
HOUSE BILL 1718

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Mielke, Day, Bowman, Anderson, Moyer, Sheldon, Miller, Paris, Mitchell, D. Sommers, Chandler and Brumsickle.

Read first time February 6, 1991. Referred to Committee on Appropriations.

1 AN ACT Relating to retirement system benefit overpayments; and
2 amending RCW 41.50.130.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 41.50.130 and 1987 c 490 s 1 are each amended to read
5 as follows:

6 (1) The director may at any time correct errors appearing in the
7 records of the retirement systems listed in RCW 41.50.030. Should any
8 error in such records result in any member or beneficiary receiving
9 more or less than he or she would have been entitled to had the records
10 been correct, the director, subject to the conditions set forth in this
11 section, shall adjust the payment in such a manner that the benefit to
12 which such member or beneficiary was correctly entitled shall be paid
13 in accordance with the following:

14 (a) In the case of underpayments to a member or beneficiary, the
15 retirement system shall correct all future payments from the point of

1 error detection, and shall compute the additional payment due for the
2 allowable prior period which shall be paid in a lump sum by the
3 appropriate retirement system.

4 (b) In the case of overpayments to a member or beneficiary, the
5 retirement system shall adjust the payment in such a manner that the
6 benefit to which such member or beneficiary was correctly entitled
7 shall be reduced by an amount equal to the actuarial equivalent of the
8 amount of overpayment. Alternatively the member shall have the option
9 of repaying the overpayment in a lump sum within ninety days of
10 notification and receive the proper benefit in the future. In the case
11 of overpayments to a member or beneficiary resulting from actual fraud
12 on the part of the member or beneficiary, the benefits shall be
13 adjusted to reflect the full amount of such overpayment, plus interest
14 at the maximum rate allowed under RCW 19.52.020(1) as it was in effect
15 the first month the overpayment occurred.

16 (2) Except in the case of actual fraud, in the case of overpayments
17 to a member or beneficiary, the benefits shall be adjusted to reflect
18 only the amount of overpayments made within three years of discovery of
19 the error, notwithstanding any provision to the contrary in chapter
20 4.16 RCW.

21 (3) Except in the case of actual fraud, the director, pursuant to
22 rules adopted in accordance with the procedures provided in the
23 administrative procedure act, chapter 34.05 RCW, may exercise his or
24 her discretion to waive, in whole or in part, the amount of any
25 overpayment where the member or beneficiary through no fault of his or
26 her own receives an overpayment and the amount of the overpayment is
27 not such as to put a reasonable person on notice that an overpayment
28 had occurred.

1 (4) (a) The employer shall elicit on a written form from all new
2 employees as to their having been retired from a retirement system
3 listed in RCW 41.50.030.

4 (b) In the case of overpayments which result from the failure of an
5 employer to report properly to the department the employment of a
6 retiree from information received in (~~(subparagraph)~~) (a) of this
7 subsection, the employer shall, upon receipt of a billing from the
8 department, pay into the appropriate retirement system the amount of
9 the overpayment plus interest as determined by the director. However,
10 except in the case of actual employer fraud, the overpayments charged
11 to the employer under this subsection shall not exceed five thousand
12 dollars for each year of overpayments received by a retiree. The
13 retiree's benefits upon reretirement shall not be reduced because of
14 such overpayment except as necessary to recapture contributions
15 required for periods of employment.

16 (c) The provision of this subsection regarding the reduction of
17 retirees' benefits shall apply to recovery actions commenced on or
18 after January 1, 1986, even though the overpayments resulting from
19 retiree employment were discovered by the department prior to that
20 date. The provisions of this subsection regarding the billing of
21 employers for overpayments shall apply to overpayments made after
22 January 1, 1986.

23 (~~((4))~~) (5) Except in the case of actual fraud, no monthly benefit
24 shall be reduced by more than fifty percent of the member's or
25 beneficiary's corrected benefit.

26 (~~((5))~~) (6) Except as provided in subsection (2) of this section,
27 obligations of employers or members until paid to the department shall
28 constitute a debt from the employer or member to the department,
29 recovery of which shall not be barred by laches or statutes of
30 limitation.