

## **Work After Retirement Information for Tier One/Tier Two Retirees**

Oregon statute imposes certain restrictions on members who work for PERS covered public employers after retirement. The following paragraphs describe these rules for service retirees. Different rules apply to members who retired due to disability.

If you return to employment with a private employer or non-PERS covered public employer, your PERS retirement benefits will continue unchanged. PERS does not limit the hours you may be employed or the amount of money you can earn from a private or non-PERS covered employer.

### **Tier One/Tier Two Retirees Who Elect a Total Lump-Sum Option (will NOT receive a monthly retirement allowance)**

**NOTE: RULES FOR TOTAL LUMP-SUM RETIREES WILL CHANGE JANUARY 1, 2010 (see below).**

If you select the total lump-sum retirement option as a Tier One/Tier Two retiree and return to work in a PERS-covered position, you can work up to 599 hours within the first six months following your retirement date without having to repay benefits, IF you are designated by your employer as a [casual, emergency, or seasonal worker \(OAR 459-005-0001\)](#).

If you **ARE** designated a [casual, emergency, or seasonal worker \(OAR 459-005-0001\)](#) and you return to a PERS-covered position and exceed 599 hours in the first six months after retirement, your retirement will be canceled, and you will become an active member. You must then repay the entire total lump sum retirement benefit you received.

If you are **NOT** designated a [casual, emergency, or seasonal worker \(OAR 459-005-0001\)](#) and you return to a PERS-covered position in the first six months after retirement, your retirement will be canceled, and you will become an active member. You must then repay the entire total lump sum retirement benefit you received.

Once the six-month period ends, you can work unlimited hours without having to repay benefits, but when you exceed 599 hours in a calendar year you will again become an active member. Employee/employer contributions to PERS will resume at that time. When you subsequently leave active membership, you must re-apply for any additional retirement benefits.

Currently the 1,039-hour limitation and exceptions provided under ORS 238.082 for retirees receiving a monthly retirement allowance do not apply to retirees who elected a total lump-sum option. **Effective January 1, 2010 total lump-sum retirees will be subject to the same work after retirement limitations as retirees who are receiving a monthly allowance. Even if you are allowed to work unlimited hours under the current total lump sum rules, you will be subject to the 1,039-hour limitation beginning January 1, 2010.** A retiree who exceeds the limitation will return to active membership, but will not have to repay any total lump sum benefit received unless the member exceeds the 1,039-hour limitation in the first six months after retirement. A retiree who elected to receive their total-lump sum benefit in installments and is scheduled to receive installments after January 1, 2010, will continue to receive installments unless the member exceeds the limitation. Installment payments will cease when the limitation is exceeded.

***IMPORTANT: The current total lump-sum rules remain in effect through December 31, 2009. The change to the new rules in January 2010 will not “fix” any violation that occurs in 2009.***

**Tier One/Tier Two Retirees Who Elect a Retirement Option Other Than a Total Lump-Sum Option, But Receive a Lump-Sum Payment In Lieu of a Monthly Allowance**

**NOTE: RULES FOR AGGREGATE SUM REFUND RETIREES WILL CHANGE JANUARY 1, 2010 (see below).**

If you are a Tier One/Tier Two member who elects a service retirement allowance, but your monthly allowance is less than \$200 per month, by statute you will receive instead a single lump-sum payment equal to the actuarial value of your retirement benefit. This is called an Aggregate Sum Refund (AS Refund). If you receive an AS Refund you are subject to the same work after retirement restrictions as a member who elected the total lump-sum option. Those restrictions are outlined in the section immediately above.

**Currently the AS Refund rules are same as the rules for a total lump-sum. These rules will also change to the 1,039-hour limitation. Even if you are allowed to work unlimited hours under the current AS Refund rules, you will be subject to the 1,039-hour limitation beginning January 1, 2010.** A retiree who exceeds the limitation will return to active membership, but will not have to repay any AS Refund benefit received unless the member exceeds the 1,039-hour limitation in the first six months after retirement.

