

BEFORE THE PUBLIC EMPLOYEES RETIREMENT BOARD OF THE STATE OF OREGON

In the Matter of the Recovery of Overpayments)
under *Strunk* and *City Of Eugene*) Order Adopting Repayment Methods

This matter came before the Board at its regularly scheduled meeting on January 27, 2006. As a result of Oregon Supreme Court decisions in *Strunk v. PERB*, 338 Or 145, 108 P3d 1058 (2005), and *City of Eugene v. PERB*, 339 Or 113, 117 P3d 1001 (2005), and the settlement agreement between the parties in the latter case, the Board previously determined that the earnings on Tier One member regular accounts for 1999 should be reallocated at an earnings rate of 11.33 percent, instead of the 20 percent rate that originally was used. That reallocation, together with the effect of eliminating the so-called "COLA freeze" as required by *Strunk*, results in a recalculation of benefit payments made to persons who had Tier One member regular accounts that received earnings crediting for 1999. This recalculation will affect Tier One members who retired on or after April 1, 2000, and before April 1, 2004, other persons who received or are receiving benefits based on those 1999 Tier One account balances, and former members or beneficiaries who withdrew their accounts prior to the earnings reallocation (referred to collectively as "recipients" hereafter). These recipients have received benefits in excess of the amounts they were entitled to under ORS chapter 238.

ORS 238.715 requires the Board to collect amounts paid in excess of the benefit amounts recipient is entitled to under ORS chapter 238. ORS 238.715 provides several methods by which the Board may recover such overpayments, but does not require the Board to make all of the methods available in every case.

IT IS HEREBY ORDERED that each recipient who, based on the decisions in *Strunk* and *City of Eugene*, including the settlement agreement in the latter case, has received benefits in excess of amounts that the recipient is entitled to under ORS chapter 238, shall repay the amounts overpaid using one of the following methods:

1. Each recipient shall repay the amounts overpaid in a single lump sum unless the recipient is receiving monthly payments.
2. Any recipient receiving a monthly payment will repay the overpaid amounts by actuarial reduction of their monthly payment pursuant to ORS 238.715(1)(b), unless the recipient elects to repay the overpaid amount in a lump sum by paying that amount within the time allowed in the explanation to be provided to the recipient by PERS.
3. If a recipient is due a payment from PERS other than a monthly payment, the amount overpaid shall be deducted from the recipient's next payment and subsequent payments, if any, until the amount overpaid is recovered.

DATED this 27th day of January, 2006.