

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 017 – REEMPLOYED RETIRED MEMBERS**

1 **459-017-0060**

2 **Reemployment of Retired Members**

3 (1) For purposes of this rule:

4 (a) “Bona fide retirement” means that the retired member has been absent from
5 service with all participating employers and all employers in a controlled group with a
6 participating employer for at least six full calendar months between the effective date of
7 retirement and the date of hire.

8 (b) “Retired member” means a member of the PERS Chapter 238 Program who is
9 retired for service.

10 (2) A retired member may be employed under ORS 238.082 by a participating
11 employer without loss of retirement benefits provided:

12 (a) The period or periods of employment with one or more participating employers
13 total less than 1,040 hours in a calendar year; or

14 (b) If the retired member is receiving retirement, survivors, or disability benefits
15 under the federal Social Security Act, the period or periods of employment total less than
16 either 1,040 hours in a calendar year, or the total number of hours in a calendar year that,
17 at the retired member’s specified hourly rate of pay, would cause the annual
18 compensation of the retired member to exceed the following Social Security annual
19 compensation limits, whichever is greater.

20 (A) For retired members who have not reached full retirement age under the Social
21 Security Act, the annual compensation limit is \$22,320; or

1 (B) For the calendar year in which the retired member reaches full retirement age
2 under the Social Security Act and only for compensation for the months before reaching
3 full retirement age, the annual compensation limit is \$59,520.

4 (3) The limitations on employment in section (2) of this rule do not apply if the
5 retired member has reached full retirement age under the Social Security Act.

6 (4) The limitations on employment in section (2) of this rule do not apply if:

7 (a) The retired member meets the requirements of ORS 238.082(4), (5), (6), (7), or
8 (8), and did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or
9 (3);

10 (b) The retired member retired at a reduced benefit under ORS 238.280(1), (2), or
11 (3), is employed in a position that meets the requirements of ORS 238.082(4), the date of
12 hire is more than six months after the member’s effective retirement date, and the
13 member’s retirement otherwise meets the standard of a bona fide retirement;

14 (c) The retired member is employed by a school district or education service district
15 as a speech-language pathologist or speech-language pathologist assistant and:

16 (A) The retired member did not retire at a reduced benefit under the provisions of
17 ORS 238.280(1) or (3); or

18 (B) The retired member retired at a reduced benefit under the provisions of ORS
19 238.280(1) or (3), but is not employed by any participating employer until more than six
20 months after the member’s effective retirement date, and the member’s retirement
21 otherwise meets the standard of a bona fide retirement;

22 (d) The retired member meets the requirements of section 2, chapter 499, Oregon
23 Laws 2007, as amended by section 1, chapter 108, Oregon Laws 2015;

1 (e) The retired member meets the requirements of section 2, chapter 475, Oregon
2 Laws 2015;

3 (f) The retired member is employed for service during a legislative session under
4 ORS 238.092(2);

5 (g) The retired member meets the requirements of ORS 238.088(2), and did not
6 retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or (3); or

7 (h) The retired member is on active state duty in the organized militia and meets the
8 requirements under ORS 399.075(8).

9 (i) The retired member is employed as a special campus security officer
10 commissioned by a public university and meets the requirements under section 5, chapter
11 152, Oregon Laws 2019.

12 (j) The retired member is employed as a security officer for a community college and
13 meets the requirements under section 5, chapter 152, Oregon Laws 2019.

14 (k) The retired member is employed by Harney County Health District as a person
15 licensed, registered or certified to provide health services and meets the requirements
16 under section 2, chapter 496, Oregon Laws 2019.

17 (5) For purposes of population determinations referenced by statutes listed in this
18 rule, the latest federal decennial census shall first be operative on the first day of the
19 second calendar year following the census year.

20 (6) For purposes of ORS 238.082(6), a retired member replaces an employee if the
21 retired member:

22 (a) Is assigned to the position of the employee; and

23 (b) Performs the duties of the employee or duties that might be assigned to an
24 employee in that position.

1 (7) If a retired member is reemployed subject to the limitations of ORS 238.082 and
2 section (2) of this rule, the period or periods of employment subsequently exceed those
3 limitations, and employment continues into the month following the date the limitations
4 are exceeded:

5 (a) If the member has been retired for six or more calendar months:

6 (A) PERS will cancel the member’s retirement.

7 (i) If the member is receiving a monthly service retirement allowance, the last
8 payment to which the member is entitled is for the month in which the limitations were
9 exceeded.

