

Enrolled
Senate Bill 109

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Public Employees Retirement System)

CHAPTER

AN ACT

Relating to underpayments to members of Public Employees Retirement System; creating new provisions; amending ORS 238.455; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 238.455 is amended to read:

238.455. (1)(a) Whenever a member of the system is retired for service and is entitled to receive a retirement allowance or benefit [*which*] **that** is payable monthly, and the **Public Employees Retirement Board** is unable to calculate the amount of the monthly payment in time to allow mailing of the monthly payment to the member within 62 days of the date the first monthly payment is due, the board shall calculate an estimated amount for the monthly payment based on the information then available to the board and shall mail that payment to the member within 62 days of the date the first monthly payment is due.

(b) Whenever a member of the system is retired for disability and is entitled to receive a retirement allowance or benefit [*which*] **that** is payable monthly, and the board is unable to calculate the amount of the monthly payment in time to allow mailing of the monthly payment to the member within 10 days of either the date the board approves the member's application or the date that the first monthly payment is due, whichever is later, the board shall calculate an estimated amount for the monthly payment based on the information then available to the board and shall mail that payment to the member within 10 days of the date the board approves the member's disability benefit, the date the board receives the member's election of one of the optional forms of disability retirement allowance or the date the first monthly payment is due, whichever is later.

(2) The board shall continue to mail estimated payments under subsection (1) of this section until such time as the correct amount of the monthly payment is determined.

(3) The board shall notify the member receiving an estimated payment under subsection (1) of this section that the payment is an estimated payment only. The board shall further notify the member of the provisions of subsection (4) of this section.

(4) If the board determines that any estimated payment made to the member under subsection (1) of this section resulted in payment to the member of an amount other than the correct amount due the member as a retirement allowance or benefit, the board shall immediately so notify the member. Thereafter, the board may increase or decrease the monthly payment to the member until such time as the total difference between the amount or amounts the member received and the

amount or amounts the member should have received is accounted for. Thereafter the member shall receive the monthly payment as finally calculated by the board.

(5) If the estimated payment made to the member under subsection (1) of this section results in an underpayment to the member of \$10 or more a month, the board shall pay interest on the balance of such underpayment at [the] a rate [credited to the Public Employees Retirement Fund for the prior year] established by rule of the board until such time as the underpayment is paid to the member pursuant to subsection (4) of this section.

(6) No member shall have any right to any allowance or other benefit other than that provided for in this chapter and ORS chapter 238A based on the board's estimate under this section or based on any other estimate made by the board for any other purpose under this chapter and ORS chapter 238A.

SECTION 2. (1) Except as provided in subsection (2) of this section, the amendments to ORS 238.455 by section 1 of this 2005 Act become operative on January 1, 2006.

(2) The amendments to ORS 238.455 by section 1 of this 2005 Act become operative on the effective date of this 2005 Act for the purpose of adoption by the Public Employees Retirement Board of a rule establishing an interest rate as provided in ORS 238.455 (5).

(3) The amendments to ORS 238.455 by section 1 of this 2005 Act apply only to members of the Public Employees Retirement System who have effective dates of retirement that are on or after the operative date specified in subsection (1) of this section.

SECTION 3. This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect on its passage.

Passed by Senate March 9, 2005

Received by Governor:

Repassed by Senate June 15, 2005

.....M.,....., 2005

Approved:

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Secretary of Senate

.....M.,....., 2005

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President of Senate

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Governor

Passed by House May 25, 2005

Filed in Office of Secretary of State:

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Speaker of House

.....M.,....., 2005

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Secretary of State