 1 – Short Term</li> <li>1/1/20 – Effective Date</li> <li>1/24/20 – WP2 Post 2020 Salary Limit – Long Term</li> </ul>						<ul style="list-style-type: none"> <li>11/19/20 – WP3 User Screens to Record Annual Salary Limit – Long Term</li> <li>5/13/21 – WP4 Proration Reports and Workflow – Long Term →</li> <li>5/28/21 – Project Close →</li> </ul>											
<b>Work After Retirement</b>							<ul style="list-style-type: none"> <li>12/19/19 – Work Package (WP) 1 Retiree Wages Suspended – Short Term</li> <li>1/1/20 – Effective Date</li> </ul>						<ul style="list-style-type: none"> <li>11/19/20 – WP2 New Wage Codes with General Ledger (GL) Integration – Long Term</li> <li>5/13/21 – WP3 Retro Rate Change – Long Term →</li> </ul>											
<b>Member Redirect</b>	<ul style="list-style-type: none"> <li>6/18/20 – Work Package (WP) 1 Employee Pension Stability Account Set Up/Batch/General Ledger – Short Term →</li> <li>7/1/20 – Effective Date →</li> </ul>						<ul style="list-style-type: none"> <li>1/21/21 – WP5.2 Online Member Services User Interface – Long Term →</li> <li>1/26/21 – WP2 TIED SSIS – Non-jClarety – Long Term →</li> <li>6/24/21 – WP4.2 EPSA Display, and WP12 Full EPSA Set up Screen – Long Term →</li> </ul>						<ul style="list-style-type: none"> <li>9/22/20 – Voluntary Contributions Initial Functionality – Long Term</li> <li>10/30/20 – WP2.2 IAP Forecaster Tool – non-jClarety – Long Term</li> <li>11/19/20 – Voluntary Contributions Final Functionality Release – Long Term</li> <li>3/23/21 – WP3 EPSA Earnings – Long Term</li> </ul>											
<b>Member Choice</b>	<ul style="list-style-type: none"> <li>10/23/19 – Project Kick Off</li> <li>5/15/20 – Member Annual Statements (MAS) Flyer Communication →</li> </ul>						<ul style="list-style-type: none"> <li>8/19/20 – Member Choice Notification →</li> <li>8/20/20 – Work Package (WP) 1 Online Member Services (OMS) Changes Deployed</li> <li>9/1-30/20 – Election Period</li> <li>3/23/21 – WP2 OMS &amp; jClarety Enhancements – Long Term →</li> <li>5/1/21 – Member Choice reflected in MAS →</li> <li>6/24/21 – WP3 Online Member Services (OMS) Election and Bugs →</li> </ul>						<ul style="list-style-type: none"> <li>1/1/21 – Effective Date</li> </ul>											
<b>PROGRAM INITIATIVE</b>																								
<b>Cross Project Effort</b>	<ul style="list-style-type: none"> <li>1/26/21 – WP2.1 IAP Payment Recon (short-term) →</li> <li>3/18/21 – WP1.2 IAP Validator Tool (long-term) →</li> <li>4/27/21 – WP2.2 IAP Payment Recon (long-term) →</li> <li>5/13/21 – WP7.2 Employer Information Actuarial Extract →</li> <li>6/18/21 – WP5.1 PYE Invoicing Tool →</li> <li>6/24/21 – WP7.1 Non-Retired Census Actuarial Extract →</li> <li>6/28/21 – WP4.1 IAP Adjustment Calculator →</li> </ul>																							

# SB 1049 Implementation Program

Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen



## Senate Bill (SB) 1049 Implementation Road Map

2021-2023 Biennium

	2021					2022												2023						
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Employer Programs	• 7/16/21 – Project Close																							
Work After Retirement						• 12/16/21 – WP4 Side Account Credit Allocation																		
						• 2/28/22 – Project Close																		
Member Redirect						• 10/14/21 – WP5 Voluntary Contribution Maintenance – Long Term																		
						• 3/24/22 – WP4.3 EPSA Transaction Display – Long Term																		
						• 7/21/22 – WP6.1 EPSA Retirement – Long Term																		
						• 2/23/23 – WP9.1 EPSA Withdrawal – Long Term →																		
						• 2/23/23 – WP9.2 Alter OPSRP Withdrawal – Long Term →																		
Member Choice	• 8/4/21 – Project Close																							
Technical Debt	• 7/1/21 – Project Kickoff																	• 7/21/22 – WP1 Employer Statements						
<b>PROGRAM INITIATIVE</b>																								
Cross Project Effort	<ul style="list-style-type: none"> <li>• 2/25/22 – WP3 IAP Divorce Tool</li> <li>• 5/20/22 – WP5.2 PYE Invoicing Tool</li> <li>• 6/1/22 – WP4.2 IAP Adjustment Calculator</li> <li>• TBD – WP6 IAP Balance Comparison Tool</li> </ul>																							

### 2023-2025 Biennium

	2023					2024												2025						
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Member Redirect	• 7/20/23 – WP8.1 EPSA Pre-Retirement Death – Long Term					• 2/29/24 – Migration Finalization																		
	• 7/20/23 – WP10 Backlog Implementation – Long Term					• 4/25/24 – Project Close																		
						• 12/14/23 – WP11.1 Reemployment – Long Term																		
						• 12/14/23 – WP11.2 Excess EPSA – Long Term																		
						• 2/22/24 – WP12.2 Final Backlog Implementation – Long Term																		
<b>PROGRAM INITIATIVE</b>																								
Cross Project Effort	• TBD – WP7.3 Tier One/Tier Two/OPSRP Payouts Actuarial Extract																							

### Project information: Work After Retirement (WAR)

**Project start:** July 1, 2019 | **Project end:** 2/28/2022

**Project Manager:** Susan K. Mundell

**Overall project status:** **Green**

### Project Narrative:

User Acceptance Testing (UAT) is underway for WAR Work Package 4 (WP4): Side Account plus Defect Remedy and is scheduled for completion on 12/10/2021. The technical team is supporting UAT and working on contractual documentation that is part of the Final Work Package Development documents due for Quality Check Point (QCP) review on 12/28/2021.

The Side Account functionality is critical to employer invoicing by ensuring that the WAR receivables credit Side Accounts in the same manner as active member receivables currently work. The Defect Remedy part of the scope for WAR WP4 includes seven WAR related production defects.

WAR WP4 is the final production implementation for the WAR Project. Project closure activities will begin after the 12/16/2021 deployment.

### Work Packages:

#### Work Package 1: Suspend DTL2-07 Retiree Wage Codes - Short-term

- Production Deployment Date: 12/19/2019 (Complete)

#### Work Package 2: New Wage Codes with General Ledger Integration - Long-term

- Production Deployment Date: 11/19/2020 (Complete)

#### Work Package 3: Retro Rate Change - Long-term

- Production Deployment Date: 5/13/2021 (Complete)

#### Work Package 4: Side Account Credit Allocation

- Production Deployment Date: 12/16/2021
- Business Requirements Document: 7/12/2021 (Complete)
- Development completion 10/5/2021 (Complete)
- Business Functional Testing completion: 10/26/2021 (Complete)
- User Acceptance Testing completion: 12/10/2021

# SB 1049 Implementation Program

## Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

**Budget health: Green**

29560 SB1049 - Work After Retirement (WAR) Project					
Expenses	Budget	Actual to Date	Projections	Total	Variance
*Personal Services - PERS	\$ 280,000	\$ 149,635	\$ 130,365	\$ 280,000	\$ -
Personal Services - SB1049	\$ 200,000	\$ 57,385	\$ 142,615	\$ 200,000	\$ -
Office Expenses	\$ 100,000	\$ 1,141	\$ -	\$ 1,141	\$ 98,859
Professional Services	\$ 285,730	\$ 48,355	\$ 231,696	\$ 280,051	\$ 5,679
IT Professional Services	\$ 337,000	\$ 81,306	\$ 214,585	\$ 295,891	\$ 41,109
IT Expendable Property	\$ 5,000		\$ -	\$ -	\$ 5,000
SB 1049 Total Expenses	\$ 927,730	\$ 188,187	\$ 588,896	\$ 777,083	\$ 150,647
<b>Project Total</b>	<b>\$ 1,207,730</b>	<b>\$ 337,822</b>	<b>\$ 719,261</b>	<b>\$ 1,057,083</b>	<b>\$ 150,647</b>
Average Monthly Spend (Burn Rate)		\$ 188,186.82	\$ 25,604.19		
*Not included in SB1049 expenses					

**Schedule Health: Green**

All major milestones are currently on track.

**Scope health: Green**

The scope for all work packages is defined and understood.

Quality Assurance activities:

- A Quality Check Point review was completed on 11/04/2021 for contractual deliverable D3.5.1 Draft Work Package Design.
- A Quality Check Point review was completed on 11/09/2021 for contractual deliverable D1.0.26 Contractor Support Log.
- The final Move to Production Quality Gate for WP4 will be conducted on 12/15/2021

Emerging concerns/needs/impacts:

- Multiple high priority projects have been added to the PERS portfolio. These projects are competing with WAR WP4 for resources. At this time, the resource sharing is not causing negative impact to WAR.
- WAR WP4 must be deployed prior to the 12/20/2021 credit wash job to prevent overbilling of employers.
- The complexity of the Side Account code has made developing WP4 difficult. UAT will tell if the new code successfully accomplishes the changes intended.

# SB 1049 Implementation Program

## Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

### High Level Project Risks and Mitigation

Listed below are the most critical risks for this project.

For the complete Risk Log, please see the Risk Log tab in the most recent weekly status report: [WAR Weekly Status Report](#)

	Risk Description	Mitigation and/or Contingency Plan	Notes
2	<b>Complexity of Effort:</b> The forecasted amount of work, timing, available documentation and complexity is inaccurate or assumptions made that are off base.	<ul style="list-style-type: none"> <li>➤ Use iterative development to reverse engineer the code to meet Business need.</li> <li>➤ Ensure effective inter-team project communication.</li> <li>➤ Schedule additional time to analyze complex code.</li> </ul>	The technical team and business met regularly during development to review the newly developed code and discuss how business needs the code to work.
56	<b>Critical Resources Allocated to non-SB 1049 Work:</b> Critical SB 1049 resources are allocated to non-SB 1049 work, impacting availability for SB 1049 work and causing schedule delays.	<ul style="list-style-type: none"> <li>➤ Utilize Effort Based Schedules</li> <li>➤ Review schedule for buffer options</li> <li>➤ Use ELT to determine solutions</li> <li>➤ Utilize Process Mapping</li> </ul>	Multiple high priority projects have been added to the PERS portfolio. These projects are competing with WAR WP4 for resources. At this time, the resource sharing is not causing negative impact to WAR.
81	<b>Technology Risk: Complexity and Fragility of jClarety system:</b> New code could negatively affect or be negatively affected by legacy jClarety system.	<ul style="list-style-type: none"> <li>➤ Iteratively develop more complex code structure.</li> <li>➤ Add necessary technical debt fix to project scope.</li> <li>➤ Regression Test to ensure technical issue does not negatively affect new code.</li> <li>➤ Determine technical debt not required to successfully complete WP4 scope.</li> </ul>	Side Account code within jClarety is some of the most complex code in the system. The technical team will have to navigate this code successfully to deploy the deliverable for WAR WP4.
93	<b>WAR WP4 Deployment Delay:</b> WP4 needs to be deployed before the 12/20/2021 Side Account Wash Job to prevent significant overcharging of employers.	<ul style="list-style-type: none"> <li>➤ Carefully monitor any delays to the schedule.</li> <li>➤ Carefully monitor competing projects and their impact to the WP4 schedule.</li> <li>➤ Communicate urgency of deployment timeline to stakeholders.</li> </ul>	Project is currently progressing as planned. A backup plan has been developed in case the deployment is delayed beyond the 12/20/2021 wash job.

### Project Issues and Action Plans

Listed below are the most critical issues for this project.

For the complete Issue Log, please see the Issue Log tab in the most recent weekly status report: [WAR Weekly Status Report](#)

	Risk Description	Mitigation and/or Contingency Plan	Notes
	No Current Issues		

# SB 1049 Implementation Program

Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

## Project Schedule Deliverables and Milestones

Milestones Schedule				
Milestone	Percent Complete	Baseline Finish Date	Actual / Forecast Finish Date*	Status/ Notes
WP1 - Phase Closure Complete	100%	2/13/2020	2/13/2020	
WP2 - Deployment Complete	100%	10/22/2020	11/19/2020	
WP4 - High Level Estimate Complete	100%	2/25/2021	2/25/2021	
WAR - Baselined Effort Based Project Schedule	100%	3/5/2021	3/5/2021	
WP3 - Business Functional Testing (BFT) Complete	100%	3/19/2021	3/19/2021	
WP3 - Ready for User Acceptance Testing (UAT) Quality Gate	100%	3/29/2021	3/26/2021	
WP3 - User Acceptance Testing Complete	100%	5/7/2021	5/07/2021	
WP3 - Quality Assurance Testing Complete	100%	5/7/2021	5/07/2021	
WP3 - Move to Production Quality Gate Complete	100%	5/12/2021	5/11/2021	
WP3 - Deployment Complete	100%	5/13/2021	5/13/2021	
WAR - Rebaselined Effort Based Project Schedule (WP4)	100%	5/20/2021	5/20/2021	
WP3 - Phase Closure Complete	100%	5/27/2021	5/27/2021	
WP4 - Business Requirements Document Complete	100%	7/12/2021	7/12/2021	
WP4 - Development Complete	100%	10/5/2021	10/5/2021	
WP4 - Business Functional Testing (BFT) Complete	100%	10/26/2021	10/26/2021	
WP4 - User Acceptance Testing (UAT) Complete	0%	12/10/2021	12/10/2021	
WP4 - Deployment Complete	0%	12/16/2021	12/16/2021	
WP4 - Phase Closure Complete	0%	1/04/2021	1/4/2021	
WAR Project Complete	0%	2/28/2021	2/28/2022	

\*Finish Date Color: Green = on Schedule, Yellow = in Jeopardy, Red = Late

### Project information: Member Redirect

**Project start:** July 1, 2019 | **Project end:** April 25, 2024

**Project Manager:** Chris Yu

### Overall project status: **Green**

**Project Narrative:** The overall project health is green and activities are progressing on schedule. There was a decision by the Project Team and Business Owner to extend the Business Requirements Document deadline for WP8.1 (EPSA Pre-Retirement Death) from 12/13/2021 to 2/14/2022. Due to the slack in the current schedule, there will be no impact to subsequent technical activities. CR-007 (SB111A) was developed and was presented to the SB 1049 Core Team on 11/18/2021 for a vote to proceed to the SB 1049 Steering Team for approval. The purpose of this Change Request (CR) is so that requirements developed for SB111A functions, and can be written to satisfy both SB 1049 and SB111A needs in a comprehensive, one-touch manner.

The current technical priority is to proceed with the Business Functional Testing for Work Package 4.3 (EPSA Correct Member Account) towards the 12/15/2021 completion date. Work Package 4.3 (EPSA Correct Member Account) will begin User Acceptance Testing on 1/10/2022.

### Work Packages:

#### Work Package 4.3 EPSA Correct Member Account - Long-Term

- Production Deployment Date: 3/24/2022
- Business Functional Testing will be completed on 12/15/2021
- User Acceptance Testing will be completed on 3/1/2022

#### Work Package 9.1 EPSA Correct Member Account - Long-Term

- Production Deployment Date: 2/23/2023
- Construction will begin on 3/1/2022
- Business Functional Testing will begin on 10/3/2022

Additional long-term work packages exist. See the Milestones Schedule for a complete list of work packages

### Project objective:

Effective July 1, 2020 this section of the bill redirects a portion of member contributions to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% and the member's monthly salary is more than \$2,500.

#### Work Package 6.1 EPSA Voluntary Contribution Maintenance- Long-Term

- Production Deployment Date: 7/2021/2022
- Construction will be completed on 1/31/2022
- Business Functional Testing will be completed on 3/29/2022
- User Acceptance Testing will be completed on 7/5/2022

#### Work Package 9.2 Alter OPSRP Withdrawal - Long-Term

- Production Deployment Date: 2/23/2023
- Construction will begin on 3/1/2022
- Business Functional Testing will begin on 10/3/2022

# SB 1049 Implementation Program

## Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

**Budget health: Green**

There will need to be additional funding for 2023-2025, which will be tracked at the program level.

29560 SB1049 - Member Redirect Project					
Expenses	Budget	Actual to Date	Projections	Total	Variance
*Personal Services - PERS	\$ 1,658,226	\$ 280,245	\$ 1,377,981	\$ 1,658,226	\$ -
Personal Services - SB1049	\$ 5,603,697	\$ 832,664	\$ 4,771,033	\$ 5,603,697	\$ -
Services and Supplies	\$ 2,327,640	\$ 87,244	\$ 1,000,014	\$ 1,087,258	\$ 1,240,382
IT Professional Services	\$ 11,110,000	\$ 1,780,103	\$ 3,700,541	\$ 5,480,644	\$ 5,629,356
IT Expendable Property	\$ 200,000		\$ -	\$ -	\$ 200,000
Data Processing Hardware	\$ 55,000		\$ -	\$ -	\$ 55,000
SB1049 Total Expenses	\$ 19,296,337	\$ 2,700,011	\$ 9,471,587	\$ 12,171,599	\$ 7,124,738
<b>Project Total</b>	<b>\$ 20,954,563</b>	<b>\$ 2,980,256</b>	<b>\$ 10,849,568</b>	<b>\$ 13,829,825</b>	<b>\$ 7,124,738</b>
Average Monthly Spend (Burn Rate)		\$ 112,500.48	\$ 9,471,587.28		
*Not included in SB1049 Expenses					

**Schedule Health: Green**

The current project tasks are on schedule for all major milestone dates.

**Scope health: Green**

The project scope is understood for all releases.

Quality Assurance activities:

- The Monthly Release Management Report will be submitted for Quality Check Point review on 11/30/2021

Emerging concerns/needs/impacts:

- No emerging concerns

# SB 1049 Implementation Program

## Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

### High Level Project Risks and Mitigation

Listed below are the most critical risks for this project.

For the complete Risk Log, please see the Risk Log tab in the most recent weekly status report: [Member Redirect Weekly Status Report](#)

#	Risk Description	Mitigation and/or Contingency Plan	Notes
60	<b>Scope Change:</b> When a change request is approved, it will impact scope and may also impact the current baselined schedule and budget.	<ul style="list-style-type: none"> <li>➤ The project manager and product owners will manage upcoming elaborations and assess potential impacts to the current baseline schedule</li> <li>➤ All change requests require approval from the SB 1049 Steering Team</li> </ul>	CR-007 (SB111A) was presented to the SB 1049 Core Team on 11/18/2021, and will be voted on by the SB 1049 Steering Team on 11/23/2021. The purpose of this CR is to elaborate and consider the scope of SB111A
2	<b>Complexity of Effort:</b> The forecasted amount of work, timing, and complexity is inaccurate or assumptions made that are off base.	<ul style="list-style-type: none"> <li>➤ The project manager will continue to work with the project team and manage the project schedule and risk log</li> </ul>	The Business Requirements document for WP8.1 (EPSA Pre-Retirement Death) will now be due on 2/14/2021 instead of 12/13/2021
4	<b>Internal Staffing:</b> Resource shifting, competing priorities, or over allocation impact the availability of dedicated project resources, or a key resource leaves PERS or is out for an extended period, and/or staff experience levels are inadequate and meet quality needs	<ul style="list-style-type: none"> <li>➤ The Project Management Office has created cross-project bi-weekly meetings to discuss resource allocations across all PERS projects, including SB 1049 and non-SB 1049 projects</li> </ul>	After meeting with the Product Owner Team, the Associate Product Owner allocations were updated for Spring/Summer 2022 to reduce over allocation.

### Project Issues and Action Plans

Listed below are the most critical issues for this project.

For the complete Issue Log, please see the Issue Log tab in the most recent weekly status report: [Member Redirect Weekly Status Report](#)

No	Issue	Resolution / Notes	Estimated Resolution Date
	No current issues		

## Project Schedule Deliverables and Milestones

Milestones Schedule				
Milestone	Percent Complete	Baseline Finish Date	Actual / Forecast Finish Date*	Status/ Notes
WP2.1 - Tool for IAP Earnings Data	100%	1/26/2021	1/26/2021	
WP3.1 - EPSA Earnings	100%	3/23/2021	3/23/2021	
WP3.2 - Member Annual Statement Extract	100%	3/23/2021	3/23/2021	
WP4.2 - EPSA Transaction Display	100%	6/24/2021	6/24/2021	
WP12 - Full EPSA Set up screen	100%	6/24/2021	6/24/2021	
WP5.1 - Voluntary Contribution maintenance	100%	10/14/2021	10/14/2021	
WP4.3 - EPSA Correct Member Account	0%	3/24/2022	3/24/2022	
WP6.1 - EPSA Retirement	0%	7/2021/2022	7/2021/2022	
WP9.1 - EPSA Withdrawal	0%	2/23/2023	2/23/2023	
WP9.2 - Alter OPSRP Withdrawal	0%	2/23/2023	2/23/2023	
WP8.1 - EPSA Pre-Retirement Death	0%	7/20/2023	7/20/2023	
WP10 - Backlog Implementation	0%	7/20/2023	7/20/2023	
WP11.1 - Re-Employment	0%	12/14/2023	12/14/2023	
WP11.2 - Excess EPSA	0%	12/14/2023	12/14/2023	
WP12.2 - Final Backlog Implementation	0%	2/22/2024	2/22/2024	
Migration Finalization	0%	2/29/2024	2/29/2024	
Project Complete	0%	4/25/2024	4/25/2024	

\*Finish Date Color: Green = on Schedule, Yellow = in Jeopardy, Red = Late

### Project information: Technical Debt

**Project start:** June 22, 2021 | **Project end:** August 31, 2022

**Project Manager:** Joli Whitney

### Project objective:

The SB 1049 Technical Debt Project will address areas of technical debt which have been encountered and identified in the SB 1049 Implementation Program and prioritized for resolution. Resolution of technical debt will be limited to those items that are created by SB 1049, are exacerbated by SB 1049, or inhibit PERS' ability to complete SB 1049 requirements.

