

RCW 41.50.150 Retirement benefits based on excess compensation—Employer liable for extra retirement costs. (1) The employer of any employee whose retirement benefits are based in part on excess compensation, as defined in this section, shall, upon receipt of a billing from the department, pay into the appropriate retirement system the present value at the time of the employee's retirement of the total estimated cost of all present and future benefits from the retirement system attributable to the excess compensation. The state actuary shall determine the estimated cost using the same method and procedure as is used in preparing fiscal note costs for the legislature. However, the director may in the director's discretion decline to bill the employer if the amount due is less than fifty dollars. Accounts unsettled within thirty days of the receipt of the billing shall be assessed an interest penalty of one percent of the amount due for each month or fraction thereof beyond the original thirty-day period.

(2) "Excess compensation," as used in this section, includes the following payments, if used in the calculation of the employee's retirement allowance:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means:

- (i) Any payment in lieu of an accrual of annual leave; or
- (ii) Any payment added to salary or wages, concurrent with a reduction of annual leave;
- (b) A cash out of any other form of leave;
- (c) A payment for, or in lieu of, any personal expense or transportation allowance to the extent that payment qualifies as reportable compensation in the member's retirement system;
- (d) The portion of any payment, including overtime payments, that exceeds twice the regular daily or hourly rate of pay; and
- (e) Any termination or severance payment.

(3) This section applies to the retirement systems listed in RCW 41.50.030 and to retirements occurring on or after March 15, 1984. Nothing in this section is intended to amend or determine the meaning of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.35, 41.37, or 43.43 RCW or to determine in any manner what payments are includable in the calculation of a retirement allowance under such chapters.

(4) An employer is not relieved of liability under this section because of the death of any person either before or after the billing from the department. [2004 c 242 § 47; 1998 c 341 § 509; 1997 c 221 § 1; 1995 c 244 § 1; 1984 c 184 § 1.]

Effective date—2004 c 242: See RCW 41.37.901.

Effective date—1998 c 341: See RCW 41.35.901.

Intent—Application—1995 c 244 § 1: "The definition of "cash out" added to RCW 41.50.150(2)(a) by this act is a clarification of the legislature's original intent regarding the meaning of the term. The definition of "cash out" applies retroactively to payments made before July 23, 1995." [1995 c 244 § 2.]

Severability—1984 c 184: "If any provision of this act or its application to any person or circumstance is held invalid, the

remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 184 § 31.]