
HOUSE BILL 1635

State of Washington

54th Legislature

1995 Regular Session

By Representatives Cooke and Huff; by request of Department of Retirement Systems

Read first time 02/02/95. Referred to Committee on Appropriations.

1 AN ACT Relating to collection of state retirement system
2 overpayments; and adding new sections to chapter 41.50 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) If the department finds that any member,
5 beneficiary, or other person or entity has been paid an amount of
6 retirement benefits to which that person or entity is not entitled, the
7 department may issue an order and notice of assessment specifying the
8 amount due, including interest, to be remitted to the department. The
9 order and notice of assessment shall be served upon any person or
10 entity who may have received benefits to which the person or entity is
11 not entitled. The order and notice of assessment shall be served by
12 the department in the manner prescribed for the service of a summons in
13 a civil action, or by certified mail to the last known address of the
14 obligor as shown by the records of the department.

15 (2) The department may issue an order and notice of assessment
16 under this section only after it has notified the person of the
17 department's decision that an amount is due, and of the person's right
18 to seek a review of the department's decision within sixty days. The
19 order and notice of assessment may be served after the end of the

1 sixty-day period if the person does not seek a review of the decision,
2 or upon completion of the review, if the department's decision is
3 upheld on review.

4 (3) Any notice of assessment under subsection (1) of this section
5 shall constitute a determination of liability from which the member,
6 beneficiary, or other person or entity served may appeal by filing a
7 petition for adjudicative proceedings with the director personally or
8 by mail within thirty days from the date the assessment was served. If
9 a petition for adjudicative proceedings is not filed within thirty days
10 of the delivery of the notice of assessment, the determination that was
11 the basis for establishing the overpayment debt and the assessment is
12 conclusive and final.

13 NEW SECTION. **Sec. 2.** Whenever a notice of determination of
14 liability becomes conclusive and final under section 1 of this act, the
15 director, upon giving at least twenty days notice by certified mail
16 return receipt requested to the individual's last known address of the
17 intended action, may file with the superior court clerk of any county
18 within the state a warrant in the amount of the notice of determination
19 of liability plus a filing fee of five dollars. The clerk of the
20 county where the warrant is filed shall immediately designate a
21 superior court cause number for the warrant, and the clerk shall cause
22 to be entered in the judgment docket under the superior court cause
23 number assigned to the warrant, the name of the person mentioned in the
24 warrant, the amount of the notice of determination of liability, and
25 the date when the warrant was filed. The amount of the warrant as
26 docketed shall become a lien upon the title to, and any interest in,
27 all real and personal property of the person against whom the warrant
28 is issued, the same as a judgment in a civil case duly docketed in the
29 office of such clerk. A copy of the warrant shall be mailed to the
30 person mentioned in the warrant by certified mail to the person's last
31 known address within five days of its filing with the clerk.

32 NEW SECTION. **Sec. 3.** The department may issue subpoenas to compel
33 the statement of witnesses and the production of any books, records, or
34 documents necessary or relevant to the department's administration of
35 duties under this chapter. It is unlawful for any person or entity,
36 without just cause, to fail to comply with any subpoena issued under
37 this section.

1 NEW SECTION. **Sec. 4.** (1) The director may waive repayment of all
2 or part of a retirement allowance overpayment, under RCW 41.50.130
3 only, if:

4 (a) The overpayment was not the result of the retiree's or the
5 beneficiary's nondisclosure, fraud, misrepresentation, or other fault;
6 and

7 (b) The director finds in his or her sole discretion that recovery
8 of the overpayment would be against equity and good conscience.

9 (2) The director may not waive an overpayment if the member,
10 retiree, or beneficiary:

11 (a) Provided incorrect information to the department or the
12 employer which caused the overpayment;

13 (b) Failed to provide information to the department or the employer
14 which was necessary to correctly calculate the retirement allowance;

15 (c) Caused the employer to provide incorrect information or fail to
16 provide necessary information; or

17 (d) Knew or reasonably should have known that he or she was in
18 receipt of an overpayment.

19 (3) If the director waives an overpayment and the overpayment
20 occurred because the member's or retiree's employer:

21 (a) Provided incorrect information to the department which caused
22 the overpayment;

23 (b) Failed to provide information to the department which was
24 necessary to correctly calculate the retirement allowance;

25 (c) Caused another party to provide incorrect information or fail
26 to provide necessary information; or

27 (d) Knew or reasonably should have known that the information
28 provided would cause the retiree or beneficiary to be overpaid;

29 then the department shall bill the member's or retiree's employer for
30 the amount of the overpayment that would have been recoverable under
31 RCW 41.50.130 had the overpayment not been waived pursuant to this
32 section.

33 (4) Nothing in this section authorizes the director to waive the
34 prospective correction of an overstated retirement allowance.

35 (5) If the director waives an overpayment he or she must state in
36 writing:

37 (a) The nature of and reason for the overpayment;

38 (b) The reason for the waiver; and

39 (c) The amount of the overpayment that is waived.

1 The department will maintain a file containing documentation of all
2 overpayments waived. The department will provide the file to any
3 person upon request.

4 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act are each
5 added to chapter 41.50 RCW.

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