

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

09/24/2024 1:57 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Implement Police Officer and Firefighter Updates from HB 2283 (2023)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/25/2024 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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Filed By:
Chris Geier
Rules Coordinator

HEARING(S)

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

DATE: 10/22/2024

TIME: 2:00 PM - 3:00 PM

OFFICER: Chris Geier / Daniel Rivas

REMOTE HEARING DETAILS

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

PHONE NUMBER: 1-971-300-4342

CONFERENCE ID: 960743473

SPECIAL INSTRUCTIONS:

Meeting ID: 218 401 635 051

Passcode: 3qM2je

NEED FOR THE RULE(S)

Implement Police Officer and Firefighter Updates from HB 2283 (2023)

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 238.440, 238.650, 238A.160, 238A.165 & 238A.450

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.

RULES PROPOSED:

459-016-0100, 459-075-0200

AMEND: 459-016-0100

RULE SUMMARY: Effective January 1, 2024, HB 2283 (2023) updated certain rules relating to police officers and firefighters (P&F). For purposes of these proposed rule amendments, it aligned the period for making P&F unit purchases with other purchases available for eligible Tier 1 and Tier 2 members, extending the window for making the P&F unit purchase from 60 days to 90 days.

HB 2283 also made changes to the OPSRP pension program relating to retirement eligibility for members working in positions under the P&F classification. It changed the P&F retirement eligibility standard from five continuous years of employment immediately preceding the member's effective date of retirement to the last 60 months of retirement credit accrued prior to reaching earliest or normal retirement age. Notably, the statutory changes allow a person who qualifies for P&F retirement eligibility to lock in their P&F retirement eligibility even if they later accrue retirement credit in non-P&F positions.

The proposed rule amendments clarify that the 60-month retirement credit count does not restart for an OPSRP member who is concurrently employed in a P&F position and a non-P&F position, if such member receives disability insurance payments while accruing retirement credit in a non-P&F position. The statute specifically addressed this circumstance, and these amendments provide clarification regarding the provision. Members must submit proof of such disability insurance payments to PERS in a format and manner approved by PERS, no later than the member's effective date of retirement. This provision was also effective January 1, 2024.

CHANGES TO RULE:

459-016-0100

Purchase of Units by a Police Officer or Firefighter to Provide Increased Benefits ¶¶

(1) For the purposes of this rule:¶¶

(a) "Active" means an "active member" as defined in ORS 238.005(1).¶¶

(b) "Current" means a member who is currently employed as a police officer or firefighter.¶¶

(c) "Firefighter" has the same meaning as set forth in ORS 238.005(10).¶¶

(d) "Five years" means five full years ending on the fifth anniversary date of the transfer from a police or fire position.¶

(e) "Inactive" means an "inactive member" as defined in ORS 238.005(13).¶

(f) "Police officer" has the same meaning as set forth in ORS 238.005(19).¶

(2) Eligibility to Purchase Units. An active and current police officer or firefighter may purchase a maximum of eight units to provide increased benefits between the date of retirement and age 65. A member who retires prior to age 60 will receive unit payments over a minimum five-year period.¶

(3) Lump-Sum Purchase at Retirement. An active and current police officer or firefighter may choose to make a lump-sum purchase of police and fire units within the 690 days prior to the police officer's or firefighter's effective retirement date.¶

(a) If previous payroll contributions for unit benefits have been made, a lump-sum purchase of any remaining units, for a maximum of eight units, may be made within 690 days prior to the member's retirement date if the member is less than age 65.¶

(b) If no payroll contributions for unit benefits have been made, a lump-sum purchase of units may be made within the 690 days prior to the member's retirement date only if the member is less than age 60 as of their effective date of retirement.¶

(4) Additional Contributions for Police Officers or Firefighters Retiring Prior to Age 60. An active and current police officer or firefighter who retires prior to age 60 may make additional contributions to purchase actuarially reduced unit benefits beginning at any date between the date of early retirement and age 60.¶

(5) Police Officers or Firefighters Who Work Until the Age of 65. Contributions for unit benefits are not permitted once the member reaches the age of 65. The amount in the unit account of a member who works until age 65 will be refunded to the member in a lump sum.¶

(6) Cancellation of Police and Fire Unit Contributions. A police officer or firefighter who has elected to make unit contributions may elect, in writing, to cancel the additional contributions at any time. Once canceled, the member will not be permitted to participate in the unit benefit program at a future time.¶

(7) Refund of Unit Account.¶

(a) Voluntary Refund. A police officer or firefighter may request a refund of the unit account if the police officer or firefighter is separated from all participating employers and their control groups.¶

(b) Involuntary Refund. A police officer or firefighter who has elected to make unit contributions and transfers to an inactive position or a non-police or fire job class will:¶

