

May 2004 Volume 2, Issue 1

## **Inside this Brief**

- Background
- Governing Structure
- HB 2003 The PERS Reform and Stabilization Act of 2003
- Oregon Public Service Retirement Plan (OPSRP)
  HB 2020 (2003)
- Tier 1, Tier 2 and OPSRP Membership
- PERS Funding
- Other Issues
- Staff and Agency Contacts

Legislative Committee Services State Capitol Building Salem, Oregon 97301 (503) 986-1813 Background Brief on...

# Public Employees Retirement System (PERS)

Prepared by: Marjorie Taylor

## **Background**

Oregon's Public Employees Retirement System (**PERS**) enables public employers to provide their employees with retirement benefits. PERS has administered benefits since 1946, providing service and disability retirement income, death benefits, and retiree health insurance. PERS also administers a separate deferred compensation program for state and local government employees.

State government, public schools, community colleges, and many local governments (cities, counties, and special districts) participate in PERS. About 869 public employers participate in PERS, covering about 95 percent of state and local government employees.

## **Governing Structure**

The Oregon Legislature sets PERS policy, including benefit levels, membership requirements, and retirement payment options. Oregon courts have held that the statutes governing PERS constitute a contract between public employers and their employees. The court decisions restrict the Legislature, limiting the scope of policy changes that can be made through legislative action.

The Public Employees Retirement Board implements and administers the policy choices made by the Legislature. As trustee of the Public Employees Retirement Fund, the PERS Board has a fiduciary responsibility to administer the system in the best interest of the members contributing to the PERS Fund. The Board has five members who are appointed by the Governor and confirmed by the Senate for three-year terms unless specified otherwise. One member must be a state employee in a management position or a person who holds office in the governing body of a participating public employer. One member must be a public employee in an appropriate bargaining unit. The remaining three members must have experience in business management, pension management, or investing, and may not be a PERS member or beneficiary of PERS. The Board's main role is to administer the system as required in statute. The Board also monitors the plan for compliance with federal laws. The Board

hires an executive director and consultants to assist in the administration of the system.

The Oregon Investment Council (OIC) makes investment decisions for PERS funds. The OIC has five voting members: four appointed by the Governor who are qualified by training and experience in the field of investment, and the State Treasurer. In addition to the five members, the Director of PERS serves as an ex officio, non-voting member. The OIC also employs private-sector money managers. Funds are invested in common stocks, fixed income securities such as mortgages and corporate bonds, and a variety of other investments.

# House Bill 2003 – The PERS Reform and Stabilization Act of 2003

The intent of House Bill 2003 was to reform PERS for the future in a way that generated savings for public employers while protecting the accrued benefits of employees. Reforms were also meant to resolve structural issues within the system. House Bill 2003 was primarily directed to the benefits payable to employees who became members of the system before the Oregon Public Service Retirement Plan went into effect (August 29, 2003). These employees are divided between Tier One members (those who became members before January 1, 1996) and Tier Two members (those who became members on or after January 1, 1996 and before August 29, 2003).

Tier Two has a higher retirement age (age 60), no guaranteed return on investments, no use of vacation pay to increase final average salary, and disability retirement benefits may be offset by the total amount of disability (temporary or permanent) payment from workers' compensation. Benefits for Tier Two members are otherwise the same for Tier One members.

The three main reforms of HB 2003 were: 1) Shift the six percent employee contribution from the PERS account to a separate defined contribution account (Individual Account Program); 2) Alter the mechanism for crediting interest to Tier 1 member accounts – essentially suspending guaranteed earnings during periods of low investment returns. The guarantee of the "assumed rate" of earnings for Tier I members was also changed to be over the course of a member's career; 3) Temporarily suspend future cost-of-living adjustments for members who retired between April 1,

2000 and March 1, 2004 who had excess interest credited to their accounts in

1999. In combination with the use of updated mortality tables, these reforms are meant to reduce the unfunded actuarial liability leading to lower employer contribution rates.

# Oregon Public Service Retirement Plan (OPSRP) – House Bill 2020 (2003)

OPSRP is a hybrid pension plan (defined contribution/defined benefit) with two components: the Pension Program (defined benefit) and the Individual Account Program (defined contribution.)

The Pension Program of OPSRP (the defined benefit component of the plan) provides a life pension funded by employer contributions. The program is benefit-based and uses predictable criteria such as a pension determined by salary x length of service x factor. The program has a normal retirement age of 65 for general service members.

The Individual Account Program (IAP) of OPSRP (the defined contribution component of the plan) is applicable to all new hires and to all active Tier One and Tier Two members. As a defined contribution plan, it has no guaranteed benefit. Employees (or employers on behalf of employees) make contributions into the IAP and when a member retires, he or she receives the contributions plus any earnings or losses that have accrued. The member may receive the IAP as a lump-sum payment or in equal installments over a 5, 10, 15, or 20-year period.

