

Legislative Update: ORP-related Bills

(as of 04/27/2017)

[SB 1954](#) by Sen. Hughes

[HB 3267](#) by Rep. Lozano

These are companion bills that would make changes to the ORP statute in the following areas:

1. Extend the 90-day ORP election period up to 90 days (depending on circumstances) when an ORP employer fails to provide notification of eligibility to an ORP-eligible employee on or before the initial ORP eligibility date.
 - Affected employees would be provided at least 30 days to make an election of ORP.
 - An election of ORP would not be permitted beyond 180 days after the initial ORP eligibility date.
2. Provide remediation to a vested ORP participant who was mistakenly reported to TRS by an employer (i.e., the person should have resumed ORP participation but was reported to TRS in error and therefore, is not eligible for TRS retirement benefits).
 - Amounts that should have been provided if the ORP participant had timely resumed ORP participation rather than being placed in TRS in error would be sent to the participant's ORP account, including:
 - refunded TRS member contributions
 - state contributions
 - local ORP employer supplement, if any
 - All remittances would include an amount representing an assumed annual rate of return of four percent.

Details (SB 1954 as passed by Senate):

Section 1: Amends Sect. 830.102 of the ORP statute (TGC Ch. 830) by adding subsections (c-1) and (c-2) which would provide that in the event an institution of higher education fails to notify an ORP-eligible employee of his/her opportunity to elect ORP on or before the employee's initial ORP eligibility date, the employee would have at least 30 days to elect ORP from the date of notification (as long as the notification is provided within five months of the employee's initial eligibility date). The 90-day ORP election period would be extended up to 90 days depending on when the notification is provided, as follows:

(1) If the institution notifies the employee after the initial ORP eligibility date but before the 61st day after the initial eligibility date, the election period is not extended. The employee has at least 30 days remaining in the 90-day election period to make a decision.

(2) If the institution notifies the employee after the 61st day after the initial eligibility date but before the end of the election period, the period is extended up to the 31st day after the date of notification.

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(3) If the institution notifies the employee after the end of the 90-day election period but before the 151st day after the initial eligibility date, the period is extended to the 31st day after the date of notification (which could be up to the 181st day after the initial eligibility date).

(4) If the institution fails to notify the employee before the 151st day after the initial eligibility date, the employee is no longer eligible to elect ORP.

Section 2: Amends the ORP statute (TGC Ch. 830) by adding Sect. 830.108 which would provide that in the event an institution reports a vested ORP participant to TRS in error (i.e., the person should have resumed ORP participation but was reported to TRS in error and therefore, is not eligible for TRS retirement benefits), the employing institution must immediately restore the person to active ORP participation upon discovery of the error.

Monetary remediation would be provided to the participant in the following manner:

(1) TRS would make a direct trustee-to-trustee transfer to the person's ORP vendor for deposit in the person's participant account in an amount equal to the participant contribution that would have been paid for the benefit of the person to ORP during the period in which member contributions were submitted to TRS in error.

(2) TRS would credit the employer through the TRS employer reporting system an amount equal to the amount of any employer contributions made to TRS in error.

(3) TRS would remit to the person:

(a) the amount of any member contribution made to TRS in error that exceeds the amount of the participant contribution that would have been paid for the benefit of the person to ORP during the period in which member contributions were submitted to TRS in error;

(b) the amount of any member contribution made to TRS in error that was made on an after-tax basis and that TRS could not transfer via a direct trustee-to-trustee transfer under applicable provisions of the Internal Revenue Code or under ORP provisions; and

(c) any amount paid by the person to TRS to purchase or reinstate service credit during the period the person was not eligible for membership in TRS, including any administrative, reinstatement, and installment fees paid in connection with the purchase.

(4) the Comptroller's Office would transfer to or credit the employer an amount equal to the state contribution that would have been paid for the benefit of the person under ORP;

(5) the employer would deposit in the person's ORP account:

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(a) the amount of the local supplemental employer contribution that would have been paid for the benefit of the person as an ORP participant; and

(b) an amount equal to the state contribution that would have been paid for the benefit of the person under ORP.

(6) An additional amount would be provided to/on behalf of the participant by each remitter representing earnings on the above amounts at an assumed annual rate of return of four percent.

This section applies to the entire period that the person was reported to TRS in error regardless of whether it was before, on, or after the effective date of the bill.

If passed, this act takes effect September 1, 2017.

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