

Proposal to Amend ORS 243.800, Optional Retirement Plan

The Oregon State Board of Higher Education on April 2, 2004, approved submission of a placeholder legislative concept to amend ORS 243.800 that governs the Oregon University System (OUS) defined contribution Optional Retirement Plan (ORP). The intent of an amendment is to decouple the ORP from the Oregon Public Employees Retirement System (PERS) for employer contribution rate setting and membership rules for adjunct faculty. Historical fluctuations in PERS employer contribution rates, along with uncertainty about future PERS plan and rate changes, pose fiduciary concerns about contribution rate volatility for ORP participants if the plans are not separated for purposes of contribution rate setting.

Discussions with a faculty stakeholder coalition began in December 2003, to outline criteria that stakeholders indicated are needed to guide action by the Board in setting employer contribution rates. These criteria are that an alternate rate statute would provide metrics describing a rate-setting method that makes ORP rates 1) competitive, 2) stable, and 3) sustainable. Campus Vice Presidents for Finance and Administration began discussing the concept of decoupling ORP and PERS contribution rates in March 2004.

Legislative Concept Options:

Recent PERS events, including the 2003 establishment of a PERS hybrid plan and the state's \$2 billion bond sale for rate reductions, indicate that the ORP statute should be amended either to (A) retain the linked contribution rates and align statutory language with funding and eligibility provisions suitable for the defined contribution plan participants, or (B) decouple the contributions rates of the two plans.

IF	THEN
<p>A. Continue contributions linked to PERS Total Employer Contribution Rate</p>	<p>A1. Revise ORS 243.800(8) and (9) to permit "indirect" contributions, e.g., debt service paid to DAS rather than to PERS</p> <p>A2. Revise eligibility criteria for adjunct faculty and part-time employees to eliminate retroactive contributions and lost earnings requirements.</p>
<p>B. Establish a fixed rate at current PERS employer contribution rate with an option for the Board to adjust for competitive market rates</p>	<p>B1. Requires budgetary support for divergent ORP and PERS rates</p> <p>B2. Requires periodic adjustment to total compensation benchmarks in relevant labor markets</p>

Discussion

Continued linkage to the PERS Total Employer Contribution Rate (ORS 243.800(9)) creates contribution rate uncertainty for ORP participants in the near and long-term. The

combination of regular biennial rate adjustments, based on PERS' plan valuations, uncertainty in future PERS benefits design, pending amortization policies for three separate PERS plans, and the outcome of legal challenges to 2003 PERS reform, create a contribution rate volatility unusual in money purchase pension plans. Decoupling the employer contribution rates eliminates these problems. Staff evaluation of the two contribution rate options is shown in Tables 1 and 2.

Table 1. ORP Linked to PERS Total Employer Cost Rate

Criterion	Analysis
Stable	Poor historical rate stability
Competitive	Provides highly competitive contribution rates
Sustainable	Questionable. Employer rates are projected to return to rate levels near those that stimulated PERS reform in 2003
Pro	<ul style="list-style-type: none"> ▪ Employer total cost rate was in effect when current participants made their irrevocable elections for the ORP; avoids "contract rights" litigation ▪ Cost neutrality between ORP and PERS ▪ Favored by faculty stakeholders until PERS reform litigation is completed
Con	<ul style="list-style-type: none"> ▪ PERS plan management, normal cost factors, and investment performance create a volatile employer total contribution rate ▪ Effects of PERS' amortization policies among three plans remains to be determined, but could cause PERS employer rates to decline to near zero over time due to the state agency surplus from Measure 29 bond proceeds ▪ Affected by alternative funding decisions related solely to PERS benefits, e.g., the Measure 29 rate reduction ▪ Inapplicability of past service cost payments for defined contribution plan participants, i.e., PERS and ORP benefits and contributions are not comparable

Table 2. Fixed Contribution Rate, Set at Current PERS Rates and Adjusted for Market

Criterion	Analysis
Stable	Best option for stability in predicting participant accruals and employer costs
Competitive	<ul style="list-style-type: none"> ▪ May be established with reference to labor market comparator rates ▪ Rate comparison to PERS contribution is immaterial in that member benefits are not directly impacted by employer funding levels
Sustainable	Presumes a fixed rate would be established at a rate determined to be sustainable by OUS institutions over extended periods of time
Pro	<ul style="list-style-type: none"> ▪ Provides participants a definite determinable retirement contribution for recruitment communications and retirement planning ▪ Provides predictable funding requirements for budgeting ▪ Eliminates the effect of PERS fiduciary decisions on ORP participants. ▪ Insulates ORP participants from the effects of legislative changes to PERS

Criterion	Analysis
	<ul style="list-style-type: none"> ▪ Permits rate-setting to be tailored to ORP demographics and experience ▪ Allows adjustments as wage benchmarks are attained ▪ Favored by six of seven OUS campuses; one campus response pending
Con	<ul style="list-style-type: none"> ▪ Requires OSBHE and OUS Institutions' commitment to sustained funding levels ▪ Requires rate setting structure and process be transparent with quantifiable and measurable metrics used in rate setting to address faculty concerns ▪ May be precluded by contract rights question similar to PERS challenge

Staff Recommendation to the Board:

At a minimum, housekeeping items related to indirect contributions (A1) and eligibility requirements for adjunct faculty and part-time employees (A2) should be proposed as a legislative concept to amend ORS 243.800 if the PERS Total Employer Cost Rate is retained.

In the best interests of the Oregon University System and Optional Retirement Plan participants, the ORP employer contribution rates should be decoupled from PERS employer contribution rates. The fixed rate option allows the OUS to adapt eligibility rules to the ORP to eliminate retroactivity of contributions and protects ORP participants from PERS funding arrangements unanticipated by the current statutory language.

(Board action required: roll call vote.)