

Rule Summary and Fiscal Analysis (Part A)**Public Employees Retirement System**

Agency Name

Division

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145-4-02

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Health care fund.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **111.15**
4. Statute(s) authorizing agency to adopt the rule: **145.09, 145.58**
5. Statute(s) the rule, as filed, amplifies or implements: **145.58, 145.584**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being filed to amend paragraph (F), which specifies the method of closing and reallocating health care assets in OPERS' 401(h) account to OPERS' 115 Trust, which is also a health care trust. OPERS is seeking to have one health care trust rather than two.
7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The amendments in paragraph (F) clarify that, upon closure of the 401(h), the assets will revert to OPERS and are held in trust for public employers before they are transferred to the 115 trust. These trusts and assets are highly regulated by the IRS. OPERS has worked extensively with the IRS to obtain positive guidance in a private letter ruling through which the IRS has blessed this amendment and intended movement of assets into a singular health care trust. The 115 Trust document and favorable IRS PLR are attached to this filing. OPERS is the only actor in this rule and its meaning and intent are unambiguous to OPERS and its regulatory body in this matter (the IRS).

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule references sections of the Ohio Revised and Administrative Codes, and the Internal Revenue or United States Code. The ORC, OAC, USC, and IRC are generally available in libraries and on the internet. Further, OAC 145-1-15 provides that any other documents referenced in OPERS' OAC Chapters 145-1 to 145-4 are not incorporations of the document itself unless specifically referenced as such in the rule. This rule also references the 115 Trust, which is attached with this filing.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Ohio Revised Code 121.76 exempts agencies from filing copies of the codes cited in the text of a rule. OAC 145-1-15(D) provides that referenced documents are not incorporated into OAC Chapters 145-1 through 145-4. The 115 Trust and IRS PLR are attached.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **9/29/2018**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

Not Applicable

Not Applicable

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Not Applicable

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**