



NEWS RELEASE

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For Immediate Release

TIGARD –

Tentative Settlement Reached in City of Eugene, et al. v. State of Oregon, Public Employees Retirement Board

An agreement in principle has been reached to settle a four-year-old lawsuit between the state Public Employees Retirement Board (PERB) and local government employers. The settlement will result in dismissal of an appeal of a Marion County Circuit Court decision by Judge Paul Lipscomb that the former Board misapplied the law and abused its discretion in administering the retirement system.

Chief among the terms of the tentative settlement relates to the earnings credited by the former Board to Tier One member accounts in 1999. Judge Lipscomb ruled that the former PERB disregarded reserving statutes and ignored its own policies by allocating earnings of 20 percent for Tier One regular employee accounts. He ordered the Board to reallocate 1999 earnings, which would have involved taking money from member accounts.

The legislature also found that the former Board acted improperly in the 1999 earnings crediting. The reform legislation limits further earnings contributions until reserve accounts are funded but does not reduce any member account balances. The legislature found that earnings for 1999 should have been no more than 11.33 percent instead of 20 percent as determined by the former Board.

Under the tentative settlement, the Board will credit earnings in accordance with the reform legislation. The Board will not be required to reallocate 1999 earnings credited to Tier One regular accounts, unless the reform legislation related to earnings crediting is declared invalid by the courts.

The Board also will change its past practice in calculating money match retirement benefits for members who have variable accounts. Judge Lipscomb ruled that, by simply doubling a member's variable account at retirement, the former Board had improperly imposed an unintended penalty on contributing employers to provide a double benefit for employees.

The proposed settlement states that the Board will comply with the statutory directives concerning reserving practices and mortality tables, as interpreted by Judge Lipscomb and as amended by the PERS reform legislation. The PERB already has directed that the Contingency Reserve be funded to the full extent allowed by law in its preliminary earnings crediting, which is slated to be finalized at the Board's March 2004 meeting.

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Under the tentative settlement, employer contribution rates will be recalculated for those employers who filed the initial challenge and for all other public employers, taking into account the changes ordered by Judge Lipscomb and agreed to by the Board. The recalculation will be included in future rate structures. Employer contribution rates effective July 1, 2003 already reflect actuarial equivalency factor and earnings crediting changes set out in the reform legislation.

For the City of Eugene and Lane County, their contribution rates will be recalculated as if these changes had been in effect in 1998. For other petitioning employers in the lawsuit (Portland, Multnomah County, Roseburg, Huntington, Canby Utility Board, and Rogue River Valley Irrigation District), their contribution rates will be recalculated as if these changes had been in effect in 2000. As a result of the tentative settlement, these employers will dismiss their 2003 rate order challenges.

PERS will transfer funds from employer accounts to the Contingency Reserve Account, consistent with Judge Lipscomb's ruling on the "employer-in-variable" rule. This portion of the lawsuit was raised by intervening public employee unions.

Judge Lipscomb ordered the Board to pay the petitioning employers their reasonable costs and attorney fees for the litigation. PERS agreed in the tentative settlement to pay \$750,000 to satisfy this order.

A settlement document containing the terms of the agreement in principle will be prepared and signed by the respective parties prior to the filings in the Oregon Supreme Court to dismiss the appeal of Judge Lipscomb's decision and in Marion County Circuit Court to dismiss the 2003 rate order challenges.

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