10 (ii) If the member is receiving installment payments under ORS 238.305(4), the last
11 installment payment to which the member is entitled is the last payment due on or before
12 the last day of the month in which the limitations were exceeded.

13 (iii) If the member received a single lump sum payment under ORS 238.305(4) or
14 238.315, the member is entitled to the payment provided the payment was dated on or
15 before the last day of the month in which the limitations were exceeded.

16 (iv) A member who receives benefits to which he or she is not entitled must repay
17 those benefits to PERS.

18 (B) The member will reestablish active membership the first of the calendar month
19 following the month in which the limitations were exceeded.

20 (C) The member’s account must be rebuilt in accordance with the provisions of
21 section (9) of this rule.

22 (b) If the member has been retired for less than six calendar months:

23 (A) PERS will cancel the member’s retirement effective the date the member was
24 reemployed.

1 (B) All retirement benefits received by the member must be repaid to PERS in a
2 single payment.

3 (C) The member will reestablish active membership effective the date the member
4 was reemployed.

5 (D) The member account will be rebuilt as of the date that PERS receives the single
6 payment. The amount in the member account must be the same as the amount in the
7 member account at the time of the member's retirement.

8 (8) For purposes of determining period(s) of employment in section (2) of this rule:

9 (a) Hours of employment are hours on and after the retired member's effective
10 retirement date for which the member receives wages, salary, paid leave, or other
11 compensation.

12 (b) Hours of employment that are performed under the provisions of section (4) of
13 this rule on or after the later of January 1, 2004, or the operative date of the applicable
14 statutory provision, are not counted.

15 (9) If a member has been retired for service for more than six calendar months and is
16 reemployed in a qualifying position by a participating employer under the provisions of
17 238.078(1):

18 (a) PERS will cancel the member's retirement effective the date the member is
19 reemployed.

20 (b) The member will reestablish active membership on the date the member is
21 reemployed.

22 (c) If the member elected a benefit payment option other than a lump sum option
23 under ORS 238.305(2) or (3), the last monthly service retirement allowance payment to
24 which the member is entitled is for the month before the calendar month in which the

1 member is reemployed. Upon subsequent retirement, the member may choose a different
2 benefit payment option.

3 (A) The member’s account will be rebuilt as required by ORS 238.078 effective the
4 date active membership is reestablished.

5 (B) Amounts from the Benefits-In-Force Reserve (BIF) credited to the member’s
6 account under the provisions of paragraph (A) of this subsection will be credited with
7 earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement
8 to the date of active membership.

9 (d) If the member elected a partial lump sum option under ORS 238.305(2), the last
10 monthly service retirement allowance payment to which the member is entitled is for the
11 month before the calendar month in which the member is reemployed. The last lump sum
12 or installment payment to which the member is entitled is the last payment due before the
13 date the member is reemployed. Upon subsequent retirement, the member may not
14 choose a different benefit payment option unless the member has repaid to PERS in a
15 single payment an amount equal to the lump sum and installment benefits received and
16 the earnings that would have accumulated on that amount.

17 (A) The member’s account will be rebuilt as required by ORS 238.078 effective the
18 date active membership is reestablished.

19 (B) Amounts from the BIF credited to the member’s account under the provisions of
20 paragraph (A) of this subsection, excluding any amounts attributable to repayment by the
21 member, will be credited with earnings at the BIF rate or the assumed rate, whichever is
22 less, from the date of retirement to the date of active membership.

23 (e) If the member elected the total lump sum option under ORS 238.305(3), the last
24 lump sum or installment payment to which the member is entitled is the last payment due

1 before the date the member is reemployed. Upon subsequent retirement, the member may
2 not choose a different benefit payment option unless the member has repaid to PERS in a
3 single payment an amount equal to the benefits received and the earnings that would have
4 accumulated on that amount.

5 (A) If the member repays PERS as described in this subsection the member’s
6 account will be rebuilt as required by ORS 238.078 effective the date that PERS receives
7 the single payment.

8 (B) If any amounts from the BIF are credited to the member’s account under the
9 provisions of paragraph (A) of this subsection, the amounts may not be credited with
10 earnings for the period from the date of retirement to the date of active membership.

11 (f) If the member received a lump sum payment under ORS 238.315:

12 (A) If the payment was dated before the date the member is reemployed, the member
13 is not required or permitted to repay the benefit amount. Upon subsequent retirement:

14 (i) The member may choose a different benefit payment option.

15 (ii) The member’s retirement benefit will be calculated based on the member’s
16 periods of active membership after the member’s initial effective retirement date.

