



February 26, 2019

TO: Ways and Means, General Government Subcommittee  
FROM: Kevin Olineck, Director  
SUBJECT: KPM Update

At the February 25, 2019 hearing of HB 5032, the PERS Agency Budget, I presented a slide that highlighted progress toward meeting agency Key Performance Measures (KPMs). Data were reported as of Fiscal Year end June 30, 2018. Those measures are directed through the legislative process and are similar to our own internal measures developed through the PERS Outcome Based Management System (POBMS) and our Quarterly Target Reviews (QTRs). We have provided an update of data to reflect progress through December 31, 2018. We appreciate legislative interest in our progress toward success.

### PERS: Key Performance Measures and Summary of Progress (as of 6/30/18)

Key Performance Measure	Metrics	Last Reported Result	Target 2018	Target 2019
1. Timely retirement payments	Percent of initial service retirements paid within 45 days of retirement date	60%	80%	80%
2. Total benefits administration cost	Total benefit administration cost per member	\$150	\$145	\$145
3. Member to staff ratio	Ratio of members to staff	977	977	977
4. Accurate benefit calculations	Percent of service retirement monthly benefits accurately calculated to within \$5 per month	95%	100%	100%
5. Level of participation	Percent of state employees participating in the deferred compensation program - Oregon Growth Savings Plan	39%	50%	50%
6. Customer service	Percent of member customers rating their satisfaction with the Agency's customer service as "good" or "excellent"; overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information (overall)	92%	98%	98%
7. Timely benefit estimates	Percent of benefit estimates processed within 30 days of request	56%	95%	95%
8. Board of Directors best practices	Percent of total best practices criteria met by the PERS Board	100%	100%	100%



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### PERS: Key Performance Measures and Summary of Progress (as of 12/31/18)

Key Performance Measure	Metrics	Last Reported Result	Target 2018	Target 2019
1. Timely retirement payments	Percent of initial service retirements paid within 45 days of retirement date	64%	80%	80%
2. Total benefits administration cost	Total benefit administration cost per member	\$145	\$145	\$145
3. Member to staff ratio	Ratio of members to staff	1,048	977	977
4. Accurate benefit calculations	Percent of service retirement monthly benefits accurately calculated to within \$5 per month	100%	100%	100%
5. Level of participation	Percent of state employees participating in the deferred compensation program - Oregon Growth Savings Plan	42%	50%	50%
6. Customer service	Percent of member customers rating their satisfaction with the Agency's customer service as "good" or "excellent"; overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information (overall)	90%	98%	98%
7. Timely benefit estimates	Percent of benefit estimates processed within 30 days of request	76%	95%	95%
8. Board of Directors best practices	Percent of total best practices criteria met by the PERS Board	100%	100%	100%



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# Oregon

Kate Brown, Governor

## Public Employees Retirement System

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February 26, 2019

**TO:** Ways & Means General Government Subcommittee Members  
**FROM:** Kevin Olineck, Director  
**SUBJECT:** Summary of *Strunk/Eugene*

### OVERVIEW

PERS benefit recipients received overpayments as a result of the PERS Board crediting accounts with 20% earnings in 1999 instead of 11.33% that the Oregon Supreme Court later determined to be the proper amount. Members, or their beneficiaries, who received overpayments based on the higher crediting rate were notified in January 2006 that an overpayment occurred. PERS began collection efforts in 2006 however, subsequent court challenges suspended PERS from recovery effort. Resolution by the Oregon Supreme Court, of all challenges enabled PERS to resume recovery efforts in August 2012 from the remaining accounts affected by the overcrediting payment.

Some PERS members received lump sum benefit payments at retirement, and they received invoices for the overpayment. Communications from PERS outlined repayment options which included: repayment in a lump sum; a monthly payment plan; or file an appeal within 60 days of the date on the invoice explaining why the invoice was wrong and the corrective action sought. If a member did not file an appeal in writing within 60 days, then the invoice amount owed remained in effect.

Calculations related to overpayments were reviewed at multiple steps in the process. When members were overcredited, they received compounded earnings and other distributions on those earnings in subsequent years, so PERS must recover more than the earnings that were overcredited in 1999.

PERS understands that the overpayment recovery project had, and continues to have, a significant impact on some members or their beneficiaries. We offered multiple options for members to work with PERS to make payments over time, or appeal the overpayment determination, within the appropriate timeframe.

As of December 31, 2018 the total *Strunk/Eugene* collections efforts were as follows:

PERS Invoiced	\$172,670,206
PERS Wrote off	\$2,287,440
Collected	\$121,594,484
To Be collected	\$48,788,281

### TIMELINE for *Strunk, City of Eugene, and Arken/Robinson*

#### **April 2000**

City of Eugene files suit against the PERS Board challenging its crediting of 20% of 1999 earnings to Tier One member regular accounts and employer rate orders. Later, City of Eugene is joined by other employers to challenge their 2001 employer rate orders. PERS members intervene in this suit to challenge the 1999 earnings crediting to the "employer in variable."

