



Oregon

Tina Kotek, Governor

Public Employees Retirement System

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July 26, 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: Notice of Rulemaking to Delegation to Director and Staff Rule:
OAR 459-001-0025 *Delegation to Director and Staff*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Codify in administrative rule the delegation of the Board's contracting authority for health insurance consulting services to the Executive Director.
- Policy Issue: None.

BACKGROUND

As staff was putting together a request for proposals (RFP) for consulting services related to the PERS Health Insurance Program (PHIP) in 2021, they identified an ambiguity relating to the authority to award contracts for the PHIP consulting services. 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, evaluate the quality of the bids and select a final candidate. The Director, who works closely with staff daily, can then make the final contracting decision without waiting for the next available board meeting and the Board can avoid having to duplicate any work that has been performed by staff with respect to selecting a consulting service. This provides both administrative ease and timeliness.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held remotely on August 20, 2024, at 2:00 p.m. The public comment period ends August 23, 2024, at 5:00 p.m.

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.

LEGAL REVIEW

The attached 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: Streamline the administrative process for both administrative ease and timeliness in awarding contracts for PHIP consulting services.

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 publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
August 20, 2024	Rulemaking hearing to be held remotely at 2:00 p.m.
August 23, 2024	Public comment period ends at 5:00 p.m.
October 4, 2024	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A rulemaking hearing will be held remotely on August 20, 2024. The rule is scheduled to be brought before the PERS Board for adoption at the October 4, 2024 board meeting.

B.2. Attachment 1 – OAR 459-001-0025 *Delegation to Director and Staff*