

# HOUSE BILL REPORT

## SSB 6198

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### As Reported By House Committee On:

Appropriations

**Title:** An act relating to collection of state retirement system overpayments.

**Brief Description:** Collecting state retirement system overpayments.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Long and Fraser; by request of Department of Retirement Systems).

### Brief History:

#### Committee Activity:

Appropriations: 2/21/96, 2/22/96 [DP].

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 28 members: Representatives Huff, Chairman; Clements, Vice Chairman; Pelesky, Vice Chairman; H. Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Beeksma; Brumsickle; Carlson; Chappell; Cooke; Crouse; Dellwo; Foreman; Grant; Kessler; Lambert; Linville; McMorris; Poulsen; Reams; Rust; Sehlin; Sheahan; Silver; Smith; Talcott and Wolfe.

**Staff:** Elissa Benson (786-7191).

**Background:** When the Department of Retirement Systems (DRS) discovers an error in its records that has resulted in a member or beneficiary receiving an overpayment, it must reduce the member's correct benefit to recover the overpayment, even if the overpayment is due to a mistake made by the department.

DRS must use the Attorney General's office to establish a person's liability for overpayments and to pursue collection remedies such as filing liens. DRS has no statutory authority to issue subpoenas to compel statements from witnesses and the production of documents necessary for the administration of its duties. Therefore, the department's ability to investigate a debtor's financial status and means to repay overpayments may be hampered.

**Summary of Bill:** DRS may issue an order and notice of assessment, which constitutes a determination of liability, to any member, beneficiary, or other person

who is not entitled to a continuing retirement benefit and who is paid an amount of retirement benefits to which that person or entity is not entitled. The member, beneficiary, other person, or entity may appeal the notice of assessment by filing a petition with the director of the department within 60 days. If no appeal is filed within 60 days, the determination that established the overpayment debt and the assessment is final.

After a notice of determination is final, the director may file a warrant for the amount of the notice of determination of liability plus a \$5 filing fee with the superior court clerk of any county within the state. The amount of the warrant becomes a lien upon the title to all real and personal property of the person against whom the warrant is issued.

The department may issue subpoenas to compel statements from witnesses and the production of any books, records, or documents necessary for the department's administration of the state's retirement systems.

The director may waive repayment of all or part of a retirement benefit overpayment when the overpayment is not the fault of the retiree or the beneficiary and when the recovery of the overpayment would be a manifest injustice. The director may not waive overpayment when the member, retiree, or beneficiary knows or should know that he or she is in receipt of an overpayment. When the director waives an overpayment that results from incorrect or incomplete information from the member's or retiree's employer, the department bills the employer for the amount of the overpayment. The director may not waive the prospective correction of an overpayment. When the director waives an overpayment, the reason for the overpayment, waiver, and the amount of the waiver must be stated in writing and kept in a file containing documentation of all waived overpayments. The new waiver provisions apply to overpayments identified on or after September 1, 1994.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The bill provides the Department of Retirement Systems both the statutory authority and administrative processes to more easily pursue collection of overpayments. The bill also provides the authority to the department director to waive collection of past overpayment in cases where the overpayment was not due to nondisclosure, fraud, or misrepresentation on the part of the beneficiary. The bill helps the department better protect the pension trust funds.

**Testimony Against:** None.

**Testified:** Senator Jeanine H. Long, prime sponsor; and Peter Cutler, Department of Retirement Systems.