***IMPORTANT: The current AS Refund rules remain in effect through December 31, 2009. The change to the new rules in January 2010 will not “fix” any violation that occurs in 2009.***

**Tier One/Tier Two Retirees Who Elect a Retirement Option Other Than a Total Lump-Sum Option (will receive a monthly retirement allowance)**

**NOTE: EFFECTIVE JANUARY 1, 2010, THESE RULES WILL APPLY TO ALL TIER ONE/TIER TWO RETIREES, REGARDLESS OF RETIREMENT OPTION.**

If you are a Tier One/Tier Two member who elects a service retirement allowance, you may be employed by a participating public employer without loss of benefits as long as the period or periods of employment by one or more participating public employers do not exceed 1,039 hours in a calendar year. Please note that hours are counted in the year in which you performed the service, not in the year in which the hours were reported.

You can work for an employer or in a position that is excluded from the 1,039 rule (these exceptions are shown below). By keeping under the 1039-hour limit or working under an exception to the rule, you will retain your status as a PERS retired member and will continue to receive monthly retirement benefits. You will not accrue any new benefits under either PERS or OPSRP for employment while you retain your status as a retired member.

***IMPORTANT:*** 2009 legislation provides that hours worked under an exception to the 1,039-hour limitation are not counted toward the limitation. For example, if you are working under an exception for Employer A and concurrently working under the 1,039-hour limitation for Employer B, only the hours worked for Employer B are counted toward the 1,039-hour limitation. This change is retroactive and effective immediately. It applies to all hours worked under an exception on or after January 1, 2004.

**Exceptions to the 1,039 Hour Rule ([view exceptions in table format](#))**

If you are a Tier One/Tier Two retiree receiving a monthly retirement allowance and are re-employed as follows, the 1,039-hour limitation does not apply to that employment, and you may

work any number of hours in that position. **Unless noted otherwise**, these exceptions are not available if you are a Tier One General Service member who retired before age 58 or a Tier Two General Service member who retired before age 60 unless you qualified for retirement with 30 or more years of service. The exceptions are also not available if you are a Tier One and Tier Two police and firefighter member who retired before age 55 unless you qualified for retirement with 25 or more years of service.

- As a teacher or administrator employed by a community college district or school district located in a county with a population of not more than 35,000 inhabitants. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date.
- As a teacher or administrator employed by an education service district (ESD), and the primary duties of the retired employee are performed in a county with 35,000 or less inhabitants. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date.
- As a speech-language pathologist or speech-language pathologist assistant employed by a school district or ESD. Members who took early retirement are eligible for this exception provided they are not employed in the position until at least six months after their effective retirement date. This exception ends January 2, 2016.
- By the Sheriff of a county with a population of fewer than 75,000 inhabitants,
- By the municipal police department of a city with less than 15,000 inhabitants,
- By the State or a county for work in a correctional institution located in a county with less than 75,000 inhabitants,
- By the Oregon State Police for work in a county with less than 75,000 inhabitants,
- By the Black Butte Ranch Rural Fire Protection District, the Black Butte Ranch Service District or the Sunriver Service District,
- By any participating employer if the retired member is employed to temporarily replace an employee serving in the National Guard or in a reserve unit of the United States Armed Forces who is called to federal active duty,
- By a road assessment district organized under ORS 371.405-.535,
- Is on active state duty in the organized militia and has reached normal retirement age.
- As Director of the Department of Human Services or Assistant Director if the Governor approves the exception for the specific person in the position,
- The retired member is a nurse and employed as a nurse or to teach nursing during a nursing workforce shortage declared by the Governor or Legislative Assembly,
- The retired member is a registered nurse employed as a nursing instructor. This exception ends January 2, 2016,
- By the Legislative Assembly or the Oregon State Police for service during a legislative session,
- By the Department of Public Safety Standards and Training to provide training under ORS 181.610 – 181.712. This exception ends January 2, 2016.

