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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
07/31/2018 12:01 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Implementation of different portions of Senate Bill 1566 (2018) regarding employer lump-sum payments.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/07/2018 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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11410 SW 68th Parkway
Tigard, OR 97223

Filed By:
Daniel Rivas
Rules Coordinator

HEARING(S)

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

DATE: 08/28/2018

TIME: 2:00 PM - 3:00 PM

OFFICER: Daniel Rivas

ADDRESS: Boardroom, PERS

11410 SW 68th Parkway

Tigard, OR 97223

NEED FOR THE RULE(S):

To implement provisions of Senate Bill 1566 (2018) and allow employer lump sum payments into side accounts to be considered for matching funds from the Employer Incentive Fund established under SB 1566 .

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 238.225 - 238.229, available online at: https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

FISCAL AND ECONOMIC IMPACT:

There are no discrete costs attributable to the rule.

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 directly impacted by the rule. The modifications provide an opportunity for employers to budget and plan for their lump sum payment to PERS in anticipation of the start of the Employer Incentive Fund program under Senate Bill 1566

(2018). Small businesses are not subject to the rule.

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

The rule does not impact small businesses, therefore they were not involved in developing the rule.

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

PERS holds a public hearing and invites comments from any interested parties.

AMEND: 459-009-0086

RULE SUMMARY: Rule modifications are needed for implementation of Senate Bill 1566 (2018).

CHANGES TO RULE:

459-009-0086

Employer Unfunded Actuarial Liability Lump-Sum Payments, Generally

(1) Definitions. For the purposes of this rule:¶

(a) "Amortized amount" means the amount of a side account used to offset pension contributions due from the employer.¶

(b) "Employer actuarial pool" means a grouping of employers for actuarial purposes such as the School District Pool and the State and Local Government Rate Pool.¶

(c) "Fair value UAL" means the unfunded actuarial liability calculated using the fair market value of assets.¶

(d) "Side account" means an account in the Public Employees Retirement Fund into which a UAL lump-sum payment that is not used to satisfy a transition liability is deposited.¶

(e) "Transition liability" means the unfunded actuarial liability attributed to an individual employer for the period before entry into the State and Local Government Rate Pool.¶

(f) "Transition surplus" means the actuarial surplus attributed to an individual employer for the period before entry into the State and Local Government Rate Pool.¶

(g) "Unfunded actuarial liability" or "UAL" means the excess of the actuarial liability over the actuarial value of assets for the specified pension program.¶

(h) "UAL lump-sum payment" means any employer payment that is:¶

(A) Not regularly scheduled;¶

(B) Not paid as a percentage of salary;¶

(C) Made for the express purpose of reducing the pension contributions that would otherwise be required from the employer, or reducing or paying off the employer's transition liability; and¶

(D) Paid at the employer's election instead of at the PERS Board's direction.¶

(2) A UAL lump-sum payment must be made by either wire transfer or check payable to the Public Employees Retirement System.¶

(3) An employer may make a UAL lump-sum payment to pay 100 percent of its transition liability.¶

(4) A UAL lump-sum payment shall first be applied to the employer's transition liability, if any. The remainder of the payment, if any, shall be held in a side account.¶

(5) An actuarial calculation must be performed prior to an employer making a UAL lump-sum payment if the employer:¶

(a) Has a transition liability;¶

(b) Intends to establish a new side account with rate relief beginning on a date specified by the employer; or¶

(c) Requests an actuarial calculation where a calculation is not otherwise required.¶

(6) The amount of a UAL lump-sum payment that is held in a side account will be used to reduce the pension contributions that would otherwise be required from the employer making the UAL lump-sum payment. The amortized amount for each payroll reporting period shall be transferred from the side account to the appropriate employer reserve account.¶

- (7) The minimum UAL lump-sum payment required to establish a new side account is the lesser of:¶¶
- (a) 25 percent of the individual employer's UAL calculated under OAR 459-009-0084 or 459-009-0085; or¶¶
 - (b) \$250,000.¶¶
- (8) An employer with one or more existing side accounts may make additional UAL lump-sum payments into such side account(s).¶¶
- (a) An employer may not make more than two additional UAL lump-sum payments per side account in a calendar year.¶¶
 - (b) Additional UAL lump-sum payments into an existing side account will not affect the amortization period of the existing side account.¶¶
 - (c) Adjustment to the employer's contribution rates from a UAL lump-sum payment into an existing side account will be effective on July 1 of the calendar year following completion of the actuarial valuation for the year in which the additional deposit is made.¶¶
- (9) An employer making a UAL lump-sum payment equal to or greater than \$10 million, not sourced from a pension obligation bond, and electing an amortization period of 6 years, 10 years, or 16 years must establish a new side account for the lump-sum payment.¶¶
- (10) Each employer side account shall be charged an administration fee of \$1,500 for the year in which the side account is established, and \$500 per year thereafter.¶¶
- (101) Side accounts shall be credited with earnings and losses in accordance with OAR 459-007-0530.¶¶
- (112) Nothing in this rule shall be construed to prevent the PERS Board from taking action pursuant to ORS 238.225.¶¶
- (123) Nothing in this rule shall be construed to convey to an employer making a UAL lump-sum payment any proprietary interest in the Public Employees Retirement Fund or in the UAL lump-sum payment made to the fund by the employer.¶¶
- (14) Employers making lump-sum payments into employer side accounts under this rule on or after June 2, 2018, will be eligible to apply to have those payments matched by the Employer Incentive Fund provided under sections 1 and 2, chapter 105, Oregon Laws 2018 according to the conditions established by the Board under that program.

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: ORS 238.225 - 238.229