

Each year, Colorado PERA has the opportunity to update the administrative regulations that guide how PERA law is applied in practice. The administrative regulations that govern PERA are called Rules. The process for updating the Rules provides for public comment on the proposed changes. The Public Hearing on PERA's proposed changes to its Rules occurred on October 20, 2006, during the monthly PERA Board of Trustees Meeting held at 1300 Logan Street in Denver.

Listed below are brief summaries of the rule changes; the actual rule changes appear in red text. The rule changes will go into effect on January 1, 2007. (The current version of PERA Rules can be located under Tools/Forms/Pubs and then click on Member/Retiree Forms and Publications.)

## **Rule 1: Definitions**

A Rule is being added to clarify how Highest Average Salary (HAS) will be calculated in accordance with legislation passed during 2006. The new calculation will include a base year for purposes of applying the 15 percent limit for existing members who retire on or after January 1, 2009. The calculation for new members as of January 1, 2007, will include a base year for purposes of applying the 8 percent limit.

### **1.20 G. Highest Average Salary**

- (1) In calculating Highest Average Salary, the Association shall sort the three periods of 12 consecutive months of service credit in chronological order.
- (2) For a member who was a member, inactive member, or retiree on December 31, 2006, and who has an effective date of retirement on or after January 1, 2009, and has more than 36 months of earned service credit and less than 48 months of earned service credit, the Highest Average Salary shall be calculated using the highest annual salaries associated with three periods of twelve consecutive months of service credit and no annual base salary shall be used.
- (3) For a member who was not a member, inactive member or retiree on December 31, 2006, and who has more than 36 months of earned service credit and less than 48 months of earned service credit, the Highest Average Salary shall be calculated using the highest annual salaries associated with three periods of 12 consecutive months of service credit and no annual base salary shall be used.

## **Rule 2: Administration**

As a result of legislation enacted in 2006, two Rules are being added to outline how gubernatorial appointments to the Board of Trustees will occur and how these appointees will be compensated.

### **2.43 Gubernatorial Appointments**

A. At such time as the first trustee of the State, School, and Local Government division leaves the Board either by death, resignation, removal, expiration of term, or otherwise after January 1, 2007, the gubernatorial appointment shall assume office at the next regularly scheduled Board meeting following appointment by the governor. Such gubernatorial appointed trustee who has not yet been confirmed by the Senate shall serve until Senate confirmation or until Senate confirmation is denied at which time the appointee shall be removed from the Board and the vacancy shall be filled in accordance with statute. Thereafter, at such time that a gubernatorial appointee leaves the Board either by death, resignation, removal, expiration of term, or otherwise, the next gubernatorial appointee shall assume office at the next regularly scheduled Board meeting following appointment by the governor. Such gubernatorial appointed trustee who has not yet been confirmed by the Senate shall serve until Senate confirmation or until Senate confirmation is denied at which time the appointee shall be removed from the Board and the vacancy shall be filled in accordance with statute.

B. Gubernatorial appointed trustees shall be compensated one hundred dollars per diem plus their actual and necessary expenses. The per diem amount shall be paid for each day that the trustee attends at least 75 percent of an official Board meeting, committee meeting, administrative hearing, trustee orientation, Board Planning session, or other function approved by the Board Chair or Vice Chair up to a maximum of 20 days per year.

### **Rule 3: Membership**

No changes.

### **Rule 4: Contributions**

No changes.

### **Rule 5: Service Credit**

Rule 5.10 is being changed to clarify that service credit for a period of 12 months may not exceed one year except for overlaps, which occur due to changes in employment patterns or overlapping employment contracts.

Two additional Rules are being added to comply with the new method of calculating HAS for determining the cost to purchase service credit, and how the additional 1 percent cost to purchase forfeited service credit will be transferred to the new annual increase reserve fund. This 1 percent will not become part of the member contribution account and is not refundable to the member.

#### ***5.10 Combinations of Employment Patterns***

B. Service credit for any combination of traditional, academic year or seasonal employment patterns occurring within one year will be calculated separately and combined for the annual total. Service credit for any period of 12 consecutive months may not exceed one year except for overlaps, which occur due to changes in employment patterns or **overlapping employment contracts**.