*NOTE: The latest federal decennial census is for the year 2000. Population figures from the 2000 census are used to determine the applicability of certain exceptions to the 1039-hour limitation.*

*CAUTION: Current estimated population and year 2000 population figures are available at: <http://quickfacts.census.gov/qfd/states/41000.html>. BE SURE that you use the year 2000 population figures, NOT the population estimates.*

### **Social Security Exceptions to the 1,039 Hour Rule**

Tier One or Tier Two retirees who have reached full retirement age under Social Security may work an unlimited number of hours. Remember that full retirement age under Social Security varies by birth date.

Tier One or Tier Two retirees who are receiving Social Security benefits and have not reached full retirement age under Social Security may work either 1,039 hours in a calendar year or, if greater, the total number of hours, at the retiree's hourly rate of pay, that would not exceed the annual earnings limit set by the Social Security Administration.

The Social Security Administration annually establishes the calendar year earnings limits for recipients of Social Security benefits. Annual changes to earnings limits established by the Social Security Administration are not effective for Tier One or Tier Two retirees until PERS amends its administrative rule that specifies the limits. Effective January 1, 2009, the Board has adopted the following limits:

- For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is \$14,160.
- For the calendar year in which the retired member reaches full retirement age under the Social Security Act and only for compensation for the months before reaching full retirement age, the annual compensation limit is \$37,680.

### **Working More Than 1,039 Hours in a PERS-Covered Position**

As a Tier One or Tier Two retiree, if you return to public employment and exceed the 1,039-hour or Social Security limits explained above, and your employment continues into the month following the month in which you exceeded the limits, your PERS benefits cease. Your retirement benefits will be stopped as of the first of the calendar month following the date the limit was exceeded. Your PERS Tier One or Tier Two account will be rebuilt, adjusted for benefits received, and credited with any applicable interest while you are employed. When you re-retire, your benefit will be calculated based on the Tier One or Tier Two program laws and administrative rules in place at that time.

Once you exceed the 1,039-hour limit in a calendar year, your retirement is canceled. You cannot begin the new calendar year and expect to work 1,039 hours again. For example, a retiree who works 1,050 hours by the middle of December and continues employment into the next month becomes active again and benefits will be stopped as of January 1. Your retirement benefits will not re-start until you separate from covered employment and reapply for retirement benefits.

### **Elected or Appointed Officials: Tier One or Tier Two Retirees as Elected Officials or Appointed Officials**

An "Elected Official" is a person who is elected to a full-time salaried office of the state or a participating political subdivision of the state. An "Appointed Official" is a person who is

appointed to a full-time salaried office with a fixed term. “Elected Official” and “Appointed Official” do not include a member of the Legislative Assembly.

If you are a Tier One or Tier Two retiree who is an elected or appointed official, your employment is **NOT** subject to the 1,039-hour limitation. Instead, your retirement benefits cease once you take office and will not be paid for your entire term of office. Once the term is over, you may re-apply for benefits. The benefits will be re-computed based on your age, account balance, and other calculation factors in effect at the time you re-retire.

If you are an elected or appointed official who is a retired Tier One or Tier Two member, you may elect to become an active a Tier One or Tier Two member by giving the PERS Board written notice within 30 days after taking office. This election is irrevocable during the term of office for which the election is made. Even if you do not make this election, your retirement benefits will still cease unless you qualify for the exception below.

There is one exception for retired Tier One or Tier Two members who did not retire under the early retirement provisions of ORS 238.280(1), (2), or (3). If you are elected or appointed as a sheriff, judge, or commissioner in a county with a population of less than 75,000, you may continue to receive retirement benefits during your term of office as long as you do not elect to become an active member. The benefit will continue during and after the term of office. If you did take an early retirement, then your benefit will stop during your term of office.

### **Address Changes**

After you retire, keep PERS informed of your correct mailing address. That way, you will continue to receive tax reporting forms, retiree health insurance information, *Perspectives* newsletter, and other important information. For your protection, address change requests must be in writing, signed, and dated. Please use the [Retiree Name and Address Change Request Form](#).