

2009 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3401

STATUS: A-Engrossed

SUBJECT: Allows for the application of excess amounts in side accounts to offset contributions to individual account program

GOVERNMENT UNIT AFFECTED: Public Employees Retirement System

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DATE: May 28, 2009

	<u>2009-2011</u>	<u>2011-2013</u>
EXPENDITURES:		
See analysis	Indeterminate	Indeterminate

EFFECTIVE DATE: On passage

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: House Bill 3401 allows a public employer participating in the Public Employees Retirement System (PERS) to request that side account amounts, determined by the PERS Board as exceeding the level necessary to fund the employer's actuarial liabilities under the system, be applied to offset contributions to the Individual Account Program (IAP). The bill directs PERS to seek a ruling from the Internal Revenue Service (IRS) on the application of excess amounts from a side account to offset contributions to IAP accounts. The ruling is needed to ensure that this use of side accounts would not cause the system or the PERS Fund to lose its status as a qualified governmental retirement plan and trust under federal tax laws.

There is a fiscal impact to PERS; some costs can be estimated and some impacts are indeterminate.

PERS estimates it will cost about \$50,000 in the 2009-11 biennium to request a Private Letter Ruling by the IRS as directed by the bill. Based on past experience with these requests, the agency expects an IRS ruling to take at least 18 months. Depending on the IRS's actual response time, a portion of the cost associated with the ruling could shift into the 2011-13 biennium.

If the IRS ruling does not support the state's request to use excess side account balances for IAP contributions, there should be no additional costs for the agency. If the IRS ruling supports the new use, PERS will need to adopt rules for determining side account adequacy and for handling employer requests. Costs associated with these activities should be minimal.

Another cost estimated by PERS (also dependent on the IRS ruling) is for system modifications needed to calculate and process contributions from employer's side accounts to IAP accounts. PERS expects programming costs – likely to occur late in the 2009-11 biennium – to be about \$125,000. The agency also anticipates there may be some indeterminate legal costs associated with employers disagreeing with and contesting Board determinations on whether a side account's balance exceeds the amount needed to fund the employer's actuarial liability.