### Overall project status: **Green**

**Project Narrative:** Construction of Work Package 1 (WP1 Employer Statements) was completed on November 16, 2021. Business Functional Testing began on November 17, 2021.

A change request to add a second work package to address missing SB 1049 batch reporting functionality is still in the solution analysis phase. Proof of concept work has resumed following infrastructure updates needed from our technical operations team to enhance some data handling capabilities to make data available in real time. The data architect anticipates the proof of concept work will be completed by early December. Following completion, the change request will be presented to the SB 1049 Steering Team for consideration of adding this work to the SB 1049 Technical Debt project schedule.

The SB 1049 Technical Debt Priority list was updated with new technical debt items and prioritized by the Product Owners and the technical team. The project team provided this ranked list to the SB 1049 Steering Team for feedback. Steering Team directed the project team to develop a new change request to address Benefit Account Transition Errors. Change request development is in process.

### Work Packages:

#### Work Package 1: Employer Statements

- Production Deployment Date: July 21, 2022
- Development completed on 11/16/2021
- BFT began on 11/17/2021
- UAT scheduled to begin on 4/25/2022

#### Additional Work Packages TBD

# SB 1049 Implementation Program

Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

**Budget health: Green**

Technical Debt Project is currently within the budget allocated by the Legislature.

29560 SB1049 - Technical Debt Project						
Expenses	Budget	Actual to Date	Projections	Total	Variance	
*Personal Services - PERS	\$ 200,000	\$ 29,269	\$ 170,731	\$ 200,000	\$ -	
Personal Services - SB1049	\$ 200,000	\$ 23,411	\$ 176,589	\$ 200,000	\$ -	
Office Expenses	\$ 105,000		\$ -	\$ -	\$ 105,000	
IT Professional Services	\$ 1,985,000	\$ 128,870	\$ 82,630	\$ 211,500	\$ 1,773,500	
Professional Services - QA + PM	\$ 285,730	\$ 49,496	\$ 230,555	\$ 280,051	\$ 5,679	
IT Expendable Prop	\$ 15,000		\$ -	\$ -	\$ 15,000	
SB1049 Expenses	\$ 2,590,730	\$ 201,777	\$ 489,774	\$ 691,551	\$ 1,899,179	
<b>Project Total</b>	<b>\$ 2,790,730</b>	<b>\$ 231,046</b>	<b>\$ 660,505</b>	<b>\$ 891,551</b>	<b>\$ 1,899,179</b>	
Average Monthly Spend (Burn Rate)		\$ 201,777.03	\$ 21,294.53			
*Not included in SB1049 Expenses						

**Schedule Health: Green**

The project schedule was baselined on 9/14/2021. This baseline is only for WP1 Employer Statements. The schedule will be rebaselined as new work packages are approved through the SB 1049 change request management process.

**Scope health: Green**

The high-level project scope of WP1 Employer Statements is understood. The Business Requirements Document for WP1 was accepted by the Business Owner on 10/19/2021. No other scope is approved for this project at this time but may be considered through the SB 1049 change request management process as appropriate.

Quality Assurance activities:

- WP1 Work Package Development documentation will enter Quality Check Point review on 12/31/2021

Emerging concerns/needs/impacts:

- None at this time

# SB 1049 Implementation Program

## Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

### High Level Project Risks and Mitigation

Listed below are the most critical risks for this project.

For the complete Risk Log, please see the Risk Log tab in the most recent weekly status report: [Technical Debt Weekly Status Report](#)

#	Risk Description	Mitigation and/or Contingency Plan	Notes
1	Competing SB 1049 Resources	Careful coordinated schedule planning and priorities within the program and all projects	We continue to monitor this risk. We anticipate this risk to increase as we prepare for UAT. Resource allocations are being closely reviewed.
2	Complexity of Effort	Set additional Elaboration Meetings or set additional elaboration timeline; Use iterative development to reverse engineer the code to meet Business need; Ensure effective inter-team project communication; Schedule additional time to analyze complex code.	
4	Lack of Project Portfolio Management	SB 1049 Program resource allocations are regularly reviewed. The Project Management Office has also commenced regular meetings to evaluate resource enterprise impacts of projects in the agency portfolio.	This risk will continue to be monitored with resource allocation reviews
5	Technology Risk- Complexity and fragility of jClarety system	Iteratively develop more complex code structure; Add necessary technical debt fix to project scope; Regression Test to ensure technical issue does not negatively affect new code.	The project leadership team agreed that this risk was a high level concern for this project as we wade into the unfamiliar waters of technical debt. It is difficult to see what challenges lie below the surface.

### Project Issues and Action Plans

Listed below are the most critical issues for this project.

For the complete Issue Log, please see the Issue Log tab in the most recent weekly status report: [Technical Debt Weekly Status Report](#)

No	Issue	Resolution / Notes	Estimated Resolution Date
	No current issues	.	

# SB 1049 Implementation Program

Status Report for November 19, 2021

Executive Sponsor: Kevin Olineck  
Program Manager: James Allen

## Project Schedule Deliverables and Milestones

Milestones Schedule				
Milestone	Percent Complete	Baseline Finish Date	Actual / Forecast Finish Date*	Status/ Notes
Program CR002- Technical Debt approved by Steering Team	100%	6/22/2021	6/22/2021	
Finalize project charter	100%	6/30/2021	6/30/2021	
Project kick off	100%	7/1/2021	7/1/2021	
Baselined project schedule	100%	9/14/2021	9/14/2021	
WP1- Development Complete	100%	11/9/2021	11/16/2021	The late finish does not impact our critical path and was absorbed into the project schedule
WP1- Business functional testing (BFT) complete	0%	1/19/2022	1/19/2022	
WP1- User acceptance testing (UAT) complete	0%	7/5/2022	7/5/2022	
WP1- Release to production Quality Gate complete	0%	7/20/2022	7/20/2022	
WP1- Production deployment complete	0%	7/2021/2022	7/2021/2022	
WP1- Lessons Learned	0%	8/4/2022	8/4/2022	
Project Closure Quality Gate	0%	8/31/2022	8/31/2022	
Project ends	0%	8/31/2022	8/31/2022	

\*Finish Date Color: Green = on Schedule, Yellow = in Jeopardy, Red = Late

### Project information: Salary Limit

Project start: 7/01/ 2019 | Project end: 5/28/2021

Project Manager: Bruce Rosenblatt

### Project objective:

The Salary Limit Project is necessary because SB 1049 redefined "salary," which changes the calculation method for Final Average Salary, and contributions for members with subject salary greater than \$195,000. This limit is on salary for plan purposes, and is not a salary cap. The Salary Limit was adjusted for the Consumer Price Index, on 1/04/2021. The redefinition impacts the data and business processes used by diverse teams at PERS, including Benefit Calculations, Member Estimates, Data Verifications, Employer Data Reporting, and Account Data Reviews and Reporting.

### Overall project status: Complete

Project Narrative: The Salary Limit Project was successfully closed on 5/28/2021.

### Work Packages:

#### Work Package 1: Short-term Minimum Viable Product (MVP)

- Production Deployment Date: 12/24/2019 (Complete)

#### Work Package 2: Annual Implementation of New Salary Limit

- Production Deployment Date: 1/23/2020 (Complete)

#### Work Package 3: Adding self-service screens to jClarety system to record annual changes and effective dates - Long-term

- Production Deployment Date: 11/19/2020 (Complete)

#### Work Package 4 - Enhances proration work processes when partial year calculations may apply - Long-term

- Production Deployment Date: 5/13/2021 (Complete)

### Project information: Employer Programs

**Project start:** July 1, 2019 | **Project end:** July 16, 2021

**Project Manager:** Joli Whitney

### Project objective:

The Employer Programs section of SB 1049 expands the requirements for the Employer Incentive Fund (EIF); and appropriates \$100 million from the General Fund to the Employer Incentive Fund; directs net proceeds from Oregon Lottery Sports betting to the Employer Incentive Fund; allows participating public employers who make larger than \$10 million deposits to side accounts to determine when they wish to have these funds included in their employer rate assessment; and requires all public employers to participate in the Unfunded Actuarial Liability Resolution Program (UALRP).

### Overall project status: Complete

**Project Narrative:** The Employer Programs project was successfully closed on 7/16/2021.

### Work Packages:

#### WP1 Migrate and Adapt ERPT (Completed)

- Acceptance Quality Gate: 3/23/2021 (this WP was not released to production) (Complete)

#### WP2 ERPT Stakeholder Acceptance and Deployment to Cloud

- Production Deployment Date: 6/3/2021 (Complete)

### Project information: Member Choice

**Project start:** October 23, 2019 | **Project end:** August 4, 2021

**Project Manager:** Joli Whitney

### Project objective:

The Member Choice sections of SB 1049 give members a say in how their Individual Account Program (IAP) accounts will be invested. Members' regular IAP accounts are currently allocated to Target-Date Funds (TDF) based on their year of birth. Beginning with calendar year 2021, members will be able to elect a TDF other than the default TDF.

### Overall project status: Complete

**Project Narrative:** The Member Choice project was successfully closed on 8/4/2021.

### Work Packages:

#### WP1.1 Online Election

- Production Deployment Date: 8/20/2020 (Complete)

#### WP1.2 Voya's updates to website and nightly sweep program

- Production Deployment Date: 1/19/2021 (Complete)

#### WP1.3 PERS paper form election process including workflow

- Production Deployment Date: 8/12/2020 (Complete)

#### WP1.4 Development of new reports (to Voya and internal)

- Production Deployment Date 9/29/2020 (Complete)

#### WP2- Refining TDF Processes - Long-term

##### WP2.1 -Online Member Services and jClarety Enhancements

- Production Deployment Date: 3/23/2021 (Complete)

##### WP2.2 Central Data Management Reports

- Production Deployment Date: 6/15/2021 (Complete)

#### WP3- Online Member Services Election and Bugs

- Production Deployment Date: 6/24/2021 (Complete)

# Senate Bill (SB) 1049 Implementation Road Map

2019-2021 Biennium

	2019						2020						2021											
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
 <b>Employer Programs</b>	<ul style="list-style-type: none"> <li>7/1/19 – Effective Date</li> <li>9/3/19 – Employer Incentive Fund (EIF) Application #1 Opens</li> <li>11/27/19 – EIF Application #1 Closes</li> <li>12/2/19 – EIF Application #2 Opens</li> </ul>												<ul style="list-style-type: none"> <li>8/6/20 – Employer Rate Projection Tool (ERPT) Assessment Complete</li> <li>12/1/20 – EIF Application #2 Closes</li> <li>3/30/21 – Work Package (WP) 1 Migrate and Adapt ERPT →●</li> <li>6/30/21 – WP2 ERPT Stakeholder Acceptance and Deployment →●</li> </ul>											
 <b>Salary Limit</b>							<ul style="list-style-type: none"> <li>12/24/19 – Work Package (WP) 1 – Short Term</li> <li>1/1/20 – Effective Date</li> <li>1/24/20 – WP2 Post 2020 Salary Limit – Long Term</li> </ul>						<ul style="list-style-type: none"> <li>11/19/20 – WP3 User Screens to Record Annual Salary Limit – Long Term</li> <li>5/13/21 – WP4 Proration Reports and Workflow – Long Term →●</li> <li>5/28/21 – Project Close →●</li> </ul>											
 <b>Work After Retirement</b>							<ul style="list-style-type: none"> <li>12/19/19 – Work Package (WP) 1 Retiree Wages Suspended – Short Term</li> <li>1/1/20 – Effective Date</li> </ul>						<ul style="list-style-type: none"> <li>11/19/20 – WP2 New Wage Codes with General Ledger (GL) Integration – Long Term</li> <li>5/13/21 – WP3 Retro Rate Change – Long Term →●</li> </ul>											
 <b>Member Redirect</b>							<ul style="list-style-type: none"> <li>6/18/20 – Work Package (WP) 1 Employee Pension Stability Account Set Up/Batch/General Ledger – Short Term →●</li> <li>7/1/20 – Effective Date →●</li> <li>1/21/21 – WP5.2 Online Member Services User Interface – Long Term →●</li> </ul>						<ul style="list-style-type: none"> <li>9/22/20 – Voluntary Contributions Initial Functionality – Long Term</li> <li>10/30/20 – WP2.2 IAP Forecaster Tool – non-jClarety – Long Term</li> <li>11/19/20 – Voluntary Contributions Final Functionality Release – Long Term</li> <li>3/23/21 – WP3 EPSA Earnings – Long Term</li> <li>1/26/21 – WP2 TIED SSIS – Non-jClarety – Long Term →●</li> <li>6/24/21 – WP4.2 EPSA Display, and WP12 Full EPSA Set up Screen – Long Term →●</li> </ul>											
 <b>Member Choice</b>	<ul style="list-style-type: none"> <li>10/23/19 – Project Kick Off</li> <li>5/15/20 – Member Annual Statements (MAS) Flyer Communication →●</li> </ul>						<ul style="list-style-type: none"> <li>8/19/20 – Member Choice Notification →●</li> </ul>						<ul style="list-style-type: none"> <li>8/20/20 – Work Package (WP) 1 Online Member Services (OMS) Changes Deployed</li> <li>9/1-30/20 – Election Period</li> <li>3/23/21 – WP2 OMS &amp; jClarety Enhancements – Long Term →●</li> <li>5/1/21 – Member Choice reflected in MAS →●</li> <li>6/24/21 – WP3 Online Member Services (OMS) Election and Bugs →●</li> <li>1/1/21 – Effective Date</li> </ul>											
<b>PROGRAM INITIATIVE</b>																								
 <b>Cross Project Effort</b>							<ul style="list-style-type: none"> <li>9/17/20 – WP1.1 IAP Validator Tool (short-term) →●</li> </ul>						<ul style="list-style-type: none"> <li>1/26/21 – WP2.1 IAP Payment Recon (short-term) →●</li> <li>3/18/21 – WP1.2 IAP Validator Tool (long-term) →●</li> <li>4/27/21 – WP2.2 IAP Payment Recon (long-term) →●</li> <li>5/13/21 – WP7.2 Employer Information Actuarial Extract →●</li> <li>6/24/21 – WP7.1 Non-Retired Census Actuarial Extract →●</li> <li>6/28/21 – WP4.1 IAP Adjustment Calculator →●</li> </ul>						<ul style="list-style-type: none"> <li>6/18/21 – WP5.1 PYE Invoicing Tool →●</li> </ul>					

# Senate Bill (SB) 1049 Implementation Road Map

## 2021-2023 Biennium

	2021						2022												2023					
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
<b>Employer Programs</b>	● 7/16/21 – Project Close																							
<b>Work After Retirement</b>							● 12/16/21 – WP4 Side Account Credit Allocation																	
							● 2/28/22 – Project Close																	
<b>Member Redirect</b>							● 10/14/21 – WP5 Voluntary Contribution Maintenance – Long Term																	
							● 3/24/22 – WP4.3 EPSA Transaction Display – Long Term																	
							● 7/21/22 – WP6.1 EPSA Retirement – Long Term																	
							● 2/23/23 – WP9.1 EPSA Withdrawal – Long Term → ●																	
							● 2/23/23 – WP9.2 Alter OPSRP Withdrawal – Long Term → ●																	
<b>Member Choice</b>	● 8/4/21 – Project Close																							
<b>Technical Debt</b>	● 7/1/21 – Project Kickoff																							
<b>PROGRAM INITIATIVE</b>							● 2/25/22 – WP3 IAP Divorce Tool																	
<b>Cross Project Effort</b>							● 5/20/22 – WP5.2 PYE Invoicing Tool																	
							● 6/1/22 – WP4.2 IAP Adjustment Calculator																	
							● TBD – WP6 IAP Balance Comparison Tool																	

## 2023-2025 Biennium

PROJECTS	2023						2024												2025					
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
<b>Member Redirect</b>	● 7/20/23 – WP8.1 EPSA Pre-Retirement Death – Long Term						● 2/29/24 – Migration Finalization																	
	● 7/20/23 – WP10 Backlog Implementation – Long Term						● 4/25/24 – Project Close																	
							● 12/14/23 – WP11.1 Reemployment – Long Term																	
							● 12/14/23 – WP11.2 Excess EPSA – Long Term																	
							● 2/22/24 – WP12.2 Final Backlog Implementation – Long Term																	
<b>PROGRAM INITIATIVE</b>																								
<b>Cross Project Effort</b>							● TBD – WP7.3 Tier One/Tier Two/OPSRP Payouts Actuarial Extract																	

## Action and Discussion Items

1. SB 1049 Implementation Update
2. Equal to or Better Than Testing
3. 2020 Valuation Update and Financial Modeling Results
4. Adoption of Actuarial Equivalency Factor Tables



# Oregon

Kate Brown, Governor

## Public Employees Retirement System

Headquarters:  
11410 S.W. 68<sup>th</sup> Parkway, Tigard, OR  
Mailing Address:  
P.O. Box 23700  
Tigard, OR 97281-3700  
888-320-7377  
TTY (503) 603-7766  
[www.oregon.gov/pers](http://www.oregon.gov/pers)

December 3, 2021

TO: Members of the PERS Board  
FROM: Jake Winship, Actuarial Manager  
SUBJECT: Equal To or Better (ETOB) Testing

### OVERVIEW

Oregon Administrative Rule Chapter 459, Division 030 (attached) permits public employers to provide retirement benefits to its police officers and firefighters exempt from the requirement to participate in the Oregon Public Employees Retirement Plan (PERS). In order to obtain this exemption, the public employer must petition the PERS Board. The board will determine whether the plan provides benefits equal to or better than those available to PERS members similarly situated. The rule stipulates that this determination must occur at least every 12 years. As the most recent determination occurred in 2010, a new determination must take place with the calendar year 2022.

### BACKGROUND

Milliman actuaries introduced this topic to the PERS Board at its October 1, 2021 meeting. Among the issues covered were the following:

- Scope of testing
  - Employers tested are those who have police officers and/or firefighters who are not PERS members.
  - Testing focuses on employer-funded pension benefits.
  - Basis of comparison is benefits accrued by employee for defined benefit plans.
  - Basis of comparison is employer contributions for defined contribution and hybrid (cash balance) plans.
- Who determines results and pays for testing?
  - By statute, the PERS Board determines whether the plan passes or fails the test.
  - If the plan does not pass, it must make changes to its design in order to pass.
  - The plan applying for exemption is responsible for paying for the test.
  - The plan must all provide all requested data needed to make an actuarial determination.
- Potential concerns identified
  - Perceived conflict of interest, as Milliman is actuary for several affected plans.
  - Cost of testing – plans vary in size.
  - Choice of assumptions, particularly to ensure consistency between defined benefit and defined contribution plans.

### EMPLOYERS IMPACTED

Based on the most recent determination performed in 2010, staff have identified the following plans as the preliminary list to review:

City of Forest Grove  
City of Portland (FPDR)  
City of Seaside  
City of Springfield  
City of The Dalles  
Mid-Columbia Fire & Rescue  
Morrow County  
Tillamook County  
Union County  
Wheeler County

As a plan must petition the PERS Board for an exemption, we believe that there are no other plans subject to ETOB testing. Each of these plans will be reviewed to ensure that an “equal to or better than” determination is required.

The final list will be presented at the January 31, 2022 PERS Board meeting.

### ACTIONS NEEDED

Staff recommends that the board approve the following actions:

1. Make a motion to affirm the provisions of OAR 459-030 as the basis for “equal to or better than” testing determination.
2. Direct agency staff to engage a qualified actuarial firm, Independent Actuaries, Inc. to conduct the actuarial review specified in OAR 459-030-0015.

Actuarial staff identified a local firm, Independent Actuaries, Inc., that seems capable of completing the required work. They are based in Lake Oswego, have several Enrolled Actuaries on staff, and specialize in retirement benefit consultation. As Milliman feels uncomfortable with the perceived conflict of interest, they recommend this firm as a substitute. They are registered with OregonBuys and have familiarity with PERS as actuarial consultants with the audit firm MGO. I have communicated with Steven Diess, one of their consultants, and he expressed a willingness to provide a quote.

Alternatively, a request for proposal (RFP) could be submitted to bid. This would allow open tender among a larger community of vendors at the cost of delay in the selection of a contractor. My estimate is that an RFP process would not be complete until the end of January 2022. There is also concern related to the relative scarcity of actuarial firms that: a) have the level of expertise required to properly support PERS, meaning the system and the agency, b)

## Equal To Or Better (ETOB) Testing

12/3/2021

Page 2 of 2

have a local presence, and; c) have the corporate capacity to take on substantial Indemnification and Liability contractual obligations.

