



Oregon

Tina Kotek, Governor

Public Employees Retirement System

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October 4, 2024

TO: Members of the PERS Board

FROM: Yong Yang, Tax Policy Coordinator, Policy Analysis and Compliance Section
Stephanie Vaughn, Manager, Policy Analysis and Compliance Section

SUBJECT: Adoption of Delegation to Director and Staff Rule:

 OAR 459-001-0025 *Delegation to Director and Staff*

OVERVIEW

- Action: Adoption of Delegation to Director and Staff Rule.
- Reason: Codify in administrative rule the delegation of the Board's contracting authority for health insurance consulting services to the Executive Director.

BACKGROUND

Staff identified an ambiguity relating to the authority to award contracts for the PHIP consulting services as they were putting together a request for proposals (RFP) for consulting services related to the PERS Health Insurance Program (PHIP) in 2021. While ORS 238.645 and OAR 459-001-0025 provide the Director the authority to administer the system generally, it is unclear whether that delegation includes the authority to contract with consultants for PHIP, as that authority is specifically placed with the Board in ORS 238.410(6).

To resolve this ambiguity, staff recommends clarifying this authority by amending OAR 459-001-0025 to specifically include the authority to contract with and retain consultants for PHIP¹. The rationale for this recommendation is two-fold: 1. This authority is consistent with the Director's existing authority to contract for the purpose of administering the system generally, and 2. Under our current practice, staff performs all the tasks that are necessary to solicit bids for the consulting services, evaluates the quality of the bids and selects a final candidate to recommend. With this clarification, the Director, who works closely with staff daily, can then make the final contracting decision without waiting for the next available board meeting. This provides both administrative ease and timeliness.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely on August 20, 2024, at 2:00 p.m. The public comment period ended August 23, 2024, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

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

¹ Note that this is just the ability to contract with consultants; the Board would still approve the contracts for the actual health care plans.

IMPACT

Mandatory: No.

Benefit: Provides the agency Director the ability to contract for consulting services without additional individualized approval from the Board.

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

RULEMAKING TIMELINE

July 26, 2024	PERS Board notified that staff began the rulemaking process.
August 1, 2024	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
August 1, 2024	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.
August 20, 2024	Rulemaking hearing was held remotely at 2:00 p.m.
August 23, 2024	Public comment period ended at 5:00 p.m.
October 4, 2024	Board may adopt the rule modifications.

BOARD OPTIONS

The PERS Board may:

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

STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

B.5. Attachment 1 – OAR 459-001-0025 *Delegation to Director and Staff*