#### ***5.25 Service Credit Purchase Cost and Application***

G. For a member who was a member, inactive member, or retiree on December 31, 2006, the Highest Average Salary used to determine the cost to purchase noncovered employment shall be calculated pursuant to 24-51-101(25)(a), C.R.S. and 24-51-101(25)(b)(I) and (II), C.R.S. as long as the Association receives a complete service credit purchase application pursuant to Rule 5.25 C. prior to January 1, 2009.

#### ***5.35 Purchase of service credit relating to a refunded member contribution account***

The 1 percent of the member's Highest Average Salary associated with the cost to purchase forfeited service credit pursuant to 24-51-503(4), C.R.S. and any associated interest payment attributable thereto shall be allocated to the annual increase reserve as soon as administratively practical upon completion of the service credit purchase agreement and shall not be part of the member contribution account and never refundable to the member.

### **Rule 6: Service Retirement**

Rule 6.25 is being amended to state that a member may cancel his or her retirement application anytime prior to the earlier of the issuance of the initial benefit or the use of any health care benefit.

#### ***6.25 Cancellation of Retirement Application***

Applicants for service retirement may cancel the application any time prior to the **earlier of (1) the issuance of the initial benefit or (2) the use of any Health Care Benefit pursuant to 24-51-1201 et seq., C.R.S.** Requests for cancellation must be made to the Association in writing.

### **Rule 7: Disability Benefits**

No changes.

### **Rule 8: Benefit Options**

No changes.

### **Rule 9: Survivor Benefits**

No changes.

### **Rule 10: Increase in Benefits**

To comply with legislation passed in 2006, Rule 10.10 is being amended to specify that only survivor benefit recipients and retirees who were members, inactive members, or retirees on December 31, 2006, will be eligible to receive retroactive annual increases.

A new Rule is being added to clarify when cobeneficiaries will be eligible to receive an annual increase if his or her benefit is based on the account of a retiree who was not a member, inactive member, or retiree on December 31, 2006.

#### ***10.10 Retroactive Effective Date of Retirement or Survivor Benefit***

A. For a retiree who was a member, inactive member, or retiree on December 31, 2006, if the effective date of the benefit is retroactive, then increases in the benefit shall be determined by considering the benefit to have been paid from the effective date.

B. For a survivor benefit recipient, if the effective date of the benefit is retroactive, then increases in the benefit shall be determined by considering the benefit to have been paid from the effective date.

#### ***10.20 Increase in Benefits for Cobeneficiaries***

For cobeneficiaries whose benefits are based on the account of a retiree who was not a member, inactive member, or retiree on December 31, 2006, the annual increase shall be effective only if the retirement benefits have been paid on the account for the full preceding calendar year and the retiree had met the requirements in 24-51-1001(3)(b), C.R.S. If upon the death of the retiree, the retiree had not met the requirements in 24-51-1001(3)(b), C.R.S., the cobeneficiary will be eligible to receive an annual increase when the retiree would have met the requirements in 24-51-1001(3)(b), C.R.S.

### **Rule 11: Employment After Retirement**

Two new Rules are being added to further define working after retirement.

1. A day of work during the effective month of retirement is defined as any time worked for a PERA-affiliated employer regardless of the number of hours worked per day.

2. Any work during the month of the effective date of retirement will apply toward the working after retirement 110-day limit.

3. Further clarifies when employer contributions will be due on retiree service.

Rule 11.20 is being amended to clarify the amount of matching employer contributions that will be paid to a retiree who suspends their retirement and returns to work for less than one year. The amount of matching contributions will be based on the service credit earned during the retirement suspension period and the age of the retiree.

#### ***11.05 Employment During the Effective Month of Retirement***

A. A day of work during the effective month of retirement is defined as any time worked for a PERA-affiliated employer regardless of the number of hours worked per day.