3. Make a motion to approve a tentative timeline for completion of ETOB testing.

December 2021	Identify and contact plans subject to ETOB determination
January 2022	Select and contract actuary to perform testing
	Selected actuary will present to PERS Board at 1/31/2022 meeting
Feb. – Mar. 2022	Obtain current demographic, salary, and plan data
	Update will be provided at 3/28/22 meeting, final direction to complete testing
April – May 2022	Perform testing for all impacted employers
	Recommend pass/fail for each at 5/27/2022 meeting
June 2022	Identify corrective action for any employers who fail ETOB testing
	Final report to PERS Board at 7/22/2022 meeting

### BOARD OPTIONS

The PERS Board may:

1. Pass a motion to affirm OAR 459-030 as the basis for “equal to or better than” testing or direct staff to make changes to this rule or explore other options.
2. Pass a motion directing staff to request a quote from Independent Actuaries, Inc., or alternatively, pass a motion directing staff to submit a request for proposal to conduct actuarial review, or pass a motion to direct staff to explore other options.
3. Pass a motion to approve the proposed timeline or direct staff to revise the schedule.

### STAFF RECOMMENDATION

Staff recommends the board select the first option presented for each item.

## Action and Discussion Items

1. SB 1049 Implementation Update
2. Equal to or Better Than Testing
3. 2020 Valuation Update and Financial Modeling Results
4. Adoption of Actuarial Equivalency Factor Tables



# FINANCIAL MODELING

## OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

**Presented by:**

**Matt Larrabee, FSA, EA**  
**Scott Preppernau, FSA, EA**

December 3, 2021

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# Introduction

- July: Board adopted updated valuation methods and assumptions, including 6.90% rate of return
- October: Milliman presented system-average results from the advisory December 31, 2020 valuation
  - December 31, 2021 actuarial valuation will develop rates for July 2023 – June 2025
- **Today: Long-term financial modeling projections reflecting published investment results through September 30**
  - System average contribution rates
  - System funded status
  - System unfunded actuarial liability (UAL)

# Models and Inputs

- System financials are projected using two different models
  - Steady return model – consistent year-to-year future investment returns
  - Variable return model – future investment returns vary from year to year
- Modeling starts with liabilities and actuarial assumptions from the 12/31/2020 system-wide actuarial valuation report
  - This includes the current Board-adopted 6.90% return assumption for valuing liabilities
- Modeling uses 12/31/2020 assets adjusted for **published regular account returns of +15.39% through September 2021**
  - Returns for October through December 2021 vary in our models based on scenario

# Financial Modeling

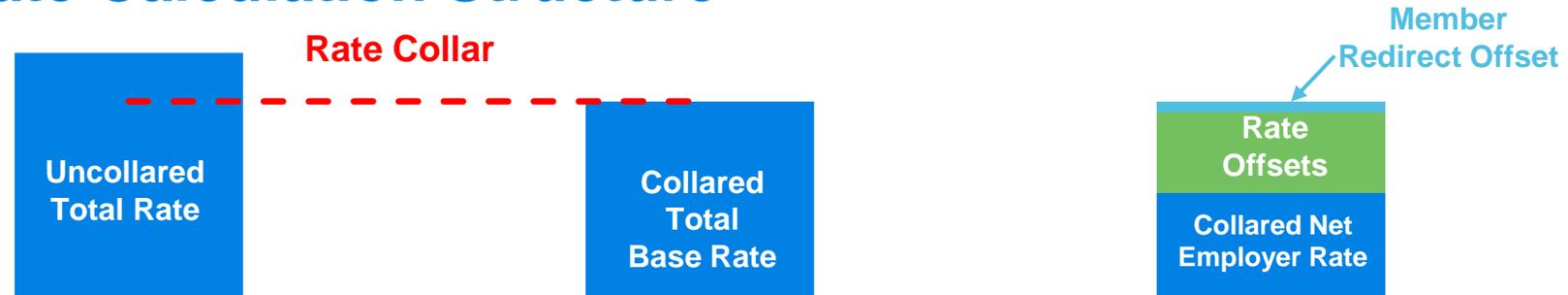
## Comments on System Average Rates

- Projections depict **system average** funded status and employer contribution rates
- Rates shown in this presentation are “employer” rates
  - Redirected member contributions will serve as an offset to “total” rate effective in 2023-2025
- No single employer pays the system average rate
  - Contribution rates vary both by experience pooling group, employer, and type of payroll
- In most scenarios, average employer rates for the 2023-2025 biennium are projected to increase due to the lower return assumption’s effect on the normal cost rate component of the contribution
  - The UAL rate component of the contribution will remain level due to the rate collar, with 2021 investment gains serving as a buffer against potential future poor investment return experience
  - Actual outcome will vary by rate pool and employer
- Rates shown do not include:
  - Contribution rates for the Individual Account Plan (IAP)
  - Employer contribution rates for the RHIA & RHIPA retiree healthcare programs
  - Debt service payments on employer-specific pension obligation bonds

## Rate Collaring

- As part of this year's Experience Study, PERS adopted an updated "rate collar" as part of rate-setting process
- In the December 31, 2020 valuation, the rate collar did not limit any actuarially calculated increases in advisory 2023-2025 contribution rates for the large rate pools and for most independent employers
  - We project this statement will remain true for the December 31, 2021 valuation that will set recommended 2023-2025 employer contribution rates
  - Collared and uncollared rates are equal

# Overview of Rate Calculation Structure



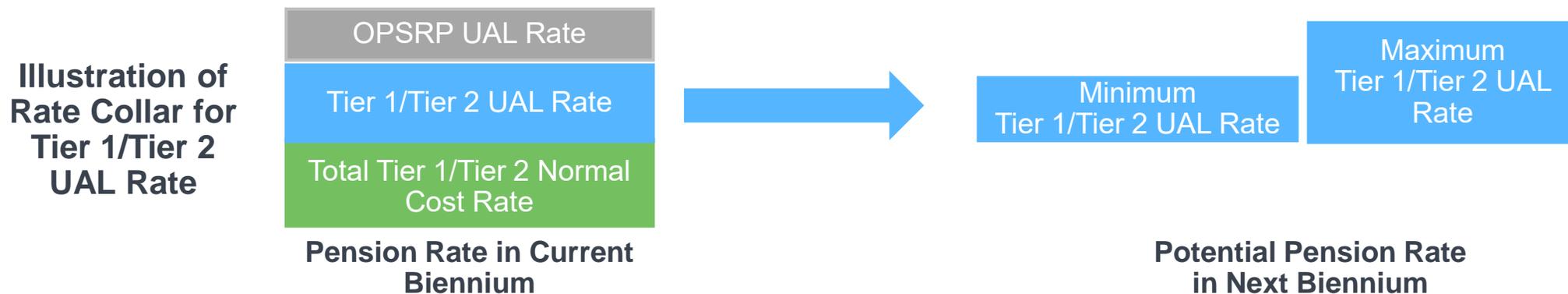
- The **uncollared total rate** is the theoretical contribution rate to reach 100% funded status over a specified amortization period if:
  - Contributions at that rate started on the actuarial valuation date, and
  - Actual future experience mirrors the actuarial valuation's assumptions, and
  - The normal cost rate does not change in subsequent years
- The rate collar sets a biennium's **collared total base rate**, limiting the base rate change for a single biennium when there is a large change in the uncollared rate
- **Member redirect offset** reflects estimated portion of collared total base rate paid by redirected member contributions
- Employers pay the **collared net employer rate**, which reflects the member redirect offset and any rate offset adjustments from:
  - Side account rate offsets for employers with side accounts
  - SLGRP charges/offsets (e.g., Transition Liability/Surplus)

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# Rate Collar Design

The rate collar structure was revised with the assumptions and methods adopted for the 2020 Experience Study

- Rate collar focuses on the biennium-to-biennium change in the UAL Rate component
  - Normal Cost Rate component is always paid in full and is not subject to a rate collar limitation
- The maximum biennium-to-biennium change in UAL Rate permitted by the rate collar is:
  - **SLGRP and School District Pools Tier 1/Tier 2 UAL Rates:** 3% of pay
  - **OPSRP UAL rate:** 1% of pay
  - **Tier 1/Tier 2 UAL Rates of Independent Employers:** greater of 4% of pay or 1/3rd of the difference between the collared and uncollared Tier 1/Tier 2 UAL Rates at the last rate-setting valuation
- UAL Rate is not allowed to decrease at all unless funded status excluding side accounts is at least 87%, and a full collar width decrease is not allowed unless funded status is at least 90%



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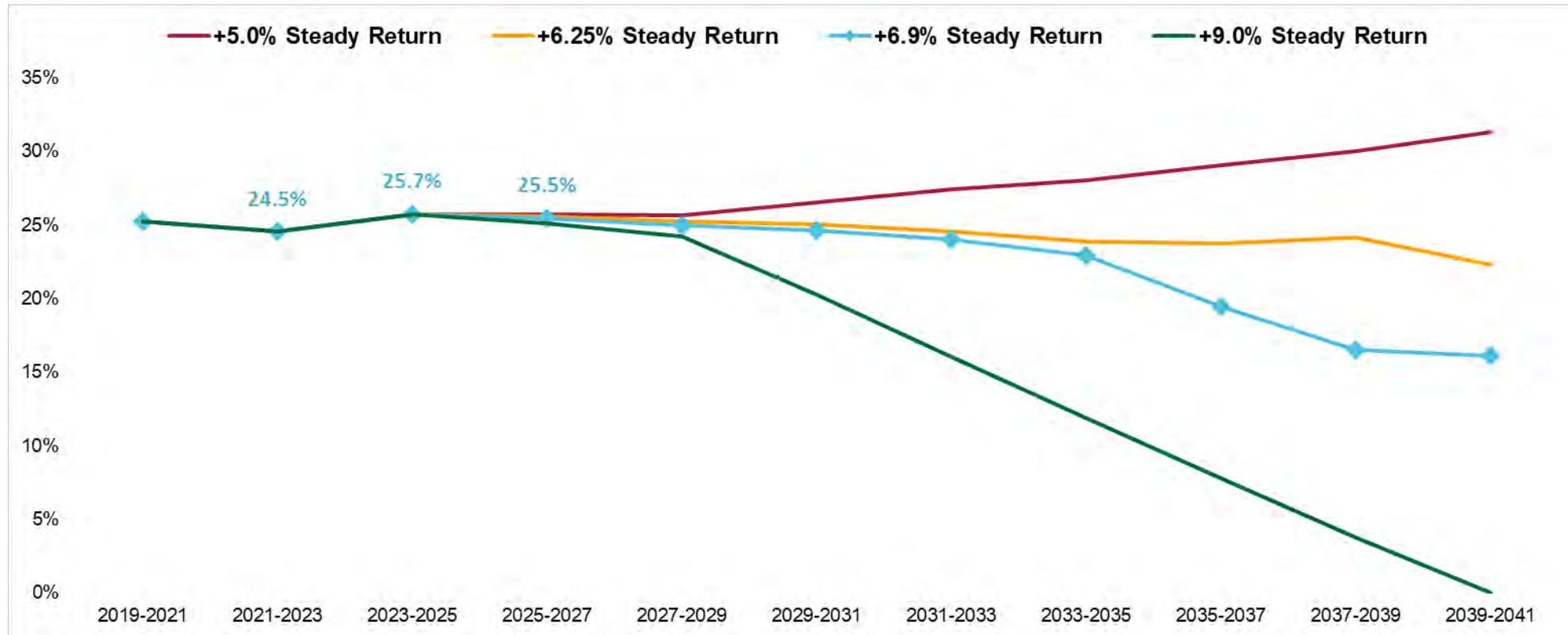
# Steady Return Model

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# Steady Return Model

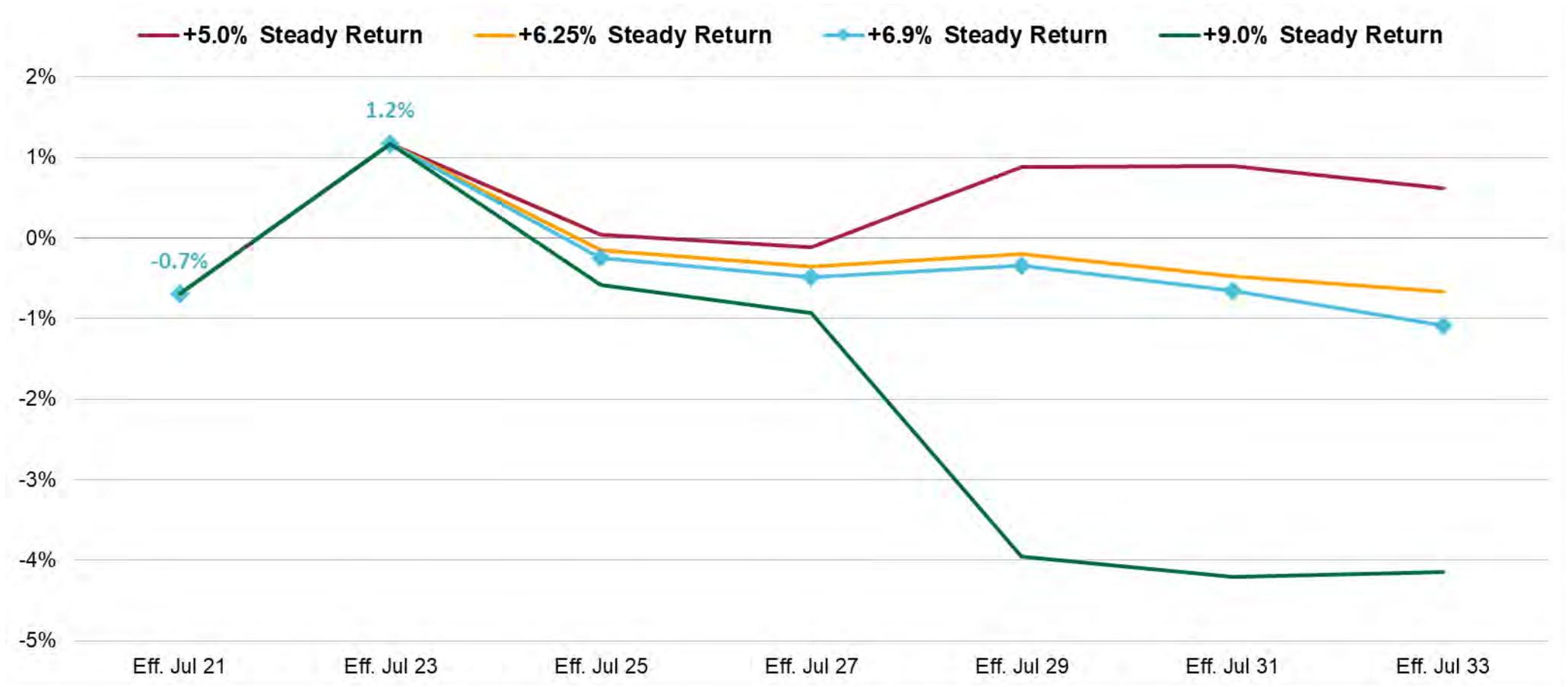
- The next four slides show financial projections under the current rate setting structure
  - Employer rates adjust each biennium, with changes limited by the rate collar
- Four scenarios for **steady annual actual future investment** return are shown
  - **+5.0%; +6.25%; +6.9%; +9.0%**
- While actual future returns won't be steady year-to-year, the steady return model clearly illustrates the financial dynamics
  - More realistic “noisy” future returns will be shown in the variable return model later in this presentation
  - The effects of near-term and/or long-term future annualized returns worse than +5.0% are captured in the variable return model
- Model incorporates published returns through September 2021 of +15.39%

# Employer Collared Base Pension Rates (System Average)



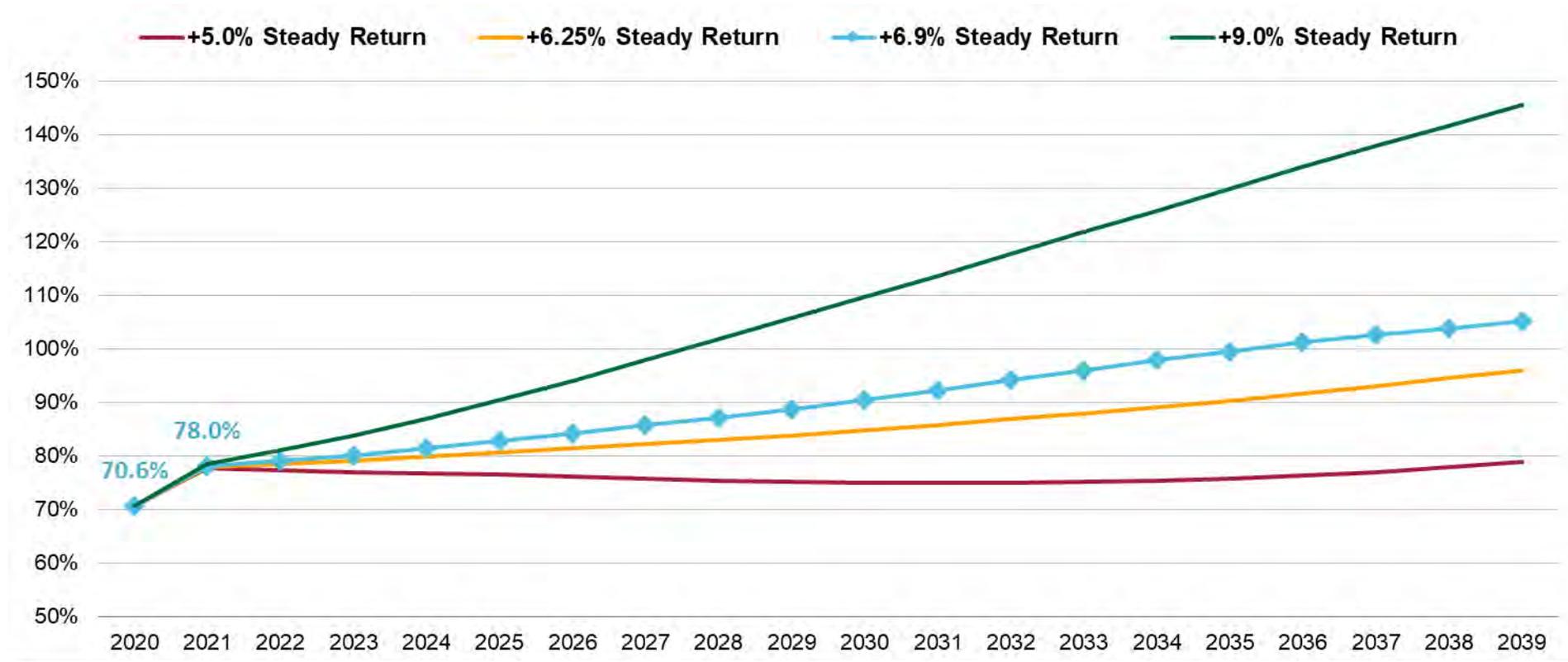
- System average employer collared base pension rates in 2023-25 are projected to increase from 2021-23 rates, as reduction in assumed rate to 6.90% increased the normal cost
- Year-to-date 2021 investment outperformance does not reduce UAL rate due to collar restrictions, but instead provides a cushion which limits the potential increases from underperformance in following biennia
- Blue line: rates decrease as new OPSRP members replace exiting Tier 1 / Tier 2s

# Biennial Change in Collared Base Rate (System Average)



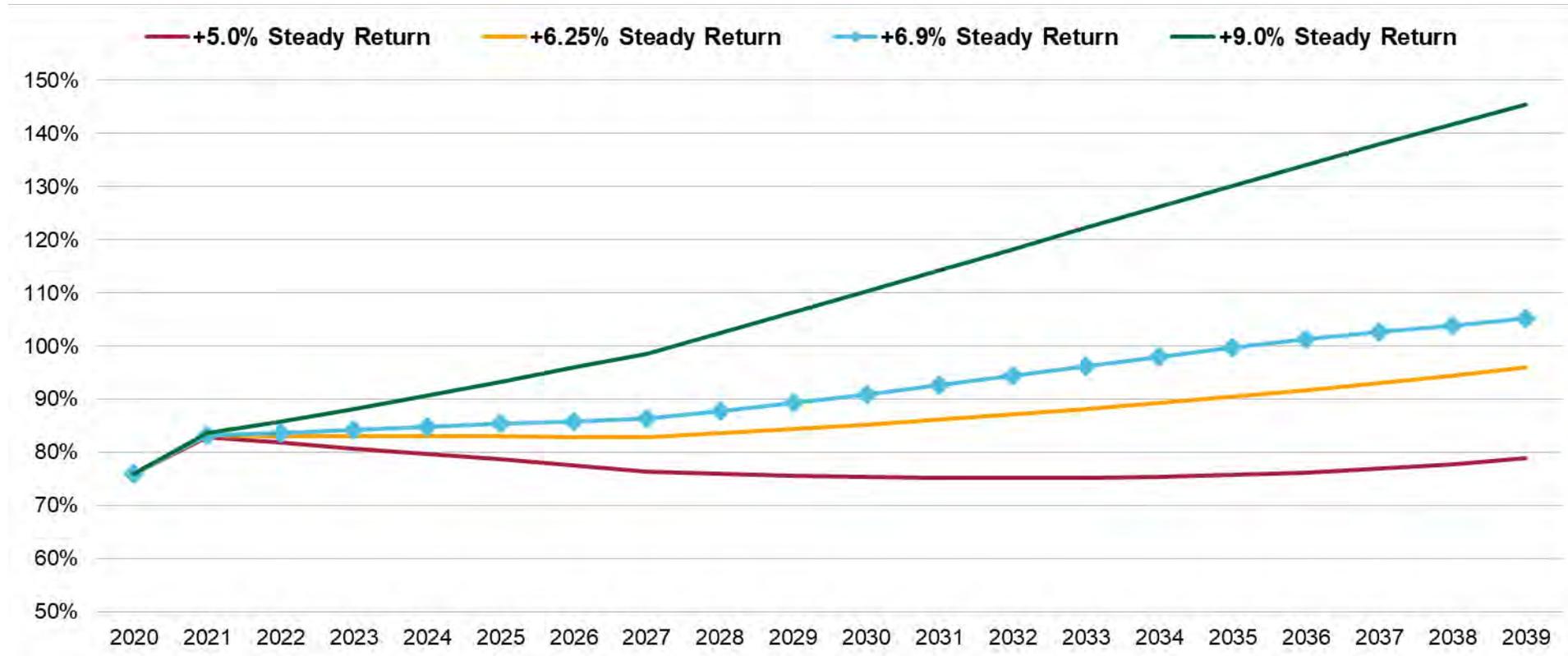
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# System Funded Status (Excluding Side Accounts)