(A) Retain the unit account for five years immediately following the transfer.¶

(B) If at the end of the five years, the member has not turned age 50 or returned to a qualifying police or fire position, the member's election will be canceled and the amount in the unit account automatically refunded.¶

(c) A voluntary or involuntary refund results in a cancellation of the unit account. Once a unit account is canceled, the member may not participate in the unit benefit program at a future time.¶

(d) A police officer or firefighter who requests a withdrawal of the PERS member account will automatically receive a refund of the unit account.¶

(8) Disability Retirement. A police officer or firefighter who is approved for a PERS chapter 238 Program disability retirement is eligible to purchase the balance of the police and fire units or make an initial purchase equal to the maximum eight units.¶

(9) Reemployment under USERRA. An eligible PERS chapter 238 Program police or fire member who leaves a qualifying position to serve in the Uniformed Services is eligible upon initiating reemployment to make up the unit benefit contributions which would have been made to the member's unit account had the member not left to serve in the Uniformed Services.¶

(a) Contributions made under this section must be remitted to PERS by:¶

(A) Payroll deduction; or¶

(B) Monthly payment of no less than one month of contributions; or¶

(C) Lump-sum payment.¶

(b) Any individual, agency, or organization may pay the employee contributions specified in subsection (a) of this section on behalf of the employee under the payment provisions set forth in paragraph (B) or (C) of this section.

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: ORS 238.440

AMEND: 459-075-0200

RULE SUMMARY: Effective January 1, 2024, HB 2283 (2023) updated certain rules relating to police officers and firefighters (P&F). For purposes of these proposed rule amendments, it aligned the period for making P&F unit purchases with other purchases available for eligible Tier 1 and Tier 2 members, extending the window for making the P&F unit purchase from 60 days to 90 days.

HB 2283 also made changes to the OPSRP pension program relating to retirement eligibility for members working in positions under the P&F classification. It changed the P&F retirement eligibility standard from five continuous years of employment immediately preceding the member's effective date of retirement to the last 60 months of retirement credit accrued prior to reaching earliest or normal retirement age. Notably, the statutory changes allow a person who qualifies for P&F retirement eligibility to lock in their P&F retirement eligibility even if they later accrue retirement credit in non-P&F positions.

The proposed rule amendments clarify that the 60-month retirement credit count does not restart for an OPSRP member who is concurrently employed in a P&F position and a non-P&F position, if such member receives disability insurance payments while accruing retirement credit in a non-P&F position. The statute specifically addressed this circumstance, and these amendments provide clarification regarding the provision. Members must submit proof of such disability insurance payments to PERS in a format and manner approved by PERS, no later than the member's effective date of retirement. This provision was also effective January 1, 2024.

CHANGES TO RULE:

459-075-0200

Retirement Eligibility for Police Officer and Firefighter Members ¶

(1) For purposes of this rule:¶

(a) "Police officer" and "firefighter" have the same meaning given them in ORS 238A.005.¶

~~(b) "Continuously" means a period during which the member is currently employed" means employment with two or more participating employers in one or more qualifying positions the same calendar month.¶~~

~~(2) An OPSRP Pension Program member will establish retirement eligibility as a police officer or firefighter, in consecutive months without interruption.¶~~

~~(2) For the purpose of establishing eligibility for normal if the member's last 60 months of retirement credit preceding the date the member reaches early retirement age under ORS 238A.160(2) and early, or normal retirement age under ORS 238A.165(2), an OPSRP Pension Program member were accrued will be considered to have held ae employed in a qualifying position as a police officer or firefighter continuously for a period of not less than five years immediately preceding the effective date of retirement if:¶~~

~~(a) ¶~~

~~(3) The 60 months of police officer & firefighter retirement credit does not have to be continuous, but a member does not establish retirement eligibility as a police officer or firefighter under section (2) of this rule if the member's last 60 months of retirement credit preceding the date the member was employed in a qualifying position as a police officer or firefighter continuously for five years prior to the date of the member's termination from that employment; and¶~~

~~(b) ¶ reaches early or normal retirement age includes any months of retirement credit as other than a police officer or firefighter.¶~~

~~(4) If the member is concurrently employed as a police officer or firefighter, the 60-month retirement credit count described in section (2) of this rule restarts if the member accrues retirement credit for service as other than a police officer or firefighter, unless the member's effective date of retirement is the first of the month followi is receiving insurance payments for short-term or long-termination from that employment.¶~~

~~(3) A member who is concurrently employed by two or more employers in qualifying positions as disability for which retirement credit is not available under ORS 238A.155; and concurrently employed and performing service as other than a police officer or firefighter, and accruing retirement credit as other than a police officer or firefighter is employed as a police officer or firefighter for purposes of this rule.¶~~

~~(5) A member who is receiving disability insurance payments as described in section (4) of this rule must submit proof of such payments in a format and manner approved by PERS, no later than the member's effective date of~~

retirement.

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.160, ORS 238A.165