

HOUSE AMENDMENTS TO HOUSE BILL 2127

By COMMITTEE ON JUDICIARY

April 6

1 Delete lines 4 through 16 of the printed bill and insert:

2 **“SECTION 1. (1) The Department of Human Services may serve a notice described in ORS**
3 **183.415 by regular mail. The legal presumption described in ORS 40.135 (1)(q) does not apply**
4 **to a notice that is served by regular mail under this section.**

5 **“(2) Except as provided in subsection (3) of this section, a contested case notice served**
6 **in accordance with subsection (1) of this section that complies with ORS 183.415 but for**
7 **service by regular mail becomes a final order against a party and is not subject to ORS**
8 **183.470 (2), upon the earlier of the following:**

9 **“(a) If the party fails to request a hearing, the day after the date prescribed in the notice**
10 **as the deadline for requesting a hearing.**

11 **“(b) The date the department or the Office of Administrative Hearings mails an order**
12 **dismissing a hearing request because:**

13 **“(A) The party withdraws the request for hearing; or**

14 **“(B) Neither the party nor the party’s representative appears on the date and at the time**
15 **set for hearing.**

16 **“(3) The department shall prescribe by rule a period of not less than 60 days after a no-**
17 **tice becomes a final order under subsection (2) of this section within which a party may re-**
18 **quest a hearing under this subsection. If a party requests a hearing within the period**
19 **prescribed under this subsection, the department shall do one of the following:**

20 **“(a) If the department finds that the party did not receive the written notice and did not**
21 **have actual knowledge of the notice, refer the request for hearing to the Office of Adminis-**
22 **trative Hearings for a contested case proceeding on the merits of the department’s intended**
23 **action described in the notice.**

24 **“(b) Refer the request for hearing to the Office of Administrative Hearings for a con-**
25 **tested case proceeding to determine whether the party received the written notice or had**
26 **actual knowledge of the notice. The department must show that the party had actual**
27 **knowledge of the notice or that the department mailed the notice to the party’s correct ad-**
28 **dress.**

29 **“(4) If a party informs the department that the party did not receive a notice served by**
30 **regular mail in accordance with subsection (1) of this section, the department shall advise**
31 **the party of the right to request a hearing under subsection (3) of this section.”.**

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