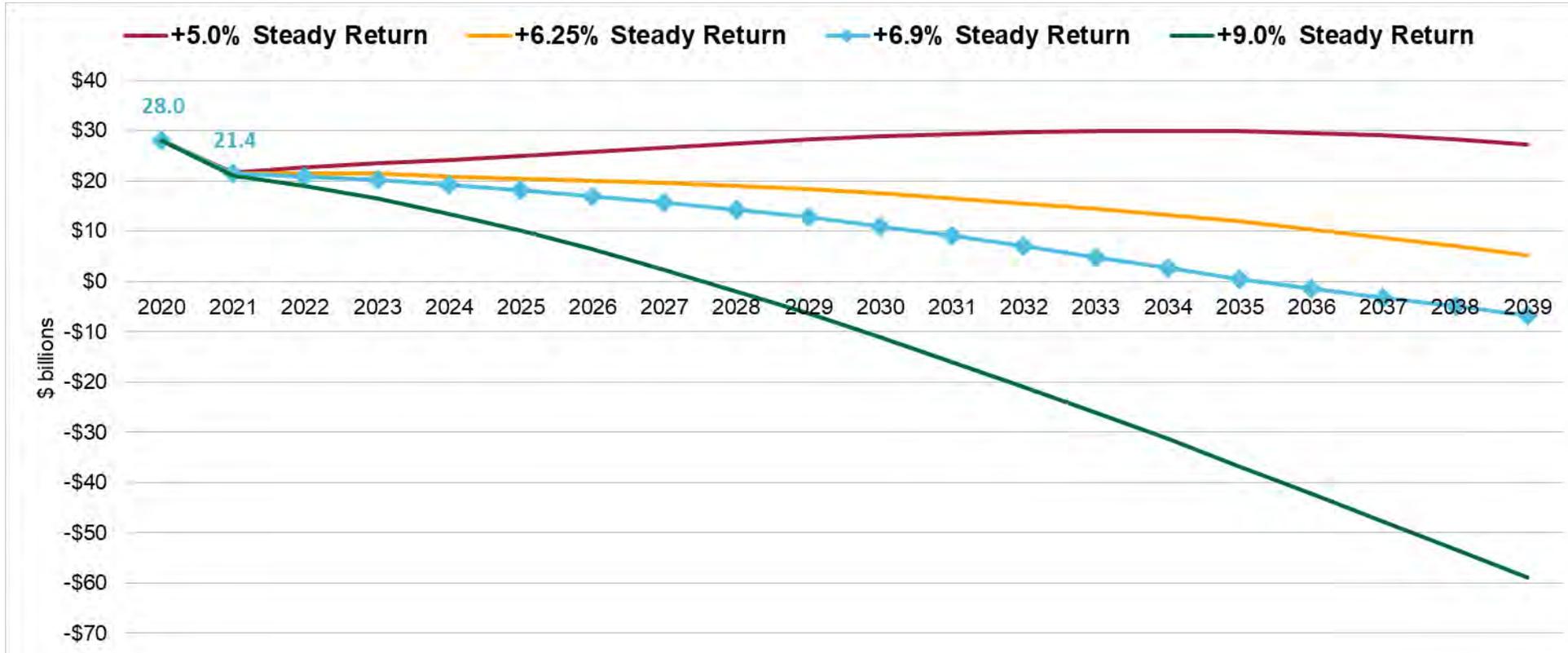
- 2021 funded status increases due to estimated year-end 2021 investment returns
- In steady +6.9% return scenario, funded status projected to reach 100% in 2036

# System Funded Status (Including Side Accounts)



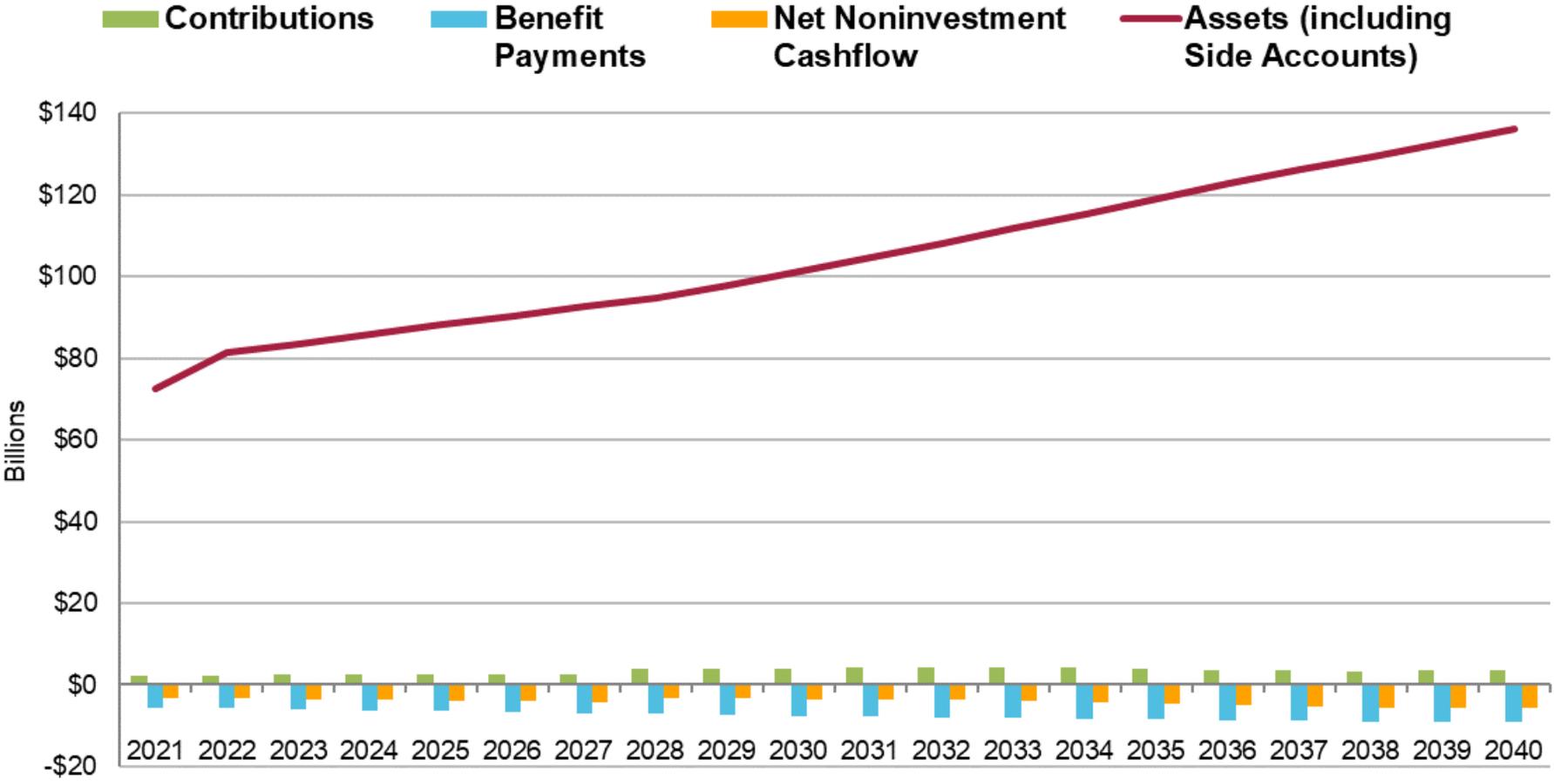
- 2021 funded status increases due to estimated year-end 2021 investment returns
- In steady +6.9% return scenario, funded status projected to reach 100% in 2036

# UAL (Unfunded Actuarial Liability) Excluding Side Accounts

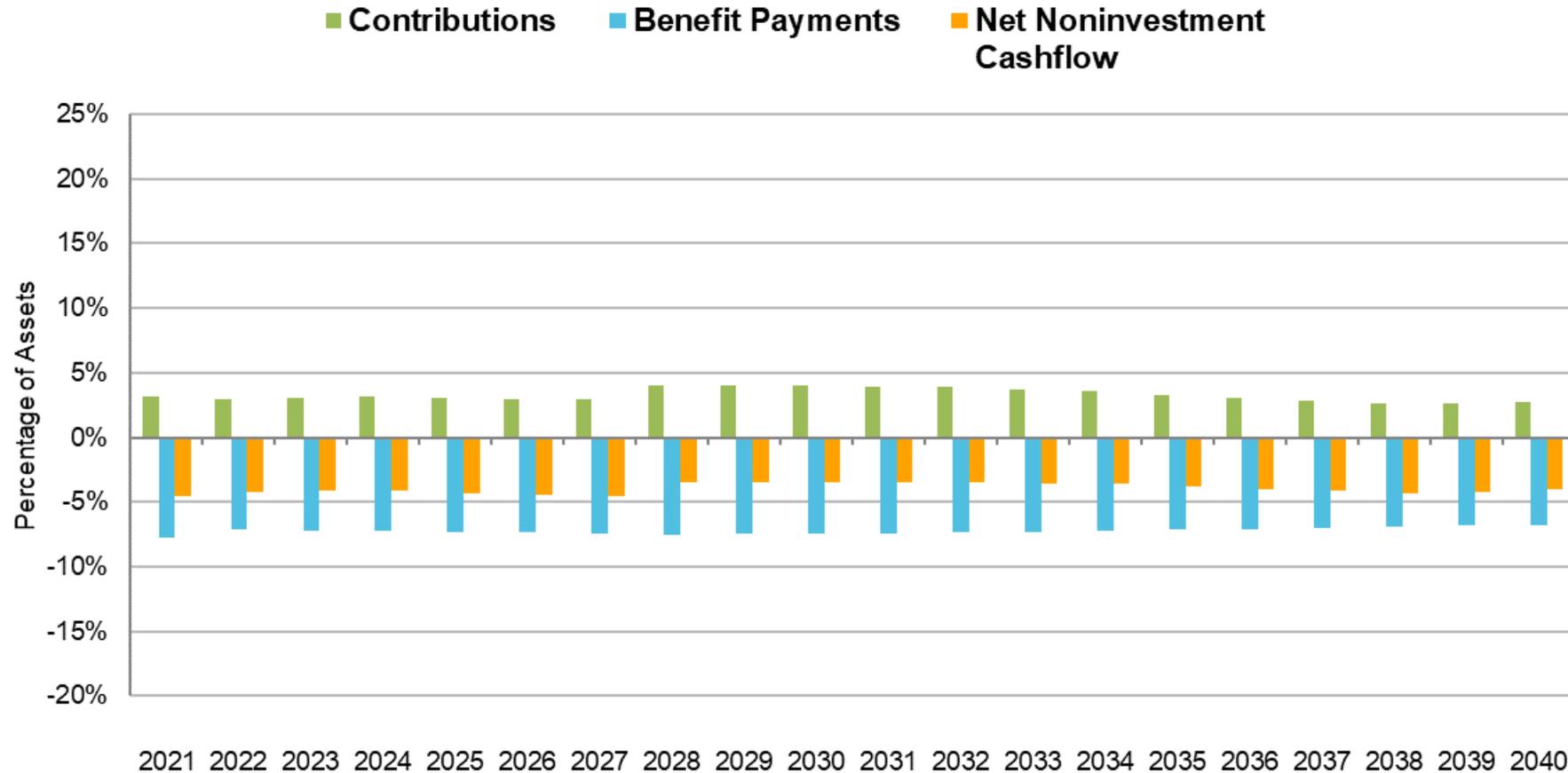


- 2021 UAL decreases due to estimated year-end 2021 investment returns
- At steady +6.9% returns, UAL remains relatively level for a couple years before declining to below \$0 at year-end 2036

# Cash Flow and Asset Balance at +6.90% Actual Return



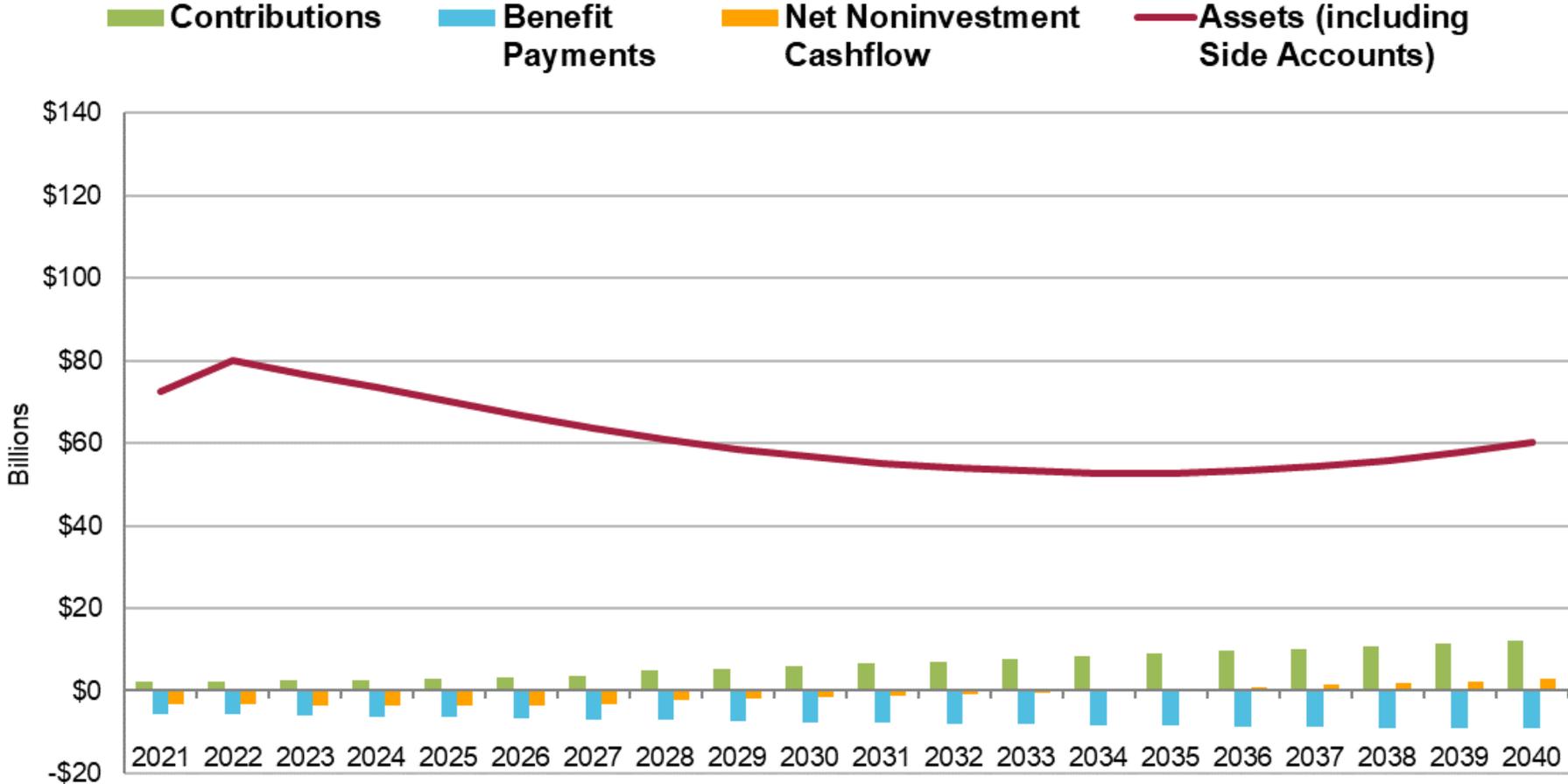
# Cash Flows as % of Assets at +6.90% Actual Future Return



**Net Noninvestment Cashflow = Contributions – Benefit Payments**

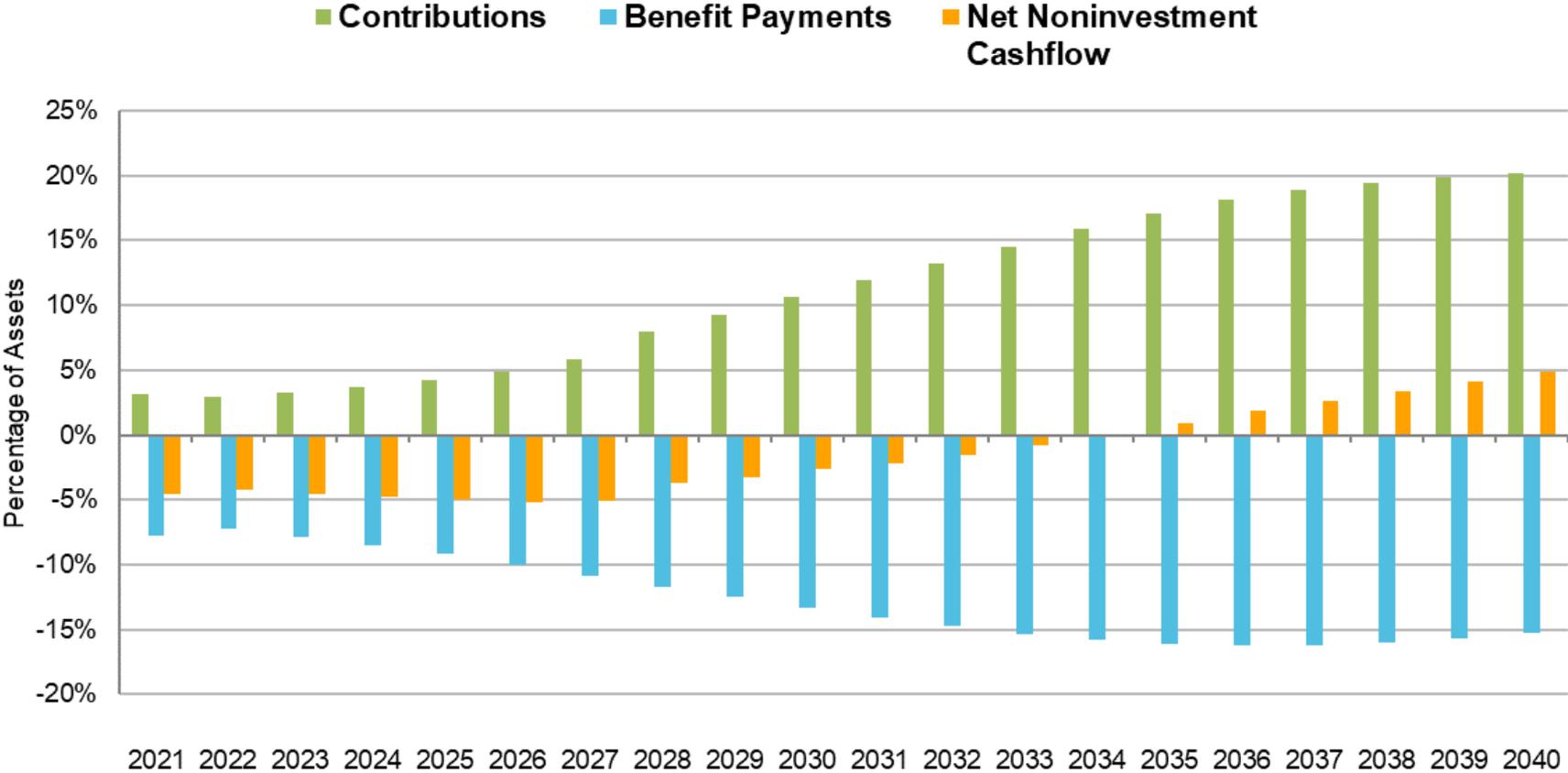
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# Cash Flow and Asset Balance at +0.00% Actual Return



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# Cash Flows as % of Assets at +0.00% Actual Future Return



