



Oregon

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April 1, 2004

TO: Members of the PERS Board
FROM: Steven Patrick Rodeman, Administrator, PPLAD
SUBJECT: Statutory Provisions on PERS Fund Reserves

MEETING	4-15-05
DATE	
AGENDA	C.2.
ITEM	Statutory Provisions

The following memo summarizes the statutory provisions on PERS Fund reserves. This is an information item to assist in future Board divisions regarding earnings crediting and reserve funding allocation and uses. No Board action is required on this agenda item.

CONTINGENCY RESERVE

Statutory Authority: ORS 238.670(1)

When Funded? When income for the calendar year equals or exceeds the assumed rate.

How Funded? "Interest and other income received through investment of the [PERF]."

Limit on Annual Funding: Cannot exceed 7.5% of income in a year.

Limit on Total Funding: Until the board determines the reserve is adequately funded for the purposes specified.

Permitted Uses:

- 1) Prevent any deficit of moneys available to pay retirement allowances;
- 2) Prevent any deficit caused by an employer's insolvency (reserves for this purpose must come from earnings on employer contributions);
- 3) Pay legal expenses or judgments that do not arise in the ordinary course of adjudicating an individual member's benefits or an individual employer's liabilities.
- 4) Any other contingency that the board may determine to be appropriate (so long as the use is in furtherance of the PERS Funds' trust purpose).

CAPITAL PRESERVATION RESERVE

Statutory Authority: ORS 238.670(3)

When Funded? This reserve can be funded at any time.

How Funded? 1) "Interest and other income received through investment of the fund" or 2) Transfers from the Contingency Reserve of "such amount as the board determines to be unnecessary" for those [Contingency Reserve] purposes but necessary for the purposes of the Capital Preservation Reserve.

Limit on Annual Funding: None.

Limit on Total Funding: "Such part of the income as the board considers necessary."

Permitted Uses: "To offset gains and losses in invested capital." "Losses" can include current and prior year losses as well as funding the gap between actual earnings and current obligations, such as the need to credit the assumed rate to Tier One member regular accounts and for the Benefits-in-Force Reserve to be credited with the assumed rate to remain adequately funded.

BENEFITS IN FORCE RESERVE

Statutory Authority: ORS 238.670(2)

When Funded? This reserve is credited at the close of each calendar year.

How Funded? "Interest and other income received during the calendar year."

Limit on Annual Funding: "A sufficient amount adopted by the board as a result of periodic actuarial investigations."

Limit on Total Funding: Same as the above limit on annual funding.

Permitted Uses: This reserve is used to pay retired members' pensions and annuities.

TIER ONE MEMBER DEFICIT RESERVE

Statutory Authority: ORS 238.255(1)

When Used? This reserve is debited whenever there are insufficient earnings to credit the assumed rate to Tier One member regular accounts.

How Funded? "Earnings in excess of the assumed rate...shall first be applied to reduce or eliminate" the Deficit Reserve.

Annual Limit on Use: Only debited in years where earnings or other reserves are inadequate to credit the assumed rate to Tier One member regular accounts.

Limit on Deficit Status: This reserve may not be maintained on a deficit basis for more than five years.

TIER ONE RATE GUARANTEE RESERVE

Statutory Authority: ORS 238.255(1)

When Used? This reserve is the "positive balance" twin of the Tier One Member Deficit Reserve. When funded, the balance in this reserve can be reduced to and allocated fund crediting of the assumed rate to Tier One member regular accounts.

How Funded? By rule, earnings from Tier One member regular accounts are used to fund this reserve.

Limit on Total Funding: This reserve is to be funded "with amounts determined by the board, after consultation with the actuary..., to be necessary to ensure a zero balance in the account when all [Tier One members] have retired."

Other Conditions: Only when this reserve is fully funded to the limit described above for the three immediately preceding calendar years could the board credit more than the assumed rate to Tier One member regular accounts.

LEGAL COUNSEL REVIEW

This memo is based on concepts and discussions with legal counsel as staff has tried to develop policy issues on earnings crediting. It has been submitted to both Keith Kutler at DOJ and Richard Gilbert of Orrick for review; should they have any refinements or written legal advice to convey, an executive session for that purpose can be held during the PERS Board's April 15, 2005 meeting.