

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 011 – RETIREMENT CREDIT**

459-011-0500

Accumulated Unused Sick Leave

- (1) Pursuant to ORS 238.350, a public employer may request that one or more groups of its employees be compensated for accumulated unused sick leave in the form of increased retirement benefits. The request, in writing and accompanied by certified copy of the public employer's governing body's official action, shall be effective not earlier than the first of the calendar month following date of the official action by the public employer.
- (2) The Board shall determine the monetary value of 1/2 of the accumulated unused sick leave by the following procedure:
 - (a) For retiring employees not subject to ORS 238.350(1)(b), the hourly rate used to establish the monetary value of the unused sick leave shall be determined by dividing the monthly final average salary by 173.3 hours, multiplying this hourly rate times 1/2 of all accumulated unused sick leave hours reported, and adding this value to the final average salary calculation;
 - (b) For retiring employees subject to ORS 238.350(1)(b), the hourly rate used to establish the monetary value of the unused sick leave shall be determined by dividing the salary in the final contract of employment by the number of contract hours, multiplying this hourly rate times 1/2 of all unused sick leave hours reported for employment as described in ORS 238.350(1)(b) and adding this value to the final average salary calculation;
 - (c) The monetary value of the unused sick leave for retiring employees described in ORS 238.350(1)(b) who were employed under contracts for 12 months or earned 96 hours of sick leave in any of the three or less years used in determining final average salary will be valued as provided in subsection (a) of this section.
- (3) Upon an employee's termination of employment from any PERS covered position, a public employer shall report the amount of accumulated unused sick leave on forms furnished by the Board. The public employer shall transmit the forms to the Board and provide a legible copy of the form or a facsimile thereof to each terminated employee immediately following final payment of salary. For PERS purposes, accumulated unused sick leave cannot exceed an accrual of more than eight hours per month worked less usage.
- (4) To be eligible for the use of unused sick leave pursuant to ORS 238.350, a member must have been in the employ of a public employer and in a covered group on or after the effective date of an employer's election to extend the use of accumulated unused sick leave. A member retiring with an effective retirement date the same as the effective date of the election is deemed an employee on the effective date of the election if the member was employed during the month preceding the effective date of the employer's election.
- (5) "Sick time" as provided in Chapter 537, Oregon Laws 2015 does not constitute "sick leave" for purposes of ORS 238.350.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.350