Beginning January 1, 2004, Tier One and Tier Two PERS member contributions are to be redirected into the Individual Account Program (IAP) portion of OPSRP. Tier One and Tier Two PERS members retain their existing PERS accounts, but any future member contributions will be deposited in the member's IAP, not into the member's PERS account.

OPSRP is part of the Public Employees Retirement System. The PERS Board is directed to adopt rules necessary to administer OPSRP, and such rules are to be considered part of the plan for IRS review purposes. The Oregon Investment Council will invest plan assets.

### Tier 1, Tier 2 and OPSRP Membership

The 1995 Legislature established a different level of benefits (called "Tier Two") for employees who were first employed on or after January 1, 1996. Members hired before that date are considered Tier One. Tier Two has a higher retirement age (age 60), no guaranteed return on investments, no use of vacation pay to increase final average salary, and disability retirement benefits may be offset by the total amount of disability (temporary or permanent) payment from workers' compensation. Benefits for Tier Two members are otherwise the same as for Tier One members.

Public employees hired on or after August 29, 2003 become a part of the new Oregon Public Service Retirement Plan (OPSRP), unless membership was previously established under Tier 1 or Tier 2. Membership in PERS is portable among participating Oregon employers. However, Tier One or Tier Two PERS members who have a six-month service break become members of OPSRP, with certain exceptions, for any subsequent employment upon rehire.

## **PERS Funding**

The PERS and OPSRP systems and benefits are funded by contributions from participating employers, their employees, and earnings from investments.

The employee contribution is fixed in statute at six percent of salary. Statutes allow employers to agree to pay the employee contribution.

Employer contributions are set by the PERS Board. The employer rate is paid based on a percentage of employee salary. Each employer's individual rate varies based on recommendations of PERS actuaries to ensure that the system has adequate long-term funding. When determining employer rates, actuaries consider employee demographics, wages, inflation, projected retirements, investment yields, and broad assumptions about trends affecting the system. Based on those assumptions, the actuary determines general needs for the system and then calculates a contribution rate for each individual employer in order to fund projected needs.

To limit volatility of individual employer rates, state agencies and community colleges are pooled for PERS funding purposes and other local government employers are allowed to join that pool on a voluntary basis. School districts are separately pooled and all school districts have the same employer contribution rate. Each pool and each unpooled local government employer is assigned a separate employer contribution rate. All participating public employers are pooled for OPSRP funding purposes.

#### Other Issues

#### Litigation of 2003 PERS Reforms

Legislation passed in 2003 established a process for expedited judicial review of any legal challenges to the legislatively approved PERS reforms. The Oregon Supreme Court has jurisdiction regarding challenges to the constitutionality of the changes made by HB 2003 and HB 2004 or to claims of breach of contract. After the 2003 Legislative Session, some state, school and local government workers filed suit claiming that the reforms violate their contractual and property rights. The deadline for filing challenges to the bills was in August 2003. Nine lawsuits were filed naming nearly 500 plaintiffs and 90 defendants. The court is required to give the proceedings priority over all other matters and appointed Oregon Court of Appeals Judge David Brewer as Special Master to hear evidence and prepare recommended findings of fact for the Court to consider. The Special Master's report was released April 8, 2004 and the Supreme Court is scheduled to hear arguments July 30. Read the Special Master report here:

 $\underline{\text{http://www.publications.ojd.state.or.us/PERSreport.pd}} f$ 

#### Break in Service

Currently, when an active or inactive PERS member (a member hired before August 29, 2003) performs no hours of service in a qualifying position for a period of six consecutive months or longer (with certain exceptions,) a break in service occurs. If a break in service occurs, an employee will retain all PERS service time and contributions that accrued before the break. After a break, service time and contributions for an employee will accrue under OPSRP. Many questions regarding break in service are answered on the PERS website:

http://www.pers.state.or.us/member/docs/persplan/publications/break in service word\_version.pdf

### Retirement and return-to-work options

Certain restrictions are placed on members who work for public employers after retirement. If a member works for a private sector employer, PERS retirement benefits will remain unchanged. PERS retirees age 70 or older, who are drawing Social Security benefits may work unlimited hours for any employer, including PERS employers.

A Tier One or Tier Two PERS retiree who is receiving a service retirement allowance may be employed by a public employer without loss of benefits as long as they do not exceed working for 1,039 hours for PERS employers in a calendar year. Some exceptions apply

to this rule and information may be found on the PERS website:

http://www.pers.state.or.us/retirees/docs/retirees/work\_after\_retirement/retired%20web%20sections%20writeup.pdf

### **Contacts:**

Website: www.pers.state.or.us

Steve Delaney, PERS (503) 603-7694

Marjorie Taylor, Committee Services (503) 986-1755