

# FINAL BILL REPORT

## ESHB 2644

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C 177 L 94  
Synopsis as Enacted

**Brief Description:** Making retirement contributions and payments.

By House Committee on Appropriations (originally sponsored by Representatives Sommers and Silver; by request of Department of Retirement Systems).

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** The Department of Retirement Systems (DRS) is not specifically authorized by statute to charge interest on contributions owed to the state by employers or members. The statutes also do not address collection of benefits from an estate.

All retirement systems' members may withdraw contributions in a lump sum upon termination of employment. The members may restore withdrawn contributions and service credit upon reemployment. There are no provisions addressing procedures or status for a member who withdraws contributions erroneously, such as when the member terminates employment temporarily, requests a withdrawal of contributions, and then restores employment.

In calculating retirement allowances, DRS has interpreted statutes to exclude standby pay. The Department of Personnel has, however, been including standby pay in compensation reports for PERS members. Thus, retiree benefits have been calculated on the basis of compensation that included standby pay.

**Summary:** The Department of Retirement Systems is authorized to seek repayment of benefit overpayments except when explicitly prohibited in statute. Specifically, the department may: (1) charge interest on employer or member contributions not paid immediately after service; (2) collect overpayments and 1 percent interest per month from members when the overpayment was a result of fraud; (3) collect overpayments by reducing a retiree's future benefit; and (4) collect overpayments made to persons or entities other than the member, such as an estate or individual with power of attorney over retiree's finances.

All previous erroneous withdrawals of contributions will be treated as authorized withdrawals and be subject to the member's system rules for restoration of withdrawn contributions. Failure to restore a withdrawal within the time prescribed by statute, which varies by system, will constitute a waiver of service credit. Additionally, if a member requests a refund of contributions and then is reemployed before the refund is made, the member will not receive payment of his/her contributions. A written or oral agreement for reemployment is a satisfactory basis to refuse a member's request for a withdrawal of contributions.

The department's retroactive application of a 1990 amendment regarding crediting of service under TRS Plan 2 is ratified.

Provisions are added to ratify the inclusion of standby pay in a member's compensation earnable under specific circumstances. Standby pay will not be included in a member's compensation earnable unless the member must remain in a specific location, either at the job site or in the immediate vicinity of the job site and is required to be prepared to report to work immediately upon notice. For example, standby pay is not intended for inclusion in a member's compensation earnable when the member is only required to report to work after being notified by telephone, or pager, or some other similar notification device. Time on standby, however, may not be used to calculate retirement eligibility or benefits. In addition, the department is exempt from seeking repayment of overpayments that have been made to members as a result of incorrectly including standby pay as compensation earnable.

**Votes on Final Passage:**

House	93	0	
Senate	47	0	(Senate amended)
House	93	0	(House concurred)

**Effective:** June 9, 1994