B. Employment by a retiree during the month of the effective date of retirement shall count toward the working after retirement limits specified in 24-51-1101(1), C.R.S.

### **11.12 Employer Contributions on Retiree Service**

A. A PERA employer that receives the services of a retiree, other than as a volunteer, under the conditions specified in this Rule, shall remit employer contributions to the Association in the manner specified in 24-51-401, C.R.S. and this Rule. Employer contributions shall be due to the Association only if a retiree is the individual performing services for a PERA employer. Employer contributions shall not be due to the Association for a retiree if no services are provided to a PERA employer by the retiree. Employer contributions shall not be due to the Association for a retiree who provides products or goods to a PERA employer rather than services.

B. Ownership of up to 5 percent of a publicly traded company registered on a national securities exchange by a retiree shall not constitute ownership of the company or cause the company to be an affiliated party of the retiree for purposes of 24-51-1101(2), C.R.S. Any other form or degree of ownership in an entity providing services to a PERA-affiliated employer shall constitute ownership or operation of the entity for purposes of 24-51-1101(2), C.R.S.

C. For purposes of 24-51-1101(2), C.R.S. an affiliated party shall include:

- (1) any person who is the named beneficiary or cobeneficiary on the PERA account of the retiree,
- (2) any person who is a relative of the retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren,
- (3) any person who is a relative of the retiree by marriage to and including spouse, spouse's parents, stepparents, stepchildren, stepsiblings, and spouse's siblings, and
- (4) any person or entity with whom the retiree has an agreement to share or otherwise profit from the performance of services for a PERA employer by the retiree other than the retiree's regular salary or compensation.

D. When employer contributions are due to the Association as a result of services provided by a retiree, the amount of contributions shall be based on the following:

- (1) If the services provided to a PERA employer by the retiree are the specific subject of an agreement with the PERA employer, the retiree shall disclose the amount agreed upon and the amount of employer contributions shall be based on the amount received by the retiree as specified in the agreement which, if paid directly by a PERA employer, would constitute salary under 24-51-101(42), C.R.S.
- (2) If the services provided to a PERA employer by a retiree are not the specific subject of an agreement with the PERA employer, then the retiree shall disclose the amount of compensation received by the retiree for services the retiree is providing to the PERA employer. Retiree shall report monthly to the Association and the PERA employer the amount received for the services provided to the PERA employer and shall specify the amount of compensation received which, if paid directly by a PERA employer, would constitute salary under 24-51-101(42), C.R.S. The PERA employer shall remit employer contributions to the Association within 30 days after receipt of the retiree's disclosure.
- (3) If a retiree fails to report the compensation required under subsection D.(2) then the retiree shall be responsible to pay the contribution required by 24-51-1101(2), C.R.S. together with interest at PERA's actuarial investment assumption rate.

E. Regular salary or compensation received by the retiree as an employee of an entity which is not owned or operated by the retiree or any affiliated party shall not be subject to employer contributions.

### ***11.20 Termination of Employment After Retirement***

#### **A. Employment of Less Than One Year**

A retiree who earns less than one year of service credit, following suspension of benefits and resumption of employment in a position subject to membership, shall receive a refund of member contributions made during the period of membership together with the amount of matching employer contributions, upon resumption of benefit payments. **The amount of matching contributions shall be determined based on the service credit earned during the period of suspension and the age of the retiree.**

### **Rule 12: Health Care Program**

Rule 12.10 B. is being amended to clarify that persons eligible to enroll in PERA's health care program may enroll within 30 days after loss of any other coverage.

### ***12.10 Enrollment***

#### **B. Enrollment Upon Loss of Other Coverage**

Benefit recipients and others eligible for coverage who are not enrolled in the Health Care Program may enroll within 30 days after **loss of other coverage.**

### **Rule 13: Life Insurance Program**

No changes.

### **Rule 14: Voluntary Investment Program**

No changes.

### **Rule 15: Domestic Relations Orders (DROs)**

No changes.

### **Rule 16: Defined Contribution Plan**

No changes.

Other minor changes are being proposed to correct punctuation and other inconsistencies in the Rules.