#### **January 2003**

Marion County Circuit Court Judge Lipscomb issues a judgment in the *City of Eugene* case. As a result:

- 1999 earnings crediting order remanded to PERS Board to:
  - \* Explain why 7.5% of income was not allocated to the Contingency Reserve.
  - \* Explain why the Gain/Loss Reserve was not fully funded to the 30-month goal.

- \* Redo the “Employer in Variable” allocation; found to be a breach of contract and trust.
- Employer rate orders remanded for recalculation using:
  - \* 1999 earnings reallocation
  - \* Updated actuarial factors
  - \* Variable match method defined by the court

### **July 2003**

Oregon Legislature adopts PERS Reform bills (HB 2003, 2004, 2005, and 3020). Combined, these bills:

- Determined that 11.33% was the appropriate 1999 earnings crediting rate for Tier One member regular accounts.
- Guaranteed Tier One members a “lifetime” crediting at the assumed rate, not a year-to-year guarantee.
  - \* Prohibited the PERS Board from crediting earnings to Tier One member accounts if there was a deficit from prior years’ crediting, except as necessary to fund up to the lifetime guarantee.
- Implemented a “COLA freeze” on window retirees’ monthly benefits, freezing their benefit amount until a revised benefit amount based on 11.33% crediting for 1999 exceeds the frozen benefit amount paid on July 1, 2003 or after.
  - \* Window retiree is defined as those persons who receive monthly benefits under the Money Match calculation method with an effective retirement date of April 1, 2000 to April 1, 2004.
- Mandated that PERS use updated actuarial factors.
- Created the OPSRP Pension Program and the Individual Account Program (IAP) and diverted Tier One and Tier Two member contributions to the IAP.

Members file challenges to these 2003 PERS Reform bills and the cases are expedited directly to the Oregon Supreme Court for review (*Strunk* case).

### **March 2004**

The PERS Board adopts the settlement agreement in the *City of Eugene* case. Part of the agreement requires a new 1999 rate order 11.33% if certain challenges to the 2003 PERS Reform bills are successful.

### **April 2004**

Members file a challenge to the PERS Board’s agreement to settle the *City of Eugene* case, alleging that it violated the Board’s fiduciary duty to the members (*White* case).

### **March 2005**

The Oregon Supreme Court issues a decision in the *Strunk* case which upheld the 2003 PERS Reform bills except in the following respects:

- Tier One members are entitled to a year-to-year crediting of earnings at the assumed rate.
- The COLA freeze method to recover overpaid benefits is invalid.

### **August 2005**

The Oregon Supreme Court dismisses the *City of Eugene* case appeal as moot. The Court holds that all issues were resolved either by the 2003 Reform bills or the settlement agreement.

### **December 2005**

PERS adjusts regular accounts for Tier One members not yet retired to reflect the 11.33% earnings crediting for 1999 (about 103,000 accounts).

### **January 2006**

The PERS Board adopts an Order on Repayment Methods, notifying those recipients who had received a benefit based on erroneous 1999 earnings crediting of the methods PERS intended to use to recover those overpayments. The Order applies to:

- 34,000 Tier One members who retired after March 1, 2000
- 5,000 member withdrawals
- 1,000 Tier One members with lump sum retirement installments
- 1,400 death benefit recipients
- 3,000 accounts split as a result of a divorce

### **February 2006**

Challenges to the PERS Board's Order on Repayment Methods were filed by two groups who allege to be class actions:

- All benefit recipients, contending that PERS' recovery is limited to administrative expenses under Section 14b of HB 2003 in the PERS Reform bills (*Robinson* case).
- Window retirees, contending that the Strunk decision created an entitlement by this group of their fixed benefit as of July 1, 2003 (*Arken* case).

### **June 2007**

Multnomah County Circuit Court Judge Kantor issues an Opinion and Order in favor of the *Robinson* plaintiffs, finding that:

- PERS is limited to recovering any overpayments from administrative expenses and cannot recover from benefit recipients. The PERS Board's Order on Repayment Methods is invalidated.
- Payments received from recipients to recover overpayments should be returned to them and future adjustments cannot collect the overpayments.
- COLA should be applied to all eligible benefits as of July 1, 2007.

### **May 2008**

To clarify his June 2007 ruling, Judge Kantor issues another Opinion and Order. He finds that the *Arken* plaintiffs are not entitled to their fixed benefit plus COLA, but are still protected from recovery of overpayments by Section 14b of HB 2003. PERS timely appealed the *Arken* and *Robinson* cases.

### **October 2011**

The Oregon Supreme Court issued its decision in the *Arken/Robinson* cases, reversing the circuit court decision in *Robinson* and upholding the decision in *Arken* and allowing PERS to recover overpayments from retirees.

### **February 2012**

PERS resumed collection of the invoices generated by adjusted benefits in accordance with the *Strunk* and *City of Eugene* decisions.