

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 will take place at 11:00 a.m. on October 20, 2006, during the monthly PERA Board of Trustees Meeting held at 1300 Logan Street in Denver. If you would like to comment on these proposed Rules changes, please plan on attending the hearing on October 20. See information on attending Board meetings at www.copera.org/PERA/about/board/meetings.stm. (The current version of PERA Rules can be located under Tools/Forms/Pubs and then click on Member/Retiree Forms and Publications.)

Listed below are brief summaries of the proposed rule changes; the actual proposed rule changes appear in red text.

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 retirements on or after January 1, 2009.

1.20 G. Highest Average Salary

- (1) In calculating Highest Average Salary, the Association shall sort the three periods of twelve 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 twelve 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 appointments 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 and forty dollars per diem plus their actual and necessary expenses. The per diem amount shall be paid for the attendance of Board meetings and committee meetings.

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 even if there is an overlap in employment contracts.

Two additional Rules are being added to comply with the new method of calculating HAS on or after January 1, 2009, 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)(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 one 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 anytime 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

A Rule is being added to comply with Senate Bill 06-235 and the IRS requirements for an Option 3 cobeneficiary designation. If the adjusted age difference between a retiring member and their Option 3 non-spouse cobeneficiary exceeds 10 years, the retiring member must select an Option 1 benefit, an Option 2 benefit with a cobeneficiary of any age, or a different cobeneficiary for Option 3 who is a spouse or, if a non-spouse, whose adjusted age difference with the member does not exceed 10 years.

If the new selection is not made prior to the issuance of the initial benefit payment, the benefit payments will become an Option 2 using the same cobeneficiary as the retiring member initially designated. Such Option 2 and cobeneficiary designation shall remain unless changed in accordance with applicable statutes and rules. If the adjusted age difference exceeds 10 years for a retiree changing an Option 3 cobeneficiary designation as described in law, no change shall be made until the retiree selects an Option 1, or selects another cobeneficiary who is either a spouse or whose adjusted age difference with the retiree does not exceed 10 years.

8.30 Cobeneficiary Designations for Option 3

The selection of an Option 3 benefit under 24-51-801, C.R.S. shall be subject to the limitations on distributions under Treasury Regulations Sections 1.401(a)(9)-2 through 1.401(a)(9)-9 as follows:

A. For a member applying to retire with an Option 3 benefit who designates a non-spouse cobeneficiary, the Association shall determine an adjusted age difference between the retiring member and the cobeneficiary by first calculating the excess of the age of the member over the age of the cobeneficiary based on their ages on their birthdays in a calendar year. Then, if the retiring member is younger than age 70, the age difference determined in the previous sentence is reduced by the number of years that the member is younger than age 70 on the member's birthday in the calendar year that contains the member's effective date of retirement. The ages used in such calculations shall be the age on the individual's birthday that occurs in the year in which the effective date of retirement occurs.

B. If the adjusted age difference exceeds ten years the retiring member must select an Option 1 benefit, an Option 2 benefit with a cobeneficiary of any age or a different cobeneficiary for Option 3 who is a spouse or, if a non-spouse, whose adjusted age difference with the member does not exceed ten years. If the new selection is not made prior to the issuance of the initial benefit payment, the benefit payments will commence as an Option 2 using the same cobeneficiary as the retiring member initially designated. Such Option 2 and cobeneficiary designation shall remain unless changed in accordance with applicable statutes and rules. If the adjusted age difference exceeds ten years for a retiree changing an Option 3 cobeneficiary designation pursuant to §§ 24-51-802(3.5) and (3.8), C.R.S., no change shall be made until the retiree selects an Option 1, if allowed pursuant to law, or selects another cobeneficiary who is either a spouse or whose adjusted age difference with the retiree does not exceed ten years.

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

Three 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) Defines "affiliated party" as any person who is a relative by blood or marriage to and including first cousins. Affiliated party also includes a business entity for which the retiree has an economic interest other than his or her regular salary.

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.

11.10 Employment After Service Retirement

A retiree receiving a service retirement or reduced service retirement benefit may be employed, under certain conditions, without reduction in benefits.

A. Employment with an Affiliated Employer

(1) For a service retiree employed in a position subject to limits on employment after service retirement, employment of more than four hours per day shall be considered one day.

(2) Employment after service retirement shall include all of the time during which a retiree renders any paid service.

(3) For purposes of 24-51-1101 (2), C.R.S. affiliated party is defined as any person who is a relative by blood or marriage to and including first cousins. Affiliated party also includes a business entity for which the retiree has an economic interest other than his or her regular salary as a result of the performance of services.

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.