**Net Noninvestment Cashflow = Contributions – Benefit Payments**

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# Variable Return Model

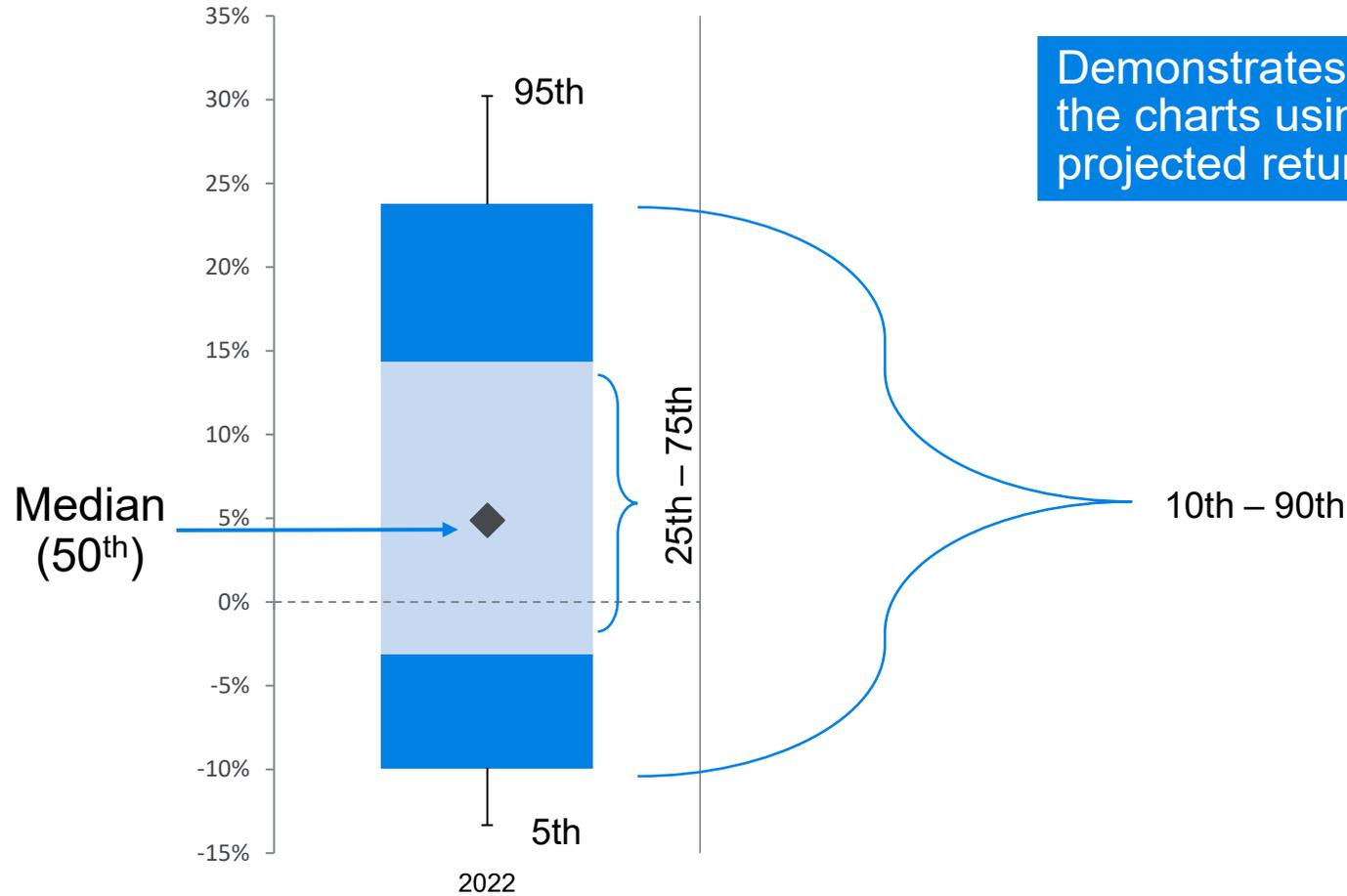
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# Variable Return Model

- Model results are likelihood ranges instead of a single amount
  - The range's distribution is based on a stochastic simulation using 10,000 trials
  - Scenarios were developed by our national capital market specialists, and use the current OPERF target asset allocation policy; for these scenarios, the **median annualized average geometric 20-year return is 6.86%**
  - **Model incorporates published returns through September 2021**
- In our results charts, the dots represent median (50<sup>th</sup> percentile) outcomes
- We display model results from the 5<sup>th</sup> to 95<sup>th</sup> percentiles
  - Ten percent of model outcomes fall outside of the depicted range
- The chart format is demonstrated on the next slide

# PERS Fund Rate of Return

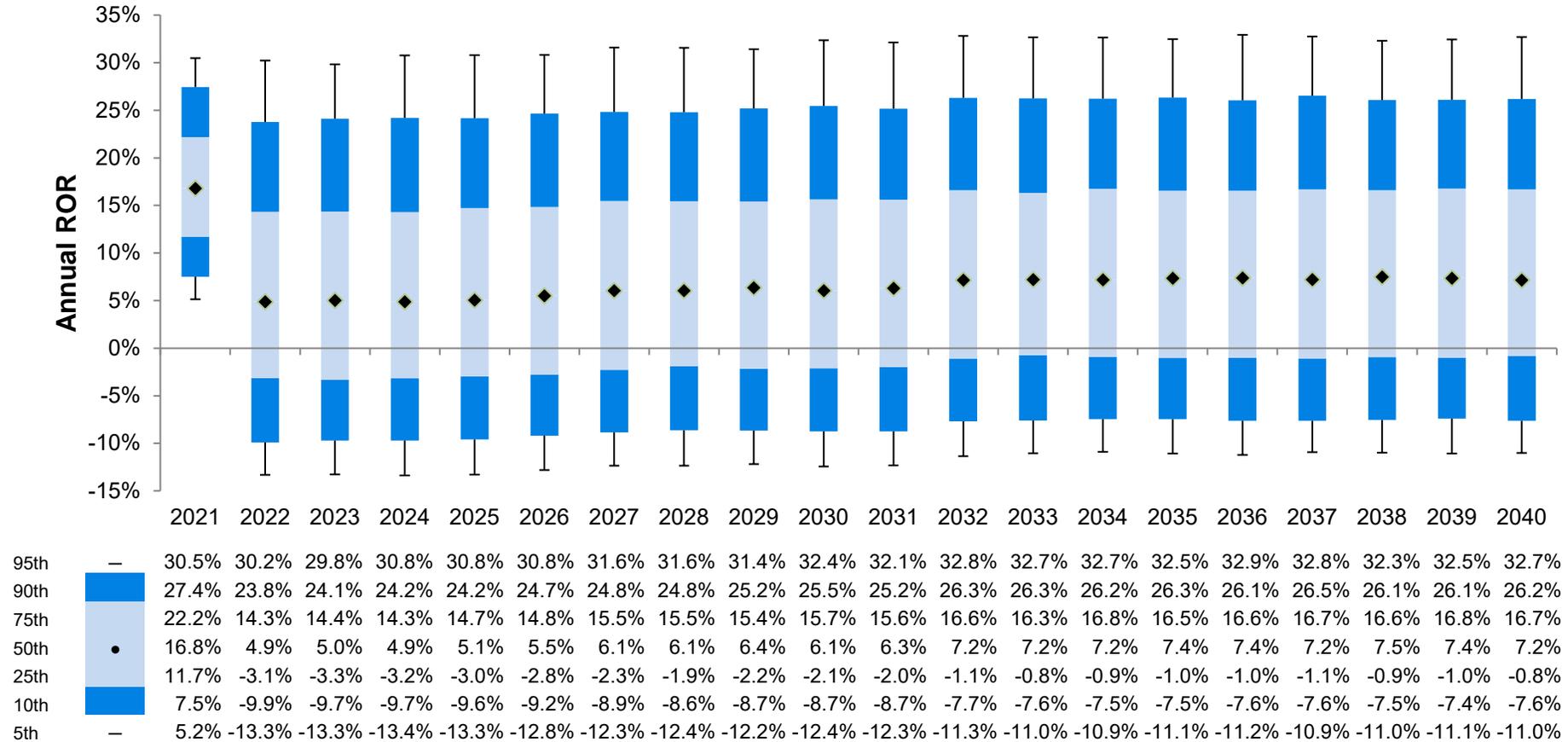
## Projected 2022 Investment Returns



# PERS Fund Rate of Return

## Single Calendar Year Investment Returns

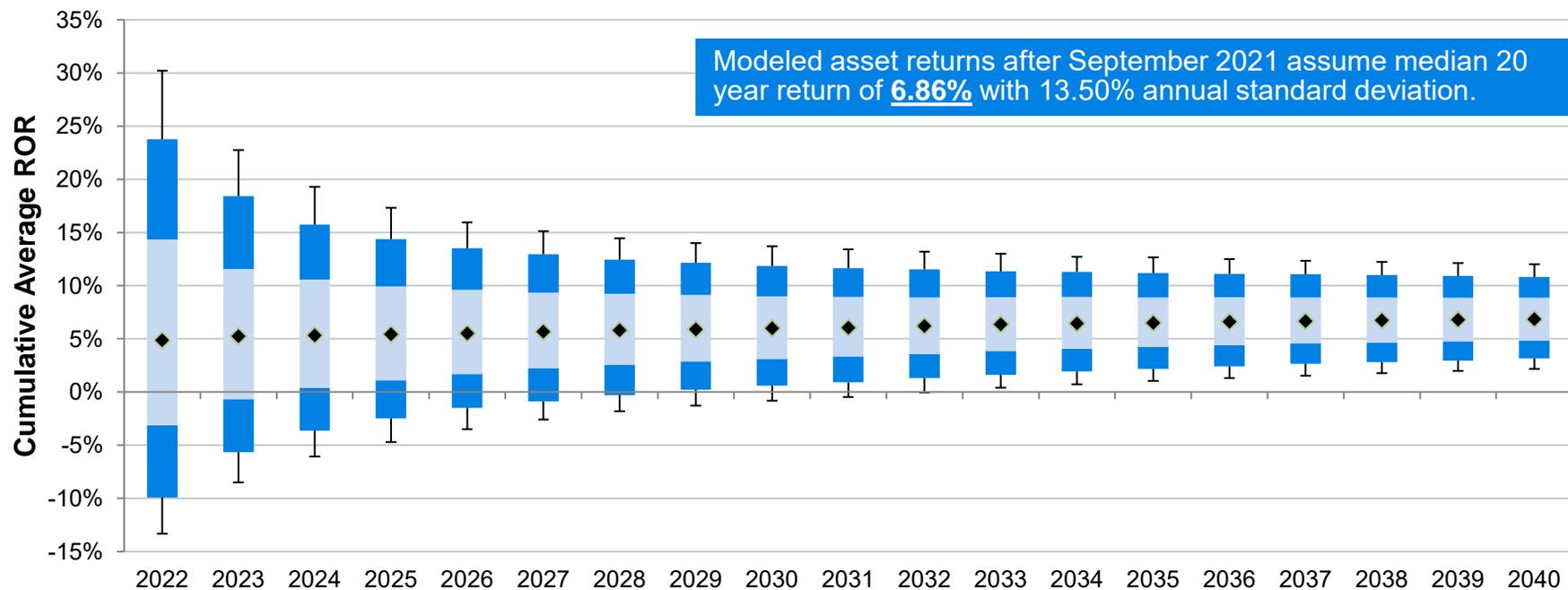
Our capital market outlook model projects lower median returns in the first few years following 2021 due to current low yields on fixed income. Higher median single-year returns are projected in the latter portion of the modeling period.



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# Average Annualized Rate of Investment Return

## Post-2021 Modeled Returns (Geometric Average)

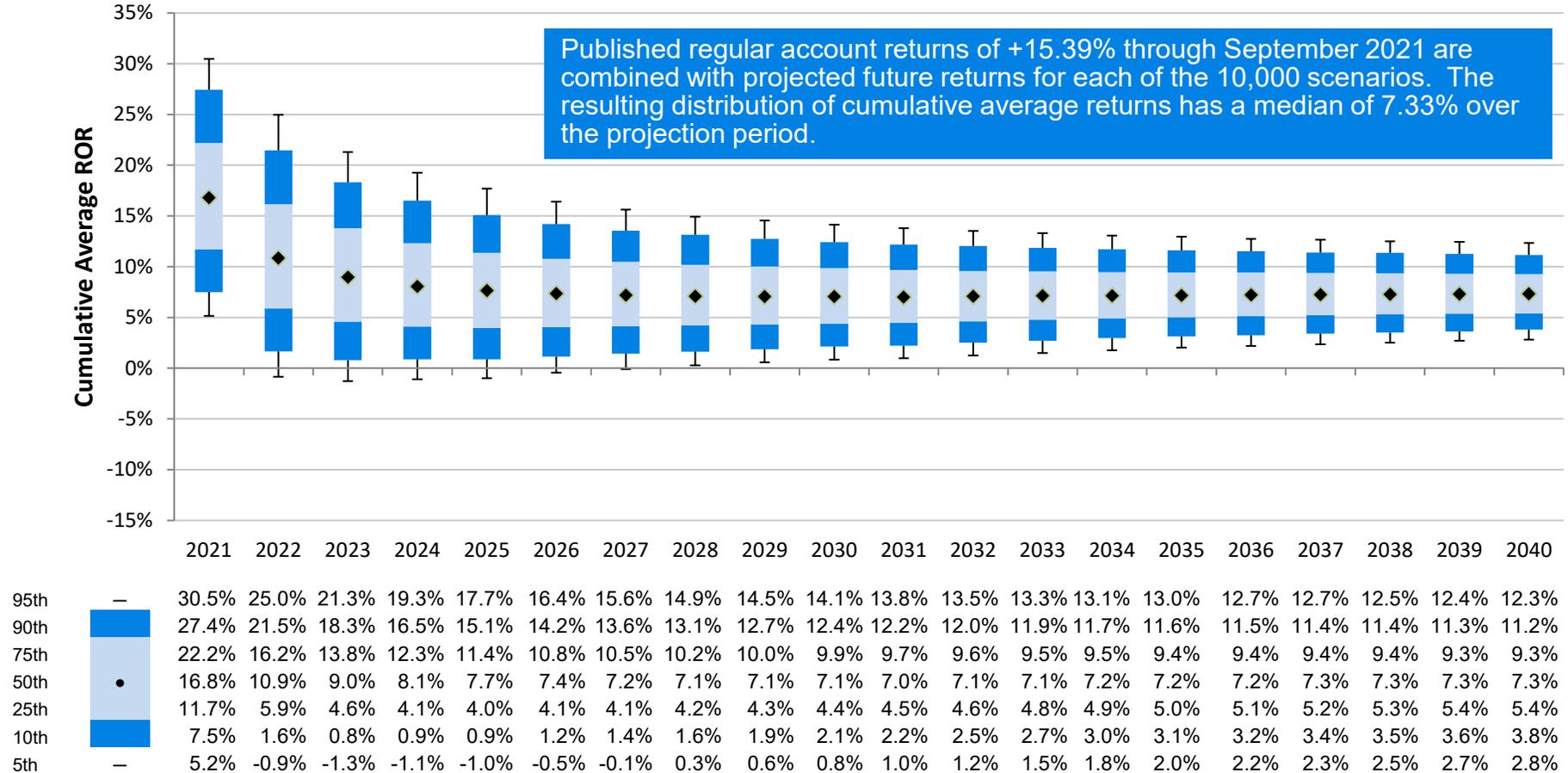


	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040
95th	30.2%	22.8%	19.3%	17.3%	15.9%	15.1%	14.4%	14.0%	13.7%	13.4%	13.2%	13.0%	12.7%	12.7%	12.5%	12.4%	12.2%	12.1%	12.0%
90th	23.8%	18.4%	15.7%	14.4%	13.5%	13.0%	12.5%	12.2%	11.9%	11.7%	11.5%	11.4%	11.3%	11.2%	11.1%	11.1%	11.0%	10.9%	10.8%
75th	14.3%	11.6%	10.6%	9.9%	9.6%	9.4%	9.2%	9.1%	9.0%	8.9%	8.9%	8.9%	8.9%	8.9%	8.9%	8.9%	8.9%	8.9%	8.9%
50th	4.9%	5.3%	5.3%	5.4%	5.5%	5.7%	5.8%	5.9%	6.0%	6.1%	6.2%	6.4%	6.4%	6.5%	6.6%	6.7%	6.7%	6.8%	6.9%
25th	-3.1%	-0.7%	0.4%	1.1%	1.7%	2.3%	2.6%	2.9%	3.1%	3.4%	3.6%	3.9%	4.1%	4.3%	4.4%	4.6%	4.6%	4.8%	4.9%
10th	-9.9%	-5.7%	-3.6%	-2.5%	-1.5%	-0.9%	-0.3%	0.2%	0.6%	0.9%	1.3%	1.6%	1.9%	2.2%	2.4%	2.7%	2.8%	3.0%	3.2%
5th	-13.3%	-8.5%	-6.1%	-4.7%	-3.5%	-2.6%	-1.8%	-1.3%	-0.8%	-0.5%	-0.1%	0.4%	0.7%	1.1%	1.3%	1.5%	1.8%	2.0%	2.2%

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# Average Annualized Rate of Investment Return

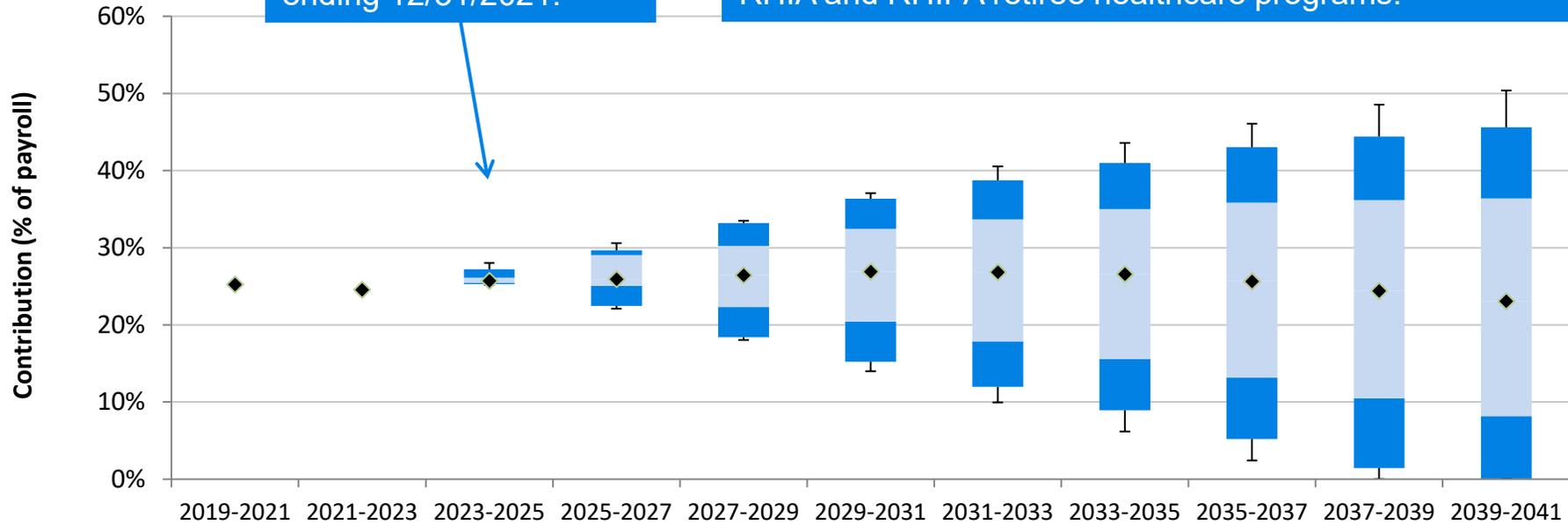
## Post-2020 Modeled Returns (Geometric Average)



# Employer Collared Base Pension Rates (System Average)

Rates for 2023-2025 are based on the modeled returns for the period ending 12/31/2021.

Employer "Base" rates are system average Tier 1/Tier 2/OPSRP contribution rates excluding IAP contributions, the effect of side accounts & pension bond debt service, and contributions to the RHIA and RHIPA retiree healthcare programs.

