

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 459
OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

FILED

01/28/2025 9:00 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Changes to Tax Remedy Rule.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/28/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Tigard, OR 97223

Filed By:
Joel Mellor
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 02/25/2025

TIME: 2:00 PM

OFFICER: Joel Mellor

IN-PERSON HEARING DETAILS

ADDRESS: PERS Headquarters, 11410 SW 68th Pkwy, Tigard, OR 97223

SPECIAL INSTRUCTIONS:

In Boardroom.

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-971-300-4342

CONFERENCE ID: 900969176

SPECIAL INSTRUCTIONS:

Meeting ID: 291 152 476 647

Passcode: kr3ah9u7

NEED FOR THE RULE(S)

Amend the rule to account for additional data from the Oregon Department of Revenue.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.362, 238.364, 238.366, 238.368 & 238.372 to 238.384

Also add: These documents are available on the Internet at:

https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Adoption of the rule will not affect racial equity.

FISCAL AND ECONOMIC IMPACT:

There are no discrete costs attributable to the rules.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

None.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The rules do not affect small businesses and therefore small businesses were not involved in the development of the rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A public hearing will be held and the PERS Board solicits input on rules from any interested or affected parties.

AMEND: 459-013-0310

RULE SUMMARY: Amend the rule to account for additional data from the Oregon Department of Revenue

CHANGES TO RULE:

459-013-0310

Payment of Increased Benefits under ORS 238.372 to 238.384 ¶

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

(a) "Person" includes a member, an alternate payee, or a beneficiary.¶

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

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

(B) The residency of the beneficiary.¶

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

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

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

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

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

(D) Filed Oregon personal income tax as a partial-year resident ~~and the prior year the person filed personal income tax as a resident with the Oregon resident end-date either left blank or listed as the last day of the year on the tax return form.~~ PERS will treat the person as a resident of Oregon.¶

(E) Filed Oregon personal income tax as a partial-year resident with the Oregon resident end-date listed as other than the last day of the year on the tax return form, PERS will treat the person as a non-resident of Oregon, ~~except~~

as provided in section (3) below.¶

~~(EE) Filed Oregon personal income tax as a partial-year resident and the prior year the person filed personal income tax as a non-resident joint filer with the pensions and annuities amount reported under the Oregon column in the joint filer return equal to or greater than the amount of PERS benefits distributed for the same tax year, PERS will treat the person as a resident of Oregon.¶~~

~~(FG) Filed Oregon personal income tax as a partial-year resident and the prior year the person did not file personal income tax as a non-resident joint filer with the pension and annuities amount reported under the Oregon column in the joint filer return being less than the amount of PERS benefits distributed for the same tax year, PERS will treat the person as a non-resident of Oregon unless the resident end-date is left blank or is the last day of the year on the tax return form.¶~~

~~(GH) Filed Oregon personal income tax as a partial-year resident, and non-resident joint filer with the pensions and annuities amount reported under the Oregon column in the joint filer return equal to or greater than the amount of PERS benefits distributed for the same calendar tax year, PERS will determine residency status based on the information provided on the form treat the person as a resident of Oregon.¶~~

~~(I) Filed Oregon personal income tax as a non-resident joint filer with the pensions and annuities amount reported under the Oregon column in the joint filer return being less than the amount of PERS benefits distributed for the same tax year, PERS will treat the person as a non-resident of Oregon.¶~~

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

(3) For purposes of determining increased benefit eligibility under ORS 238.372 to 238.384, residency status information submitted on a form provided by PERS and received by PERS in the current calendar year will supersede any Oregon personal income tax return information provided by the Department of Revenue pursuant to section (2) of this rule.¶

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

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

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

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

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: ORS 238.362, 238.364, 238.366, 238.368, 238.372 - 238.384