17 (B) If the payment was dated on or after the date the member is reemployed, the
18 member must repay the benefit amount. Upon subsequent retirement:

19 (i) The member may choose a different benefit payment option.

20 (ii) The member’s retirement benefit will be calculated based on the member’s
21 periods of active membership before and after the member’s initial effective retirement
22 date.

23 (iii) The member’s account will be rebuilt as described in ORS 238.078(2).

1 (g) A member who receives benefits to which he or she is not entitled must repay
2 those benefits to PERS.

3 (10) If a member has been retired for less than six calendar months and is
4 reemployed in a qualifying position by a participating employer under the provisions of
5 238.078(2):

6 (a) PERS will cancel the member’s retirement effective the date the member is
7 reemployed.

8 (b) All retirement benefits received by the member must be repaid to PERS in a
9 single payment.

10 (c) The member will reestablish active membership effective the date the member is
11 reemployed.

12 (d) The member account will be rebuilt as of the date that PERS receives the single
13 payment. The amount in the member account must be the same as the amount in the
14 member account at the time of the member’s retirement.

15 (e) Upon subsequent retirement, the member may choose a different benefit payment
16 option.

17 (11) Upon the subsequent retirement of any member who reestablished active
18 membership under ORS 238.078 and this rule, the retirement benefit of the member must
19 be calculated using the actuarial equivalency factors in effect on the effective date of the
20 subsequent retirement.

21 (12) The provisions of paragraphs (9)(c)(B), (9)(d)(B), and (9)(e)(B) of this rule are
22 applicable to retired members who reestablish active membership under ORS 238.078
23 and this rule and whose initial effective retirement date is on or after March 1, 2006.

1 (13) A participating employer that employs a retired member must notify PERS in a
2 format acceptable to PERS under which statute the retired member is employed.

3 (a) Upon request by PERS, a participating employer must certify to PERS that a
4 retired member has not exceeded the number of hours allowed under ORS 238.082 and
5 section (2) of this rule.

6 (b) Upon request by PERS a participating employer must provide PERS with
7 business and employment records to substantiate the actual number of hours a retired
8 member was employed.

9 (c) Participating employers must provide information requested under this section
10 within 30 days of the date of the request.

11 (14) Accumulated unused sick leave reported by an employer to PERS upon a
12 member's retirement, as provided in ORS 238.350, may not be made available to a
13 retired member returning to employment under sections (2) or (9) of this rule.

14 (15) *[Subsections (4)(c) and (4)(d) of this rule are repealed effective January 2,*
15 *2026.]*

16 *[(16) Subsection (4)(e) of this rule is repealed effective June 30, 2023.]*

17 *[(17)]*(16) A member who is retired for service maintains their status as a retired
18 member of the system, and does not accrue additional benefits during the period of
19 employment. A retired member may not participate in the pension program or the
20 Individual Account Program as an active member, except as provided by ORS 238.092(1)
21 or 237.650.

22 *[(18)]*(17) For calendar years 2020 through 2034*[24]*, a public employer employing
23 a retired member shall apply the employer's contribution rate for its covered payroll to
24 the wages paid to the retired member. The public employer shall make a payment to the

1 Public Employees Retirement Fund in that amount. This payment is in addition to the
2 employer’s contribution required under ORS 238.225, and will be applied to the
3 employer’s liabilities, including pension benefit costs and retiree medical benefit costs. If
4 the employer is a member of a pool established under ORS 238.227, the additional
5 payment will be applied to the employer’s rate pool’s liabilities.

6 *[(19)](18)* For calendar years 2020 through 20*35[24]*, the limitations on
7 employment in section (2) of this rule do not apply to a retired member unless the
8 member retired under the provisions of ORS 238.280(1), (2), or (3), and does not have a
9 bona fide retirement.

10 *[(20) For calendar years 2020 through 2024, if]***if** the member retired under the
11 provisions of ORS 238.280(1), (2), or (3), and does not have a bona fide retirement, the
12 member is subject to the limitations on employment in section (2) of this rule.

13 *[(21)](19)* Sections *(18), (19), and (20)](17) and (18)* of this rule are repealed
14 effective January 2, 20*35[25]*.

15 Statutory/Other Authority: ORS 238.650 & ORS 238.630

16 Statutes/Other Implemented: ORS 238.078, ORS 238.082, ORS 238.088, ORS 238.092,
17 ORS 399.075, 2007 OL Ch. 499 & 774, 2015 OL Ch. 108 & 475, 2018 OL Ch. 48 &
18 2019 OL Ch. 355, [House Bill 2296 \(2023\)](#)