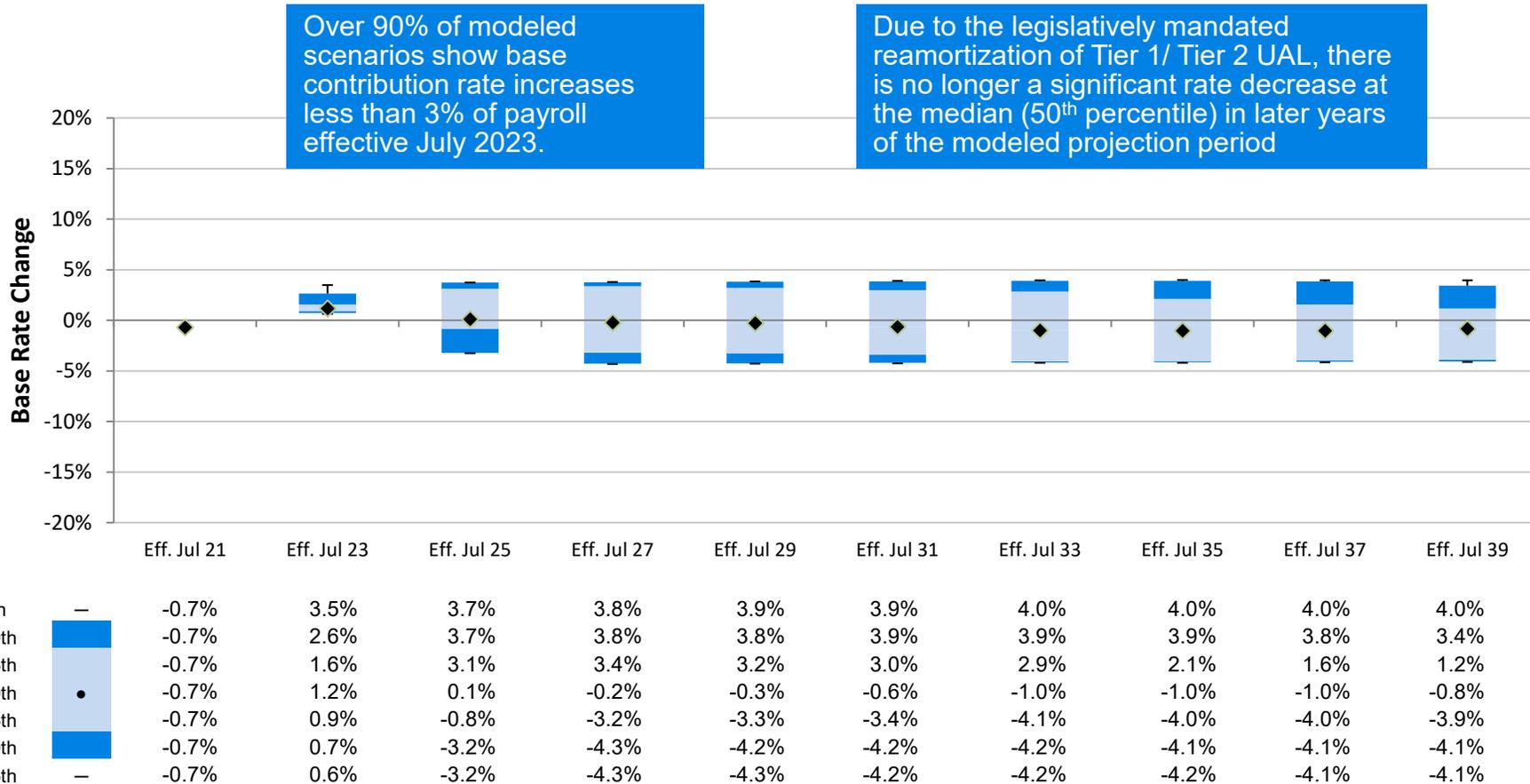


	2019-2021	2021-2023	2023-2025	2025-2027	2027-2029	2029-2031	2031-2033	2033-2035	2035-2037	2037-2039	2039-2041	
5th	—	25.2%	24.5%	28.0%	30.6%	33.5%	37.1%	40.5%	43.6%	46.1%	48.5%	50.4%
10th	—	25.2%	24.5%	27.2%	29.7%	33.2%	36.4%	38.7%	41.0%	43.0%	44.4%	45.6%
25th	—	25.2%	24.5%	26.1%	29.0%	30.3%	32.5%	33.7%	35.0%	35.9%	36.2%	36.4%
50th	•	25.2%	24.5%	25.7%	25.9%	26.5%	26.9%	26.8%	26.6%	25.7%	24.4%	23.1%
75th	—	25.2%	24.5%	25.5%	25.1%	22.3%	20.4%	17.9%	15.6%	13.2%	10.5%	8.2%
90th	—	25.2%	24.5%	25.3%	22.5%	18.4%	15.2%	12.0%	8.9%	5.2%	1.4%	0.0%
95th	—	25.2%	24.5%	25.2%	22.1%	18.0%	14.0%	9.9%	6.2%	2.4%	0.0%	0.0%

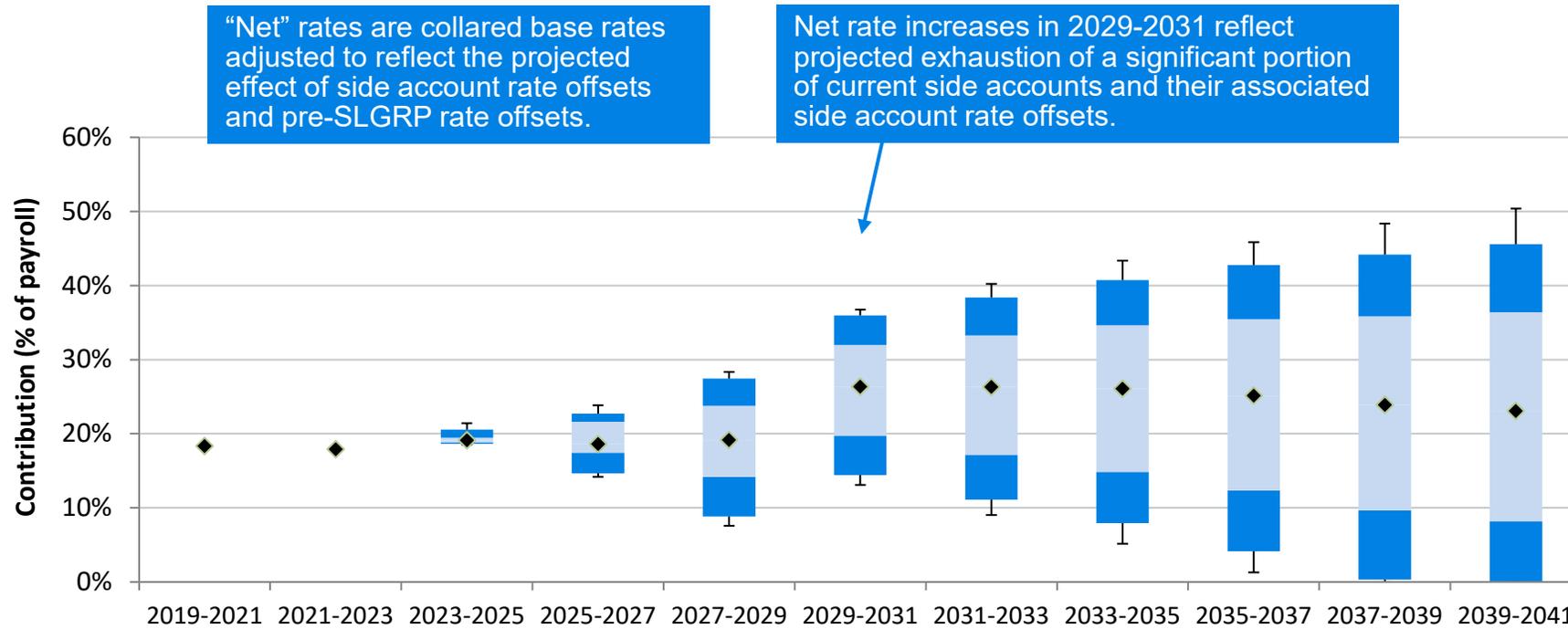
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# Biennial Change in Employer Collared Base Pension Rate

## System Average Rates



# Employer Collared Net Pension Rates (System Average)



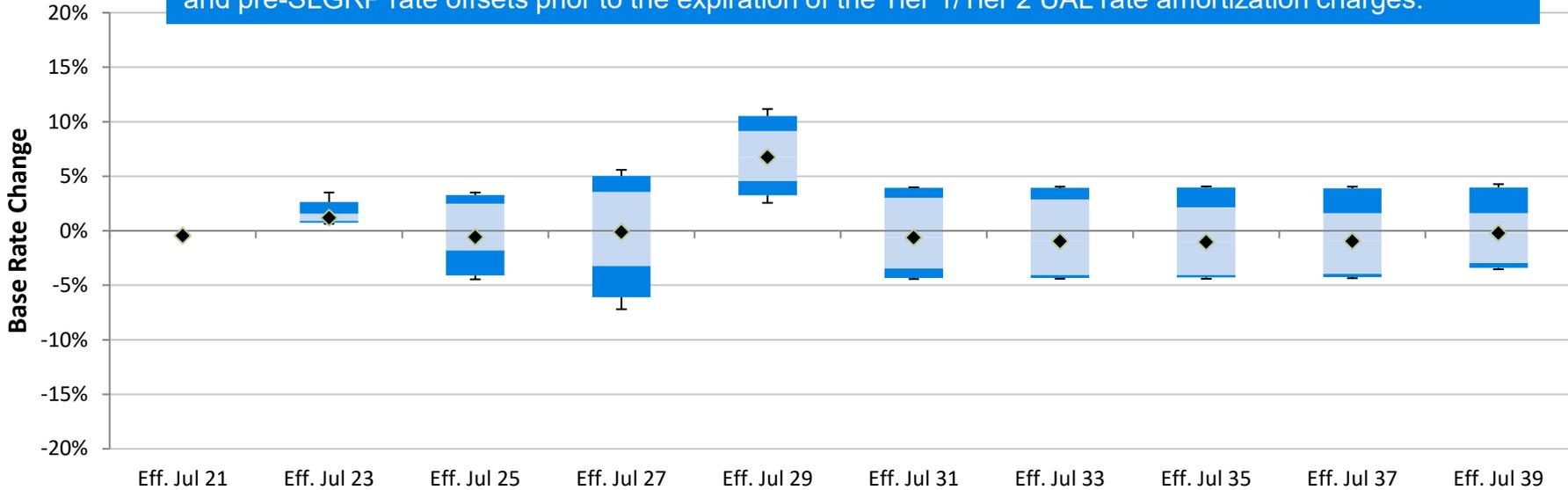
	2019-2021	2021-2023	2023-2025	2025-2027	2027-2029	2029-2031	2031-2033	2033-2035	2035-2037	2037-2039	2039-2041	
5th	—	18.3%	17.9%	21.4%	23.9%	28.3%	36.7%	40.2%	43.4%	45.9%	48.4%	50.4%
10th	—	18.3%	17.9%	20.6%	22.7%	27.5%	36.0%	38.4%	40.7%	42.8%	44.2%	45.6%
25th	—	18.3%	17.9%	19.5%	21.6%	23.8%	32.0%	33.3%	34.6%	35.5%	35.9%	36.4%
50th	•	18.3%	17.9%	19.1%	18.6%	19.1%	26.4%	26.3%	26.1%	25.1%	23.9%	23.1%
75th	—	18.3%	17.9%	18.8%	17.4%	14.2%	19.8%	17.2%	14.9%	12.3%	9.7%	8.2%
90th	—	18.3%	17.9%	18.6%	14.7%	8.8%	14.4%	11.1%	7.9%	4.1%	0.3%	0.0%
95th	—	18.3%	17.9%	18.5%	14.2%	7.6%	13.1%	9.0%	5.1%	1.3%	0.0%	0.0%

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# Biennial Change in Collared Net Pension Rate

## System Average Rates

The July 2029 increase is related to the projected exhaustion of a significant portion of current side accounts and pre-SLGRP rate offsets prior to the expiration of the Tier 1/Tier 2 UAL rate amortization charges.

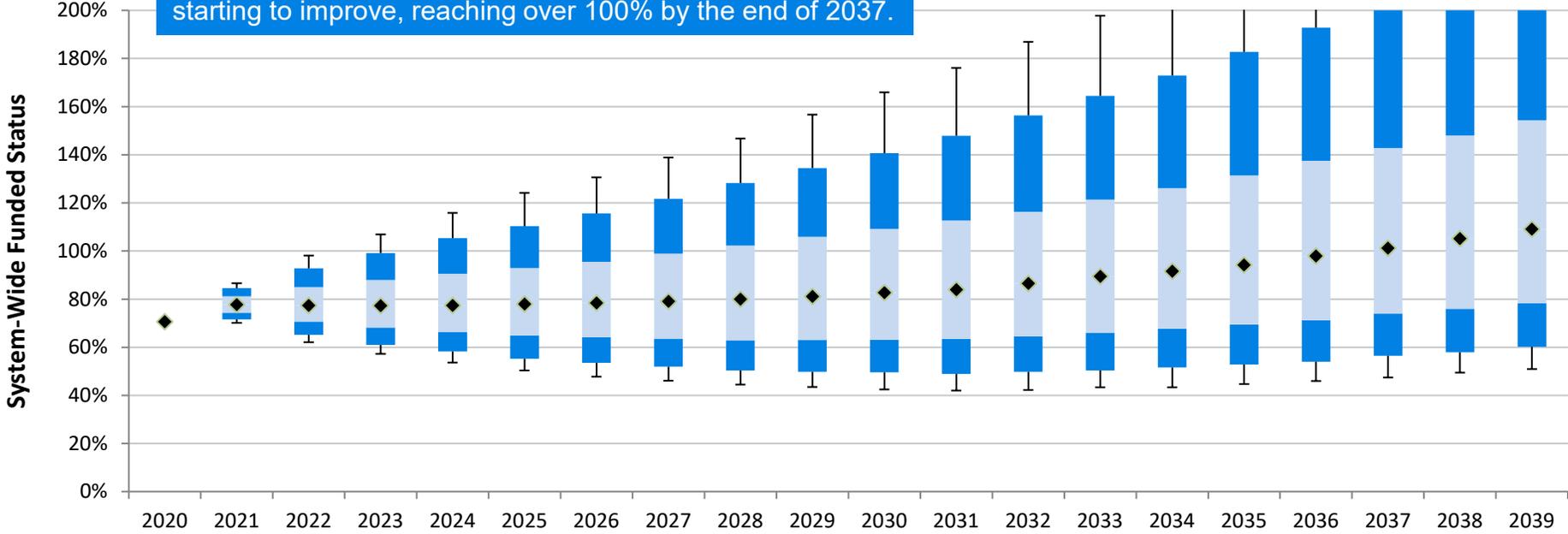


	Eff. Jul 21	Eff. Jul 23	Eff. Jul 25	Eff. Jul 27	Eff. Jul 29	Eff. Jul 31	Eff. Jul 33	Eff. Jul 35	Eff. Jul 37	Eff. Jul 39
5th	-	-0.4%	3.5%	3.5%	5.6%	11.2%	4.0%	4.0%	4.1%	4.3%
10th	-0.4%	2.7%	3.3%	5.0%	10.5%	3.9%	4.0%	4.0%	3.9%	4.0%
25th	-0.4%	1.6%	2.5%	3.6%	9.2%	3.0%	2.9%	2.2%	1.6%	1.6%
50th	-0.4%	1.2%	-0.6%	-0.1%	6.8%	-0.6%	-1.0%	-1.0%	-0.9%	-0.2%
75th	-0.4%	0.9%	-1.8%	-3.2%	4.6%	-3.5%	-4.1%	-4.0%	-3.9%	-2.9%
90th	-0.4%	0.7%	-4.1%	-6.1%	3.3%	-4.3%	-4.3%	-4.3%	-4.2%	-3.4%
95th	-	0.7%	-4.5%	-7.2%	2.6%	-4.4%	-4.4%	-4.4%	-4.4%	-3.5%

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# Funded Status (Excluding Side Accounts)

At the 50<sup>th</sup> percentile, funded status is 77.7% at year-end 2021, and decreases 0.4% over the next two years before starting to improve, reaching over 100% by the end of 2037.

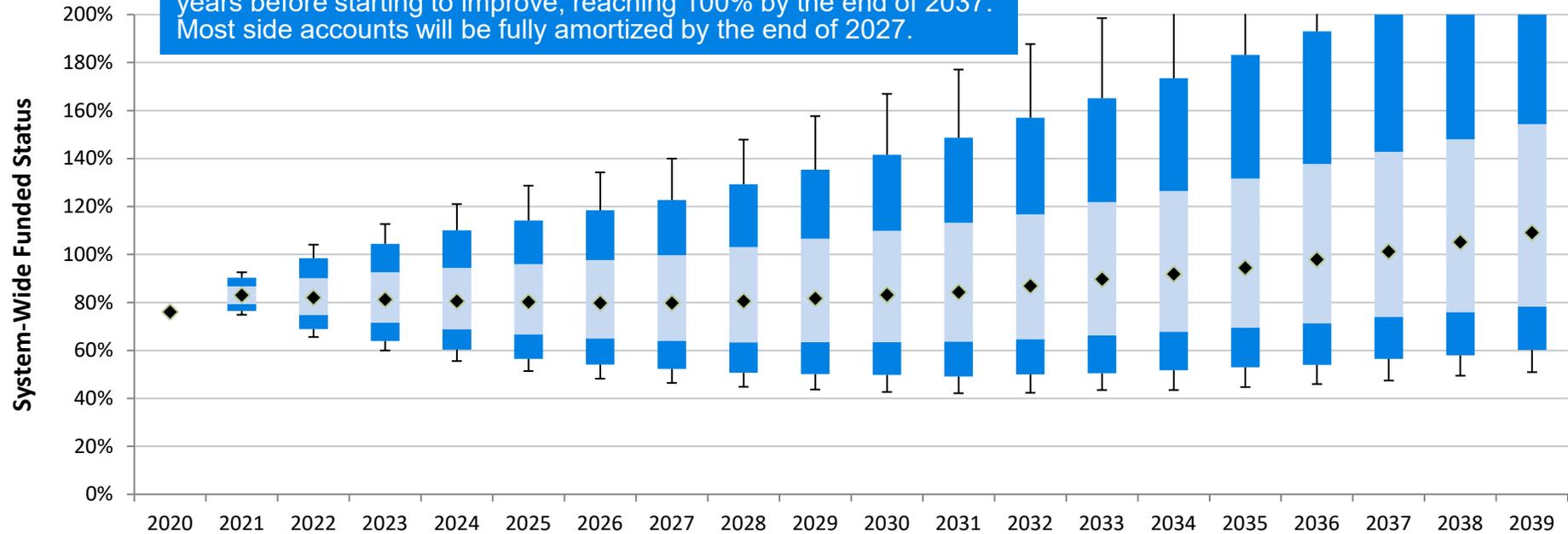


	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	
95th	—	70.6%	86.6%	98.1%	107.0%	115.8%	124.2%	130.6%	138.8%	146.7%	156.6%	165.9%	176.1%	186.9%	197.8%	209.7%	225.3%	237.6%	252.2%	267.9%	283.1%
90th	—	70.6%	84.6%	92.8%	99.2%	105.4%	110.3%	115.6%	121.7%	128.3%	134.4%	140.7%	147.9%	156.3%	164.4%	173.0%	182.7%	192.8%	203.1%	215.9%	224.3%
75th	—	70.6%	81.2%	85.0%	88.0%	90.6%	93.0%	95.5%	98.9%	102.3%	105.9%	109.2%	112.7%	116.3%	121.3%	126.1%	131.4%	137.5%	142.8%	148.0%	154.3%
50th	●	70.6%	77.7%	77.4%	77.3%	77.4%	77.9%	78.3%	79.1%	79.9%	81.1%	82.6%	83.9%	86.5%	89.4%	91.6%	94.2%	97.9%	101.2%	105.1%	109.0%
25th	—	70.6%	74.4%	70.7%	68.2%	66.4%	65.0%	64.1%	63.5%	62.9%	63.0%	63.1%	63.4%	64.4%	66.1%	67.7%	69.5%	71.3%	74.0%	76.0%	78.3%
10th	—	70.6%	71.6%	65.1%	61.0%	58.3%	55.3%	53.5%	51.9%	50.4%	49.9%	49.6%	48.9%	49.9%	50.4%	51.6%	52.9%	54.0%	56.4%	57.9%	60.2%
5th	—	70.6%	70.1%	62.1%	57.3%	53.7%	50.4%	47.8%	46.1%	44.6%	43.5%	42.5%	42.0%	42.2%	43.4%	43.4%	44.7%	45.9%	47.4%	49.4%	51.0%

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# Funded Status (Including Side Accounts)

At the 50<sup>th</sup> percentile, funded status including side accounts is 83.0% at year-end 2021 and decreases by 3.3% over the next five years before starting to improve, reaching 100% by the end of 2037. Most side accounts will be fully amortized by the end of 2027.

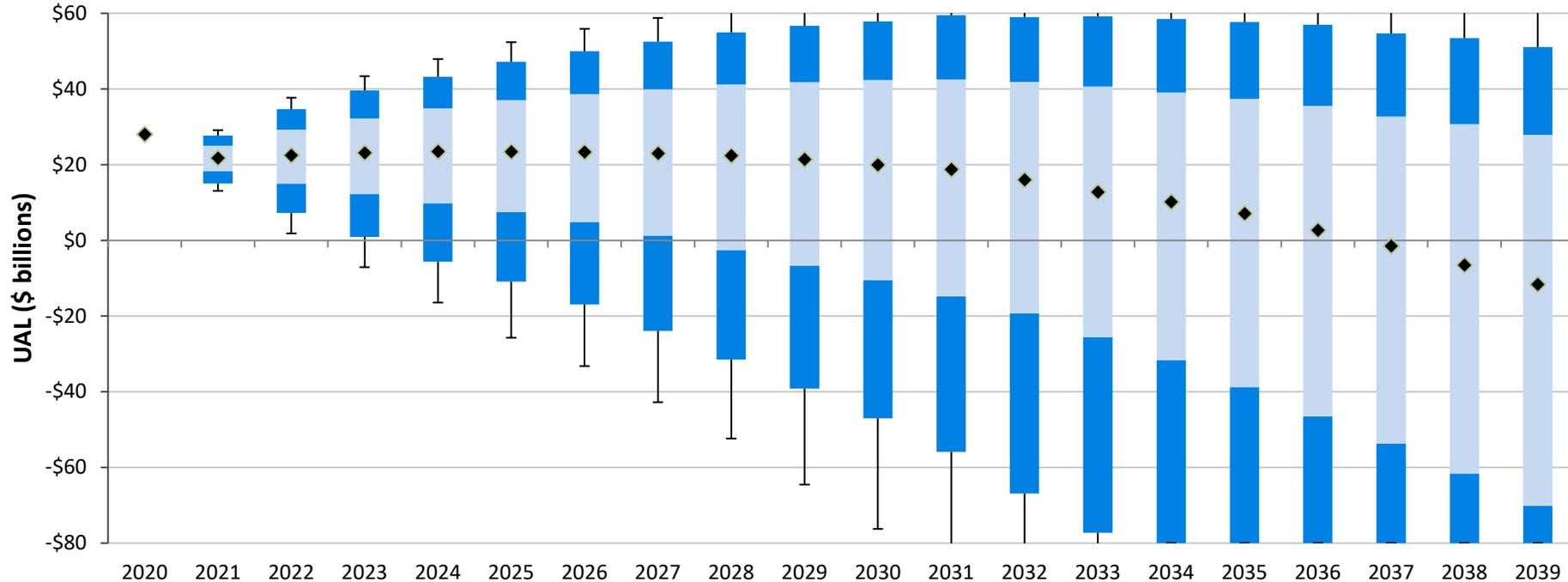


	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	
95th	—	76.0%	92.6%	104.1%	112.7%	121.1%	128.8%	134.2%	140.0%	147.8%	157.8%	167.0%	177.1%	187.8%	198.5%	210.4%	225.9%	237.9%	252.2%	267.9%	283.1%
90th	—	76.0%	90.4%	98.4%	104.5%	110.1%	114.1%	118.5%	122.8%	129.2%	135.4%	141.6%	148.7%	157.1%	165.1%	173.5%	183.2%	193.0%	203.1%	215.9%	224.3%
75th	—	76.0%	86.7%	90.1%	92.5%	94.4%	95.9%	97.7%	99.7%	103.1%	106.6%	109.8%	113.3%	116.8%	121.8%	126.5%	131.6%	137.7%	142.8%	148.0%	154.3%
50th	●	76.0%	83.0%	82.0%	81.2%	80.5%	80.2%	79.7%	79.7%	80.5%	81.6%	83.1%	84.3%	86.8%	89.7%	91.8%	94.4%	97.9%	101.2%	105.1%	109.0%
25th	—	76.0%	79.4%	74.8%	71.6%	68.9%	66.7%	65.0%	64.0%	63.4%	63.4%	63.4%	63.7%	64.7%	66.3%	67.9%	69.6%	71.3%	74.0%	76.0%	78.3%
10th	—	76.0%	76.4%	68.9%	63.9%	60.3%	56.5%	54.1%	52.3%	50.8%	50.2%	49.8%	49.1%	50.0%	50.5%	51.7%	53.0%	54.0%	56.4%	57.9%	60.2%
5th	—	76.0%	74.8%	65.7%	60.0%	55.6%	51.5%	48.2%	46.4%	44.9%	43.7%	42.7%	42.2%	42.4%	43.5%	43.5%	44.7%	45.9%	47.4%	49.4%	51.0%

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# UAL (Excluding Side Accounts)

At the 50<sup>th</sup> percentile, the UAL excluding side accounts is \$21.8 billion at year-end 2021, grows to \$23.5 billion at the end of 2024, then declines to less than \$0 by the end of 2037.

