



Oregon

Tina Kotek, Governor

Public Employees Retirement System

Headquarters

11410 S.W. 68th Parkway, Tigard, OR

Mailing Address:

P.O. Box 23700

Tigard, OR 97281-3700

888-320-7377

TTY (503) 603-7766

www.oregon.gov/pers

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 Contingency Reserve Subaccount Rule:

OAR 459-005-0625 *Contingency Reserve Subaccount*

OVERVIEW

- Action: Adoption of Contingency Reserve Subaccount Rule.
- Reason: Board requested the agency streamline administrative process for using the contingency reserve fund to pay off small amount deficits.

BACKGROUND

At the board meeting on December 1, 2023, staff presented to the Board a request for approval to use the contingency reserve fund to pay off an outstanding PERS contribution liability of a defunct employer in the amount of \$2,140.59. The Board asked staff to investigate the possibility of streamlining the administrative process for using the contingency reserve fund to pay off small deficit amounts in the future.

In response to the Board's request, staff recommends the Board establish a contingency reserve subaccount through rulemaking which the Board can fund by approving transfers from the contingency reserve account. Staff will have authority to use the funds in the subaccount for the same purposes as outlined for the contingency reserve account in ORS 238.670, limited to \$50,000 per incident. The \$50,000 was determined by reviewing past requests and the possible need for contingency reserve funds relating to potentially insolvent employers. Most of those amounts are under \$30,000, but there is the possible need for higher amounts relating to potentially insolvent employers.

With this recommendation, the Board has control over how much money will be made available in the contingency reserve subaccount. When the rule was noticed at the July Board meeting, the Board requested a maximum funding amount be added to the rule. Staff have amended the rule to include a maximum funding amount of \$500,000. PERS staff is additionally required to provide an annual report to the Board on the use of moneys in the subaccount. This streamlines the administrative process for small deficit amounts while retaining the Board's control over the use of the contingency reserve fund.

CHANGES MADE SINCE NOTICE

At the Board's request, the rule has been amended to include a maximum funding amount of \$500,000 for the subaccount.

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.

IMPACT

Mandatory: No.

Benefit: This streamlines the administrative process for small amount deficits while still allowing the Board to retain control over the use of the contingency reserve money.

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 Contingency Reserve Subaccount 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.4. Attachment 1 – OAR 459-005-0625 *Contingency Reserve Subaccount*