

Submitted by: Chairman of the Assembly the  
Request of the Mayor

Prepared by: Department of Employee  
Relations

For reading: January 13, 1998

CLERK'S OFFICE

APPROVED

Date: 1-27-98

ANCHORAGE, ALASKA

AO NO. 98- 9

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.85 TO ENACT  
PART IV, CHAPTER 3.85 ESTABLISHING POLICE AND FIRE RETIREMENT SYSTEM POLICIES  
AND PROCEDURES FOR THE COLLECTION OR PAYMENT OF OVERPAID OR UNDERPAID  
RETIREMENT BENEFITS TO MEMBERS OF THE SYSTEM.

THE ANCHORAGE ASSEMBLY ORDAINS

**Section 1.** Anchorage Municipal Code Chapter 3.85 is hereby amended by enacting a new Part IV.  
consisting of sections 3.85.300 through 3.85.390 inclusive to read as follows:

**3.85.300**      **Purpose**

The purpose of this Part IV to Chapter 3.85 is to establish policies and procedures regarding the  
collection or payment of benefits that have been over or underpaid to members of the System,  
including the collection or payment of interest thereon.

**3.85.310**      **Policy**

A. When discovered, all benefit payments made to Members of the System that have been  
miscalculated or delayed, shall be brought to the attention of the Police and Fire Retirement  
Board at its next scheduled meeting.

B. It is the intent of this Part IV. that:

1. **For Recalculations.** All benefit payments which have been miscalculated shall  
immediately be recalculated by the Staff so that all future payments are correct.
2. **For Underpayments.** All underpayments of normal, currently prescribed benefits  
will be paid as soon as possible. Interest will be paid to the Member on the  
underpayment at ten and one-half percent (10½%) simple interest, except that no  
interest shall be paid on any underpayment caused by the Member's failure to  
provide accurate and timely information required in connection with the initial or  
revised benefit calculation.
3. **For Delayed payments.** Interest will be paid to the Member on any payment  
delayed more than 90 days beyond the benefit commencement, entitlement or  
approval date, whichever is later, at ten and one-half percent (10½%) simple  
interest, except that no interest shall be paid on any delay caused by the Member's  
failure to provide timely information required in connection with the initial or  
revised benefit calculation.

4. **For Overpayments.** All overpayments of normal, currently prescribed benefits will be collected from the member as soon as possible. If the immediate repayment of the entire amount of the overpayment will cause an undue hardship on the Member, an installment payment plan may be approved by the Board. Further, the Board may elect to waive repayment in accordance with the "Guidelines" contained within this procedure.
- a. Interest on the overpayment shall be due at eight percent (8%) simple interest. Interest on the overpayment shall be waived by the Board under the following guidelines and circumstances:
- i. If the Board determines that the Member could not reasonably be expected to have known that the benefit actually received was in excess of that which was earned, or
- ii. If the Board determines that the amount of the interest is *deminimus*.
- C. Changes in Board Policies, Ordinances, Statutes, or Court rulings that result in new or retroactive Benefits to the Members shall be paid as soon as possible, without interest, unless required by Ordinance, Statute or Court ruling.

**3.85.320 Procedures and Responsibilities**

- A. When an error is suspected and brought to the attention of the System, staff of the System shall:
- 1 Calculate and/or recalculate all appropriate benefits for the Member;
  2. Submit new or revised calculations to the external audit firm for verification and certification;
  3. Make the appropriate change in the Member's monthly Benefit;
  4. As applicable, calculate simple interest at ten and one-half percent (10½%) on the underpayment amounts, and eight percent (8%) on the overpayment amounts;
  5. Prepare and maintain a monthly report on all over or underpayments (including an explanation of how and why they occurred) for the Board's review and appropriate action;
  6. Unless the recovery of an overpayment has been waived by the Board, arrange for the payment from the Member, or work out a payment plan with the Member for submission to the Board for approval. If appropriate, obtain a written agreement from the individual Member to deduct the monthly payment, including interest (if applicable), from their future benefit payments;
  7. Make such payments or collections as are approved by the Board; and
  8. Make all necessary corrections to the System's records.

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9. In the event of an overpayment, notify the Member of the amount of the overpayment, including any interest that may be due, in the event the Board should elect not to waive collection of the overpayment and/or interest. The Member shall be notified that he or she may request that the repayment of the overpayment and/or the payment of the interest may be waived by the Board in accordance with this policy, and of his or her right to submit mitigating circumstances to the Board in support of a request that repayment be waived.

10 B. The Board shall:

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1. Review the monthly report of over and underpayment of benefits and take appropriate action in accordance with the following guidelines:
- a. All corrected benefit calculations resulting in overpayment shall be verified by the Board;
  - b. All overpayments will be collected, with interest, unless waived by the Board. Factors to be considered by the Board in determining whether the collection of an overpayment and/or interest shall be waived are:
    - i. Did the Member know or should the Member have known that he or she had provided the System with incorrect information, or
    - ii. Did the Member know or should he or she have had a reasonable suspicion that their benefit was incorrect and then failed to notify the System.
  - c. No interest on underpayments will be payable if the Member fails to submit a claim on a timely basis or if a delay in payment is related to the Member's failure to provide information as requested by the Board;
  - d. The Board may choose to waive collection of the amounts due if the Member demonstrates to the satisfaction of the Board that:
    - The error was not caused by the Member, and
    - ii. The Member had no reason to believe that the benefit (overpayment) was in error.
  - e. The Board may choose to waive collection of the amounts due if the Member demonstrates to the satisfaction of the Board that collection of the overpayment would cause undue hardship.

**3.85.330      Limitations on Benefits Subject to Part IV.**

This Part IV. shall apply only to benefit calculations, error discoveries and the related payments and collections made or required subsequent to the approval date of this Part IV., or, as otherwise governed by law. Over/Under/Late payment actions pending before the Board occurring before this Part IV. will continue to be addressed by the Board on a case by case basis. The Board may elect to use the guidelines set forth in this Part IV.

**Section 2.** This Part IV. supersedes and cancels Police and Fire Retirement System P&P 95-1 dated October 10, 1995. [*This section shall constitute an Editor's Note upon codification.*]

**Section 3.** This ordinance shall become effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 27th day of January, 1998.

  
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Chair of the Assembly

ATTEST

  
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Municipal Clerk