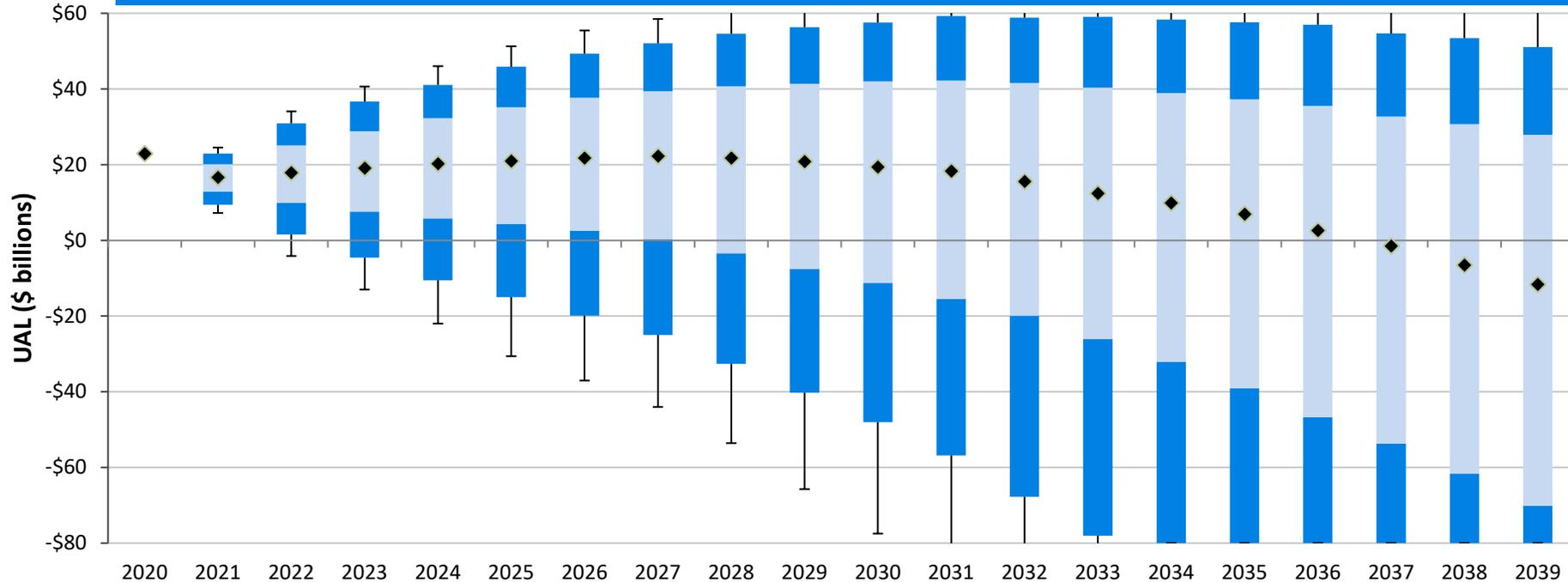


	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	
5th	—	28.0	29.1	37.7	43.4	47.9	52.4	55.9	58.8	61.7	63.7	65.6	67.2	67.8	67.8	68.3	67.6	66.9	65.9	64.5	62.9
10th	—	28.0	27.7	34.7	39.6	43.2	47.2	50.0	52.5	55.0	56.7	57.8	59.5	59.0	59.2	58.5	57.7	57.0	54.7	53.5	51.1
25th	—	28.0	25.0	29.2	32.3	34.9	37.0	38.7	39.9	41.2	41.8	42.4	42.5	41.9	40.6	39.1	37.4	35.6	32.7	30.7	27.9
50th	•	28.0	21.8	22.5	23.1	23.5	23.4	23.3	23.0	22.4	21.4	20.0	18.8	16.0	12.8	10.2	7.1	2.7	-1.5	-6.5	-11.6
75th	—	28.0	18.4	15.0	12.3	9.8	7.5	4.9	1.2	-2.6	-6.7	-10.6	-14.8	-19.3	-25.6	-31.6	-38.8	-46.5	-53.7	-61.7	-70.2
90th	—	28.0	15.0	7.2	0.9	-5.6	-10.9	-17.0	-23.9	-31.5	-39.2	-47.1	-55.9	-66.9	-77.3	-89.3	-102.1	-116.8	-129.8	-148.5	-161.1
95th	—	28.0	13.0	1.9	-7.1	-16.5	-25.7	-33.2	-42.8	-52.4	-64.5	-76.3	-89.4	-103.2	-117.8	-133.2	-154.9	-171.5	-193.3	-214.7	-238.2

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# UAL (Including Side Accounts)

At the 50<sup>th</sup> percentile, the UAL including side accounts is \$16.6 billion at year-end 2021, grows to \$22.3 billion at the end of 2027, then declines to less than \$0 by the end of 2037. Most side accounts will be fully amortized by the end of 2027.



	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	
5th	—	22.9	24.5	34.1	40.7	46.0	51.3	55.5	58.5	61.4	63.5	65.4	66.9	67.7	67.7	68.2	67.6	66.9	65.9	64.5	62.9
10th	—	22.9	23.0	30.9	36.7	41.1	45.9	49.4	52.1	54.6	56.4	57.5	59.3	58.8	59.1	58.4	57.7	57.0	54.7	53.5	51.1
25th	—	22.9	20.1	25.1	28.8	32.3	35.2	37.7	39.4	40.7	41.4	42.0	42.2	41.6	40.4	38.9	37.3	35.5	32.7	30.7	27.9
50th	—	22.9	16.6	17.9	19.1	20.3	21.0	21.8	22.3	21.8	20.9	19.4	18.3	15.6	12.4	9.9	6.9	2.6	-1.5	-6.5	-11.6
75th	—	22.9	13.0	9.9	7.6	5.8	4.3	2.5	0.3	-3.4	-7.5	-11.3	-15.5	-19.9	-26.1	-32.1	-39.0	-46.8	-53.7	-61.7	-70.2
90th	—	22.9	9.4	1.6	-4.5	-10.5	-15.0	-19.9	-25.0	-32.6	-40.2	-48.1	-56.9	-67.8	-78.0	-90.0	-102.6	-117.1	-129.8	-148.5	-161.1
95th	—	22.9	7.3	-4.1	-13.0	-22.0	-30.6	-37.1	-44.0	-53.6	-65.8	-77.5	-90.6	-104.2	-118.9	-134.0	-155.5	-172.1	-193.3	-214.7	-238.2

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# Variable Return Model Stress Test

- As in recent years, we also used the variable return model to do a “stress test” of the likelihood of certain events in the 10,000 scenarios modeled
  - Testing is done at a system-average level; results for individual rate pools or employers may vary
- The percentage of modeled scenarios with funded status above a specified threshold at the end of the projection period is shown below
  - Median funded status excluding side accounts at year-end 2020 was 70.6%

Likelihood of Funded Status Level as of 12/31/2039	
Funded Status (Excluding Side Accounts) > 100%	57%
Funded Status (Excluding Side Accounts) > 90%	65%
Funded Status (Excluding Side Accounts) > 80%	74%
Funded Status (Excluding Side Accounts) > 70%	82%
Funded Status (Excluding Side Accounts) > 60%	90%

# Variable Return Model Stress Test

- Median funded status excluding side accounts at year-end 2020 was 70.6%
- The likelihood of specified events occurring at some valuation date during the 20-year projection period is shown below

Likelihood of Event Occurring at Some Valuation Date in Next 20 Years	
Funded Status (Excluding Side Accounts) > 100%	72%
Funded Status (Excluding Side Accounts) < 60%	44%
Funded Status (Excluding Side Accounts) < 40%	9%

# Variable Return Model Stress Test

- The likelihood of specified events occurring at some valuation date during the 20-year projection period is shown below

Likelihood of Event Occurring at Some Valuation Date in Next 20 Years	
Employer Collared Base Rate (Excluding Retiree Healthcare) < 10% of Pay	30%
Employer Collared Base Rate (Excluding Retiree Healthcare) > 30% of Pay	51%
Employer Collared Base Rate (Excluding Retiree Healthcare) > 40% of Pay	21%

- The system-average employer base rate for the 2021-2023 biennium is about 24.5%, per the December 31, 2019 valuation

# Variable Return Model Stress Test

- As shown earlier, less than 10% of modeled scenarios show an increase in the collared rate above 3% of payroll at July 2023
- Table shows likelihood in the model of a collared rate increase exceeding a selected threshold at the July 2023 rate change

Likelihood of the July 2023 Collared Rate Increase Exceeding Threshold		
<u>Threshold Increase</u>	<u>Base Rate</u>	<u>Net Rate</u>
2% of Pay	15%	15%
3% of Pay	8%	8%
4% of Pay	3%	3%
5% of Pay	<1%	<1%

# Variable Return Model Stress Test

- Table shows likelihood in the model of a collared rate increase exceeding a selected threshold at the July 2025 rate change

Likelihood of the July 2025 Collared Rate Increase Exceeding Threshold		
<u>Threshold Increase</u>	<u>Base Rate</u>	<u>Net Rate</u>
2% of Pay	31%	28%
3% of Pay	26%	17%
4% of Pay	<1%	<1%
5% of Pay	<1%	<1%

## Wrap Up / Next Steps

- At the February 1, 2022 meeting, preliminary year-end 2021 investment results will be available
  - We can then comment as warranted on estimated impact on the 12/31/2021 actuarial valuation results, which will develop 2023 – 2025 contribution rates



# Appendix

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# Certification

This presentation summarizes deterministic and stochastic modeling for the Oregon Public Employees Retirement System (“PERS” or “the System”) over a 20-year period beginning December 31, 2020 under a wide range of potential economic scenarios. The results are based upon the same assumptions, methods, and plan provisions as described in the 2020 Experience Study and the forthcoming December 31, 2020 System-Wide Actuarial Valuation Report, except where noted otherwise.

In preparing this report, we relied, without audit, on information (some oral and some in writing) supplied by the System’s staff. 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 valuation results 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 our best estimate of anticipated experience affecting the System. The valuation results were developed using models intended for valuations that use standard actuarial techniques.

Future actuarial measurements may differ significantly from the current measurements presented in this report 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 or additional cost or contribution requirements based on the plan’s funded status); and changes in plan provisions or applicable law. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements. Our forthcoming December 31, 2020 Actuarial Valuation Report will provide additional discussion of the System’s risks. The PERS Board has the final decision regarding the appropriateness of the assumptions.

Actuarial computations presented in this report are for purposes of determining the recommended funding amounts for the System. The computations prepared for other purposes may differ as disclosed in our report. The calculations in the enclosed report have been made on a basis consistent with our understanding of the System’s funding requirements and goals. The calculations in this report have been made on a basis consistent with our understanding of the plan provisions described in the appendix of this report. Determinations for purposes other than meeting these requirements may be significantly different from the results contained in this report. Accordingly, additional determinations may be needed for other purposes.

This work product was prepared for discussion purposes only and may not be appropriate to use for other purposes. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Any recipient of this work product who desires professional guidance should engage qualified professionals for advice appropriate to its own specific needs.

# Certification

Milliman's work is prepared solely for the internal business use of the Oregon Public Employees Retirement System. To the extent that Milliman's work is not subject to disclosure under applicable public records laws, Milliman's work may not be provided to third parties without Milliman's prior written consent. Milliman does not intend to benefit or create a legal duty to any third-party recipient of its work product. Milliman's consent to release its work product to any third party may be conditioned on the third party signing a Release, subject to the following exception(s):

- (a) The System may provide a copy of Milliman's work, in its entirety, to the System's professional service advisors who are subject to a duty of confidentiality and who agree to not use Milliman's work for any purpose other than to benefit the System.
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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 retirement actuaries. 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 which are consistent with the principles prescribed by the Actuarial Standards Board and the *Code of Professional Conduct and Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States* published by the American Academy of Actuaries. We are members of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

# Appendix

## Actuarial Basis

### Data

We have based our calculation of the liabilities on the data supplied by the Oregon Public Employees Retirement System and summarized in the Valuation Report.

Assets as of December 31, 2020, were based on values provided by Oregon PERS reflecting the Board's earnings crediting decisions for 2020, as shown in the Valuation Report. Financial model projections reflect September 30, 2021 investment results for regular and variable accounts as published by Oregon State Treasury.

### Methods / Policies

*Actuarial Cost Method:* Entry Age Normal, adopted effective December 31, 2012.

*UAL Amortization:* The UAL for OPSRP and Retiree Health Care as of December 31, 2007 were amortized as a level percentage of combined valuation payroll over a closed 16-year period for OPSRP and a closed 10-year period for Retiree Health Care. For the Tier 1/Tier 2 UAL, the amortization period was reset at 20 years as of December 31, 2013. Senate Bill 1049 was signed into law in June 2019 and requires a one-time re-amortization of Tier 1/Tier 2 UAL over a closed 22-year period at the December 31, 2019 rate-setting valuation which will set actuarially determined contribution rates for the 2021-2023 biennium. Gains and losses between subsequent odd-year valuations are amortized as a level percentage of combined valuation payroll over the amortization period (20 years for Tier 1/Tier 2, 16 years for OPSRP, 10 years for Retiree Health Care) from the odd-year valuation in which they are first recognized.

For the Retiree Health Care programs (RHIA and RHIPA), beginning with the December 31, 2021 rate-setting valuation the amortization policy when a program is over 100% funded status will be to amortize the actuarial surplus over Tier 1/Tier 2 payroll using a rolling 20-year amortization basis. The resulting negative UAL Rate will offset the normal cost rate for the program, but not below 0.0%. If either program subsequently fell below 100%, the UAL would be amortized over combined payroll following the 10-year closed, layered amortization policy.

# Appendix

## Actuarial Basis

### Methods / Policies (cont'd)

**Contribution rate stabilization method:** The UAL Rate contribution rate component for a rate pool (e.g. Tier 1/Tier 2 SLGRP, Tier 1/Tier 2 School Districts, OPSRP) is confined to a collared range based on the prior biennium's collared UAL Rate contribution rate component (prior to consideration of side account offsets, SLGRP transition liability or surplus rates, or pre-SLGRP liability rate charges or offsets).

**Collar Width:** the rate pool's new UAL Rate contribution rate component will generally not increase or decrease from the prior biennium's collared UAL Rate contribution rate component by more than the following amount:

- Tier 1/Tier 2 SLGRP and Tier 1/Tier 2 School District Pool: 3% of payroll
- OPSRP: 1% of payroll
- Tier 1/Tier 2 rates for independent employers: greater of 4% of payroll or one-third of the difference between the collared and uncollared UAL Rate at the prior rate-setting valuation. In addition, the UAL Rate will not be allowed to be less than 0.00% of payroll for any Tier 1/Tier 2 independent employer with a funded status (excluding side accounts) less than 100%.

**UAL Rate decrease restrictions:** the UAL Rate for any rate pool will not be allowed to decrease if the pool's funded status is 87% (excluding side accounts) or lower; the allowable decrease will phase into the full collar width from 87% funded to 90% funded.

**Expenses:** System-wide administration expenses are assumed to be equal to \$59.0M. The assumed expenses are allocated between Tier 1/Tier 2 and OPSRP based on projected payroll and are added to the respective normal costs.

**Actuarial Value of Assets:** Equal to Market Value of Assets excluding Contingency and Tier 1 Rate Guarantee Reserves. The Tier 1 Rate Guarantee Reserve is not excluded from assets if it is negative (i.e. in deficit status). The Actuarial Value of Assets includes the value of Employee Pension Stability Accounts (EPSA).

### Assumptions

Assumptions for valuation calculations are as described in the 2020 Experience Study Report.

### Provisions

Provisions valued are as detailed in the forthcoming December 31, 2020 System-Wide Actuarial Valuation Report.

# Appendix

## Rate Projection Basis

### Assumptions

In general, all assumptions are as described in the 2020 Experience Study Report.

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

- Valuation interest rate – 6.90%
- Tier 1 Regular account growth – 6.90%
- Actual fund investment return – Varies by scenario according to capital market assumptions
- Variable account growth – Equal to investment return on public equity portion of the fund
- Inflation assumption – 2.40%
- Inflation experience – Varies by scenario according to capital market assumptions
- Wage growth assumption – 3.40%
- Wage growth experience – 1.00% greater than inflation experience
- Demographic experience – as described in 2020 Experience Study Report
- New entrant experience – New members are assumed to be hired at the rate necessary to keep the total number of members in each job class (General Service, School District, Police & Fire, and Judges) constant over the duration of the projection. All new entrants other than judges are assumed to join as OPSRP members. New entrant pay is assumed to grow at the rate necessary for overall system payroll to increase with wage growth experience, as described above.

# Appendix

## Rate Projection Basis

### Reserve Projection

Contingency Reserve as of 12/31/2020 was \$50.0M. No future increases or decreases to this reserve were assumed.

The Tier 1 Rate Guarantee Reserve (“RGR”) was \$526.8 M as of 12/31/2020. The RGR was assumed to grow with excess returns above the 6.90% target growth on Tier 1 Member Accounts. When modeled aggregate returns were below 6.90%, applicable amounts from the RGR were assumed to transfer to Tier 1 Member Accounts to maintain the 6.90% target growth rate. The RGR is allowed to be negative, but the reserve is not excluded from valuation assets when it is negative. We did not include in rates any potential additional employer levy that could be required to eliminate a persistent negative RGR.

### Offset for Member Redirect Contributions

Under Senate Bill 1049, a portion of the 6% of pay member contribution previously made to the IAP was redirected to fund Tier 1/Tier 2 and OPSRP defined benefits beginning July 1, 2020. For Tier 1/Tier 2 members, the redirected amount will be 2.50% of pay, and for OPSRP it will be 0.75% of pay. Members with less than \$2,500 in monthly pay (indexed in future years) will be exempt from the redirection.

For the rate projection, member redirect contributions are assumed to offset the contribution rates paid by employers beginning with the July 2021 – June 2023 biennium. The offset is assumed to be 2.40% of total payroll for Tier 1/Tier 2 and 0.65% of total payroll for OPSRP.

Redirected member contributions are assumed to cease in a biennium following a rate-setting valuation where the funded status, including side accounts, is 90% or greater.

### Work After Retirement Contributions

Under Senate Bill 1049, starting in 2020 and ending December 31, 2024, employers are required to pay PERS contribution rates on rehired retiree payroll. For 2021, rehired retiree payroll was assumed to be approximately \$177.8 for Tier 1/Tier 2 members and \$5.6 million for OPSRP members. After 2021, rehired retiree payroll was assumed to increase with the wage growth assumption.

# Appendix

## Rate Projection Basis

### Capital Market Model

For each 20-year projection, we ran 10,000 stochastic scenarios for inflation and asset class rates of return. The scenarios were calibrated to represent Milliman's capital market assumptions in terms of expected average real returns, the expected year-to-year volatility of the returns, and the expected correlation between the returns of different asset classes. Annual rates of return for each of the asset classes and inflation are generated from a multivariate lognormal probability distribution. Rates of return are independent from year to year.

The variable return model includes 10,000 projected scenarios for possible future year-by-year system investment returns and levels of inflation. In developing that model, per Actuarial Standards of Practice we disclose reliance upon a Milliman colleague who is a credentialed actuary and also a credentialed investment professional with expertise in preparing capital outlook modeling. We reviewed overall model results for reasonability while, as part of his work, our investment professional colleague reviewed the investment projections for internal consistency.

For this purpose, we considered the Oregon PERS Fund to be allocated among the model's asset classes as shown on the following slide. This allocation is based on input provided by Meketa (OIC's primary consultant) and reflects changes to the OIC's target allocation for the Oregon PERS fund adopted in June 2021.

# Appendix

## Rate Projection Basis

### Capital Market Model

Reflects Milliman's capital market assumptions as of July 1, 2021.

	<b>Annual Arithmetic Mean</b>	<b>20-Year Annualized Geometric Mean</b>	<b>Annual Standard Deviation</b>	<b>Policy Allocation</b>
Global Equity	7.94%	6.57%	17.81%	30.625%
Private Equity	12.39%	8.77%	30.00%	25.500%
Real Estate	6.76%	5.87%	14.24%	12.250%
US Core Fixed Income	3.41%	3.34%	3.96%	23.750%
Hedge Fund – Macro	4.48%	4.16%	8.51%	5.625%
Hedge Fund – Equity Hedge	6.54%	5.88%	12.29%	0.625%
Hedge Fund – Multistrategy	5.91%	5.53%	9.25%	1.250%
Infrastructure	7.57%	6.28%	17.24%	1.500%
Commodities	4.18%	2.95%	16.54%	0.625%
Master Limited Partnerships	8.72%	5.76%	26.58%	0.750%
US 3-Month T-Bills	1.93%	1.92%	1.13%	(2.50%)
US Inflation (CPI-U)	2.41%	2.40%	1.16%	<b>N/A</b>
<b>Fund Total (reflecting asset class correlations)</b>	<b>7.75%</b>	<b>6.95%*</b>	<b>13.50%</b>	<b>100.00%</b>

\* The model's 20-year annualized geometric median is 6.91%.

# Retirement System Risks

- Oregon PERS, like all defined benefit systems, is subject to various risks that will affect future system liabilities and contribution requirements, including:
  - **Investment risk:** the potential that investment returns will be different than assumed
  - **Demographic risks:** the potential that mortality experience, retirement behavior, or other demographic experience for the system membership will be different than assumed
  - **Contribution risk:** the potential that actual future contributions will be materially different than expected, for example if there are material changes in the system's covered payroll
- The results of an actuarial valuation are based on one set of reasonable assumptions, but it is almost certain that future experience will not exactly match the assumptions.
- Further discussion of system risks and historical information regarding system experience are shown in our annual actuarial valuations. In addition, our annual financial modeling presentation to the PERS Board illustrates future outcomes under a wide range of future scenarios reflecting variation in key risk factors.

## Action and Discussion Items

1. SB 1049 Implementation Update
2. Equal to or Better Than Testing
3. 2020 Valuation Update and Financial Modeling Results
4. Adoption of Actuarial Equivalency Factor Tables



# Oregon

Kate Brown, Governor

## Public Employees Retirement System

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December 3, 2021

TO: Members of the PERS Board  
FROM: Kevin Olineck, Director  
SUBJECT: Adoption of Actuarial Equivalency Factor Tables

### BOARD OPTIONS

The Board may:

1. Pass a motion to “Adopt the Actuarial Equivalency Factor Tables, as prepared by Milliman, based on the board adopted changes to the actuarial methods and assumptions as presented by Milliman in the 2020 Experience Study, including setting the assumed rate at 6.9%.
2. Direct Milliman to review one or more of their recommended changes and return with recommendations that more closely align with the Board’s direction.

### STAFF RECOMMENDATION

Staff recommends that the PERS Board choose Option #1 above.

Attachment 1 – *Actuarial Equivalency Factors*



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October 22, 2021

## VIA E-MAIL

Jake Winship  
Actuarial Manager  
Oregon PERS

### Re: Actuarial Equivalency Factors Proposed Effective January 1, 2022

Dear Jake:

On October 1, 2021, the Board adopted actuarial assumptions and methods to be used in the December 31, 2020 and December 31, 2021 actuarial valuations. The adopted assumptions include an update to the valuation mortality tables and to the assumed earnings rate. This letter provides new actuarial equivalency factors for ORS Chapter 238 and ORS Chapter 238A proposed to be effective January 1, 2022, reflecting the updates to the mortality assumptions, along with the assumed earnings rate of 6.90% adopted by the Board.

As directed by PERS, we have used a COLA of 1.80% where noted in developing these factors. This is a rounded estimate of the benefits-weighted average COLA for recent new retirees, and reflects a blend of the 2.00% COLA provided for service prior to October 2013 and the lower 1.25%/0.15% COLA provided for later service. Over time the average COLA is expected to decrease as post-October 2013 service becomes a large share of total service for new retirees.

The mortality tables for healthy members and beneficiaries are "generational", meaning there are different rates for members who have different years of birth, with lower mortality for members who have later years of birth. This means that, even if the mortality assumption for the actuarial valuation does not change in the future, it will be necessary to update these tables periodically since the factor tables used by PERS in administering the program are based on ages rather than years of birth.

We understand it is the Board's intention to review and update the factors every two years, to coincide with the experience study. Therefore, these factors are proposed to be effective for determination dates during 2022 and 2023.

### WEIGHTING FACTORS TO DEVELOP UNISEX MORTALITY BASIS

In the December 31, 2020 valuation, there are six separate mortality tables that apply to healthy retirees based on sex and membership classification, two tables that apply to disabled retirees, and two tables that apply to beneficiaries. Federal law requires the use of unisex factors for actuarial equivalence factors used to determine benefit amounts. For determining actuarial equivalency factors, a single blended mortality basis is used for Tier 1, Tier 2, and OPSRP. For most factors that use a mortality basis, separate blended tables are developed for healthy members, beneficiaries, and disabled members.

Offices in Principal Cities Worldwide

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The blended mortality tables are developed by weighting each separate mortality table by the percentage of liabilities attributed to each sex/classification group for all active and dormant members in the most recently published valuation. Unless indicated otherwise, the mortality tables and weightings shown below are used in the development of all actuarial equivalency factors:

#### HEALTHY RETIREE MORTALITY WEIGHTING FACTORS

Sex/Classification Group	Mortality Table	Weighting Factor
General Service Males	Pub-2010 Male Healthy Retiree, General Employees, Generational with Unisex Social Security Data Scale, set back 12 months	25.0%
Police & Fire Males	Pub-2010 Male Healthy Retiree, Public Safety, Generational with Unisex Social Security Data Scale, no set back	12.5%
School District Males	Pub-2010 Male Healthy Retiree, Blended 80% Teachers, 20% General Employees, Generational with Unisex Social Security Data Scale, no set back	10.0%
General Service Females	Pub-2010 Female Healthy Retiree, General Employees, Generational with Unisex Social Security Data Scale, no set back	27.5%
Police & Fire Females	Pub-2010 Female Healthy Retiree, Public Safety, Generational with Unisex Social Security Data Scale, set back 12 months	2.5%
School District Females	Pub-2010 Female Healthy Retiree, Teachers, Generational with Unisex Social Security Data Scale, no set back	22.5%

#### DISABLED RETIREE MORTALITY WEIGHTING FACTORS

Sex	Mortality Table	Weighting Factor
General Service Males	Pub-2010 Male Non-Safety Disabled Retiree Generational with Unisex Social Security Data Scale, set forward 24 months	35.0%
Police & Fire Males	Pub-2010 Male Blended 50% Public Safety, 50% Non-Safety Disabled Retiree Generational with Unisex Social Security Data Scale, no set back	12.5%
General Service Females	Pub-2010 Female Non-Safety Disabled Retiree Generational with Unisex Social Security Data Scale, set forward 12 months	50.0%
Police & Fire Females	Pub-2010 Male Blended 50% Public Safety, 50% Non-Safety Disabled Retiree Generational with Unisex Social Security Data Scale, no set back	2.5%

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### BENEFICIARY MORTALITY WEIGHTING FACTORS

Sex	Mortality Table	Weighting Factor
Males	Pub-2010 Male Healthy Retiree, General Employees, Generational with Unisex Social Security Data Scale, set back 12 months	52.5%
Females	Pub-2010 Female Healthy Retiree, General Employees, Generational with Unisex Social Security Data Scale, no set back	47.5%

### ACTUARIAL EQUIVALENCY FACTOR TABLES

There are many actuarial equivalency factor tables provided as part of this letter. The following chart summarizes the tables provided, and indicates which tables apply to healthy and disabled members, as well as to Tier 1/Tier 2 and OPSRP. Descriptions of the tables and the assumptions used are detailed in the remainder of this letter. **Note that these tables should not be combined or altered to produce other factors. Each table contains a description of how the table should be used in calculations. If you are unsure of how to use the tables or require additional tables for other purposes, such as converting from a single life annuity to a 15-year certain and life annuity, please let us know and we will provide the appropriate factors.**

Actuarial Equivalency Factor Table	Tier 1/Tier 2		OPSRP	
	Healthy	Disabled	Healthy	Disabled
Early Retirement Reduction Factors	Table 1	N/A	Table 1	N/A
Refund Annuity Conversion Factors (Option 0)	Table 2a	Table 2b	N/A	N/A
Non-Refund Life Annuity Conversion Factors (Option 1)	Table 3a	Table 3b	N/A	N/A
15-Year Certain and Life Annuity Conversion Factors (Option 4)	Table 4a	Table 4b	N/A	N/A
Option 4 death benefit (conversion of remaining benefit to a lump sum)	Table 5	Table 5	N/A	N/A
Joint & Survivor Conversion Factors	Tables 6a, 7a, 8a, 9a	Tables 6b, 7b, 8b, 9b	Tables 6a, 7a, 8a, 9a	Tables 6b, 7b, 8b, 9b,
Police & Fire Unit purchases	Tables 10-12	Tables 10-12	N/A	N/A
Full Cost factors for purchasing service	Tables 13a, 14-15, 16a	Tables 13b, 14-15, 16b	N/A	N/A

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Actuarial Equivalency Factor Table	Tier 1/Tier 2		OPSRP	
	Healthy	Disabled	Healthy	Disabled
Lump Sum Cash Out Factors	N/A	N/A	Tables 17-19	Not provided
Lump Sum Cash Out Factors - Beneficiaries	Table 20	Not provided	Table 20	Not provided
Spouse Death Benefit Conversion Factors	Tables 21-22	Tables 21-22	Tables 21-22	Tables 21-22
OPSRP QDRO Factors	N/A	N/A	Tables 23-24	Tables 23-24
Single Life Annuity with COLA	Table 25a	Table 25b	Table 25a	Table 25b

**TABLE 1: EARLY RETIREMENT REDUCTION FACTORS**

Members may elect to receive a reduced retirement benefit prior to their Normal Retirement Dates if they qualify for early retirement. The reduction for early retirement does not apply to Money Match benefits as the reduction is included in the factors used to convert the account balance to an annuity. Normal and Early Retirement Dates vary by Tier and member classification as follows:

Classification	Normal Retirement Date	Early Retirement Date
Tier 1 General Service	Earlier of age 58 or 30 years of service	Age 55
Tier 2 General Service	Earlier of age 60 or 30 years of service	Age 55
OPSRP General Service	Earlier of age 65 or age 58 and 30 years of service	Age 55
Tier 1/Tier 2 Police & Fire	Earlier of age 55 or age 50 and 25 years of service or 30 years of service	Age 50
OPSRP Police & Fire	Earlier of age 60 or age 53 and 25 years of service	Age 50

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The current and recommended new early retirement factors are shown below.

Years prior to Normal Retirement Date	Current Early Retirement Factors	Recommended Early Retirement Factors as of 1/1/2022
1 <sup>st</sup> year	Reduced 8.4%	Reduced 8.2%
2 <sup>nd</sup> year	Reduced 7.6%	Reduced 7.4%
3 <sup>rd</sup> year	Reduced 6.9%	Reduced 6.7%
4 <sup>th</sup> year	Reduced 6.3%	Reduced 6.2%
5 <sup>th</sup> year	Reduced 5.7%	Reduced 5.6%
6 <sup>th</sup> year	Reduced 5.3%	Reduced 5.2%
7 <sup>th</sup> year	Reduced 4.8%	Reduced 4.7%
8 <sup>th</sup> year	Reduced 4.3%	Reduced 4.3%
9 <sup>th</sup> year	Reduced 3.9%	Reduced 3.9%
10 <sup>th</sup> year	Reduced 3.6%	Reduced 3.6%

The Early Retirement Factors (ERFs) shown above that are effective January 1, 2022 reflect the new mortality assumptions, but reflect the same graded structure that was introduced with the ERFs effective January 1, 2016. Prior to that time, a simplified structure was used.

Under this graded structure, the ERF for a member is based on a combination of factors from the table, depending on the period by which the member's retirement precedes the Normal Retirement Date. For example, the ERF for an OPSRP member with a Normal Retirement Age of 65 who retires at age 62 is 77.7 percent (100 percent minus 8.2 percent minus 7.4 percent minus 6.7 percent).

These factors should be periodically reviewed to ensure that the reductions continue to provide benefits that are approximately actuarially equivalent as mortality rates improve.

#### TABLES 2-4: ANNUITY CONVERSION FACTORS FOR TIER 1/TIER 2

Actuarial equivalency factors are used to convert member account balances to one of three annuity amounts: refund annuity, non-refund (single life) annuity, or a 15-year certain & life annuity. **These factors do not include the value of the COLA, and therefore should not be used for any purpose other than converting member accounts to these benefit forms.**

#### TABLE 5: TIER 1/TIER 2 OPTION 4 DEATH BENEFIT

For a retired member with an Option 4 benefit who dies before 180 payments have been made, these factors are used to convert the remainder of the 180 payments to a lump sum payable to

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the beneficiary. These factors are based on interest only, with no mortality, and do not include the value of the COLA, consistent with historical plan administrative practice.

#### **TABLES 6-9: CONVERSION TO JOINT & SURVIVOR FORMS**

Members have the option of electing an optional form of benefit that provides a survivor benefit equal to 50 percent or 100 percent of the member's benefit. The actuarial equivalency factors are used to ensure that the optional form of benefit has the same value as the single life annuity (Option 1). These factors do include the value of the COLA. Tables 6a, 7a, 8a, and 9a are to be used for healthy retired members. Factors are provided for retirees between the ages of 45 and 100 with beneficiaries between the ages of 0 and 110. If a member/beneficiary age combination falls outside of this range, please contact us so that we can provide the correct conversion factor.

Tables 6b, 7b, 8b, and 9b are to be used for disabled retired members. Factors are provided for retirees between the ages of 20 and 75 with beneficiaries between the ages of 0 and 110. If a member/beneficiary age combination falls outside of this range, please contact us so that we can provide the correct conversion factor.

These tables are structured by age difference between retiree and beneficiary. If you would like the tables in a different format, please let us know.

Please note that if a member selects a non-spouse beneficiary who is more than 10 years younger than the member, the 100 percent survivor benefit requires adjustment to comply with required minimum distribution rules under IRS regulation 1.401(a)(9)-6. Please let us know if you would like to discuss.

#### **TABLES 10-12: TIER 1/TIER 2 POLICE & FIRE ADDITIONAL UNITS**

Tier 1/Tier 2 Police & Fire members have the option of purchasing "units" which provide an additional benefit at retirement. The police and fire additional unit factors are based on interest, with no mortality. Unit benefits do not receive COLA increases, so no COLA assumption is reflected in these factors.

#### **TABLES 13-16: TIER 1/TIER 2 FULL COST FACTORS FOR PURCHASING SERVICE**

Tier 1/Tier 2 members have the option of purchasing certain periods of service by contributing the "full cost" of the increased benefit. The current methodology for full cost purchases was determined in the late 1990s. As part of this year's update, we reviewed that methodology and confirmed its continued appropriateness and reasonability, while relying on our understanding of PERS' historical plan administrative practices for the methodology used in these calculations. We updated the tables to reflect the updated interest and mortality assumptions.

#### **TABLES 17-20: TIER 1/TIER 2 AND OPSRP LUMP SUM DISTRIBUTIONS**

Members or beneficiaries may receive a lump sum distribution from OPSRP in certain situations. Separate lump sum factors are to be used for members who have not yet met the

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Early Retirement criteria and members who are at or beyond their Earliest Retirement Date. To calculate the lump sum for a member who has not yet met the Early Retirement criteria, the normal retirement benefit is multiplied by the appropriate factor from Table 17 or 18. Different tables are required for General Service and Police & Fire due to differing Normal Retirement Ages for General Service and Police & Fire members.

To calculate the lump sum for members who are at or beyond their Earliest Retirement Date, the early retirement benefit (equal to the normal retirement benefit times the early retirement reduction factor from Table 1) is multiplied by the appropriate factor from Table 19.

To calculate the death benefit lump sum for a beneficiary of a Tier 1/Tier 2 or OPSRP member, the death benefit must first be calculated and then multiplied by the factor from Table 20.

As discussed with PERS in the past, we have not provided lump sum factor tables for disabled members who could potentially be eligible for a lump sum distribution at retirement age. We believe it is very unlikely that a disability retirement benefit will meet the requirements for a lump sum distribution. In the event that a disability retirement benefit is less than \$200 per month, please contact us and we will provide the appropriate factor.

In our reading, statute indicates that the cash out for a vested terminated member does not include the value of the COLA. However, in our reading statute does not specify if the lump sum cash out factors for small benefits at retirement eligibility should include the value of the COLA. In keeping with our understanding of prior plan administrative practice by PERS, the lump sum factors provided do not include the value of the COLA. Please let us know if these factors should include the value of the COLA.

#### **TABLES 21-22: TIER 1/TIER 2 AND OPSRP DEATH BENEFIT**

Upon the death of a vested non-retired OPSRP member, a benefit is payable to the member's spouse. With the enactment of Senate Bill 111 in June 2021, the amount of the benefit now varies depending on whether or not the member died before their earliest retirement date.

- If the member died prior to early retirement eligibility, the benefit is a life annuity for the spouse that is actuarially equivalent to 50 percent of the benefit the member would have received if the member had terminated employment on the date of death and retired as of the earliest retirement date.
- If the member died on or after their early retirement eligibility, the benefit is a life annuity for the spouse that is actuarially equivalent to 100 percent of the benefit the member would have received if the member had retired on the first day of the month following the date of the member's death.

For Tier 1/Tier 2 members who die while active or within 120 days after termination with a participating employer, their surviving spouse may elect to receive the benefit described above in lieu of death benefits provided under ORS 238.390.

Table 21 is used to convert the monthly benefit that would have been payable to the member to a monthly benefit payable to the spouse as of the date at which the member would have

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commenced receipt of the benefit. If the member was not eligible for early retirement, a factor of 50% should also be applied. Table 22 is used to convert the spouse benefit so determined to a different commencement age. This is necessary since the spouse is not required to commence benefits at the date utilized in Table 21.

Since the statutes are not clear, in the past we asked for guidance from PERS as to whether separate tables should be provided for calculating the death benefit for a member who was receiving the temporary disability benefit prior to normal retirement age. We understand that the same tables for reducing the benefit for early retirement and converting the member's benefit to a spouse's benefit should apply to both healthy and disabled members. If PERS' administrative interpretation differs from that understanding, please contact us and we will provide a separate table for disabled members.

#### **TABLES 23-24: OPSRP QDROs – IMMEDIATE**

These tables are used to separate OPSRP benefits into Member and Alternate Payee components in an actuarially equivalent manner. Tables 23 and 24 are based on member mortality or beneficiary mortality, respectively, and have thus been updated to reflect the change in mortality rates.

#### **TABLE 25: SINGLE LIFE ANNUITY WITH COLA**

These tables may be used to determine an actuarially equivalent present value for a benefit which includes a COLA. Table 25a is to be used for healthy retired members, while Table 25b is for disabled retired members. Our understanding is that these tables will be used to estimate the present value of overpayments arising when the data verification process leads to a benefit being paid in excess of the statutory benefit formulas. The factors in these tables should be multiplied by the total dollar amount of the monthly overpayment. These factors do include the value of the COLA, and therefore should not be used for converting member accounts to the Option 1 benefit form.

#### **DATA, METHODS, PLAN PROVISIONS AND ASSUMPTIONS**

The assumptions used in developing the actuarial equivalency factors are the same as those in the December 31, 2020 Experience Study, published July 20, 2021, including an interest assumption of 6.90 percent per year. All factors, unless otherwise noted, include the value of an assumed 1.80 percent annual COLA.

The weighting of separate mortality tables to produce a blended mortality table was based on liabilities attributed to each sex/classification group for all active and dormant members in the December 31, 2019 actuarial valuation, dated September 17, 2020. Other than the exceptions and additions discussed in this letter, the data, methods, assumptions, and plan provisions used in the December 31, 2019 system-wide actuarial valuation report were also used for this analysis. That information, including a discussion of the inherent limitations of use of actuarial valuation results, is herein incorporated to this letter by reference.

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Jake Winship  
October 22, 2021  
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We updated the existing actuarial equivalency factor tables as described in this letter, relying on our understanding of prior PERS administrative practices to indicate the appropriate statutory interpretations and procedures for certain calculations.

Our analysis and conclusions are based on our understanding of the request and the data, methods and assumptions described above. Differences in the data, methods, assumptions and interpretations of the plan provisions may produce different results.

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The consultants who worked on this assignment are retirement actuaries. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

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

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

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 which are consistent with the principles prescribed by the Actuarial Standards Board and the *Code of Professional Conduct and Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States* published by the American Academy of Actuaries. We are members of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

Sincerely,



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



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

MRL:SDP:lre  
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