

2 **HB 1296** - S AMD - 425

3 By Senators Fraser, Bauer and Long

4 ADOPTED 4/22/95

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that:

8 (1) Since enactment of chapter 227, Laws of 1984 most employers
9 that participate in state retirement systems have been responsible for
10 ensuring that member retirement contributions are transferred to the
11 retirement trust funds, even in situations where service credit is
12 being established on a retroactive basis for a member who is no longer
13 employed by the employer.

14 (2) It is the responsibility of employers to accurately report
15 their employees' compensation and service, and to ensure that all
16 required member and employer contributions are transferred to the
17 department of retirement systems. However, in situations where an
18 employer determines that a former employee should have had
19 contributions transferred, it is more reasonable and efficient to bill
20 the employee for the past due member contributions than to make the
21 employer responsible for them.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.50 RCW
23 to read as follows:

24 (1) If an employer, pursuant to RCW 41.50.140(2), does not transfer
25 member contributions for a former employee's prior period of service,
26 the member shall not receive service credit for the period of service
27 unless the member pays the required member contributions as provided in
28 this section. In such cases the member shall have the option, but
29 shall not be obligated, to pay the member contributions necessary to
30 receive credit for the period of service. As provided by RCW
31 41.50.140(1), the department shall collect from the employer all
32 employer contributions due for periods of service, regardless of
33 whether the member elects to pay the member contributions necessary to
34 receive credit for the period of service.

1 (2) The department shall adopt, by rule, a process by which
2 separated and active members may pay member contributions needed to
3 establish service credit for prior periods of service for which their
4 employers did not transmit member contributions.

5 **Sec. 3.** RCW 41.50.140 and 1982 1st ex.s. c 52 s 33 are each
6 amended to read as follows:

7 (1) Every employer participating in one or more of the retirement
8 systems listed in RCW 41.50.030 shall fully cooperate in the
9 administration of the systems in which its employees participate,
10 including the distribution of information to employees, and shall
11 accept and carry out all other duties as required by law, regulation,
12 or administrative instruction. Every employer shall transmit to the
13 department all member and employer contributions due for periods of
14 service rendered in the retirement systems, except as provided in
15 subsection (2) of this section.

16 (2) When the department bills an employer for member and employer
17 contributions owed for a prior period of service, the employer shall
18 transmit the required contributions if the member is still an employee
19 of the employer at the time of the billing. The employer shall have no
20 duty to transfer member contributions for persons who are not employees
21 on the date the department bills the employer but shall transfer the
22 required employer contributions for the prior service.

23 (3) Members for whom member contributions for a prior period of
24 service are not transferred by the employer pursuant to subsection (2)
25 of this section shall have the option of paying the required member
26 contributions pursuant to section 2 of this act.

27 ~~((2) If an employee is entitled to retroactive service credit~~
28 ~~which was not previously established through no fault of the employee,~~
29 ~~or through an employer error which has caused a member's compensation~~
30 ~~or contributions to be understated or overstated so as to cause a loss~~
31 ~~to the retirement funds, the director may bill the employer for the~~
32 ~~loss, to include interest, if applicable. The employer contributions,~~
33 ~~with interest thereon, will be treated as if in fact the interest was~~
34 ~~part of the normal employer contribution and no distribution of~~
35 ~~interest received shall be required.~~

36 (3) ~~Employer paid employee contributions will not be credited to a~~
37 ~~member's account until the employer notifies the director in writing~~
38 ~~that the employer has been reimbursed by the employee or beneficiary~~

1 ~~for the payment. The employer shall have the right to collect from the~~
2 ~~employee the amount of the employee's obligation. Failure on the part~~
3 ~~of the employer to collect all or any part of the sums which may be due~~
4 ~~from the employee or beneficiary shall in no way cause the employer~~
5 ~~obligation for the total liability to be lessened.))~~

6 (4) If an employer transfers member contributions which were not
7 paid by the member, the employer shall have the right to collect the
8 amount of the employee's obligation from the employee.

9 **Sec. 4.** RCW 41.54.020 and 1994 c 197 s 32 are each amended to read
10 as follows:

11 (1) Those persons who are dual members on or after July 1, 1988,
12 shall not receive a retirement benefit from any prior system while dual
13 members without the loss of all benefits under this chapter.
14 Retroactive retirement in any prior system will cancel membership in
15 any subsequent systems except as allowed under RCW 41.04.270 and will
16 result in the refund of all employee and employer contributions made to
17 such systems.

18 (2) If a member has withdrawn contributions from a prior system,
19 the member may restore the contributions, together with interest since
20 the date of withdrawal as determined by the system, and recover the
21 service represented by the contributions. Such restoration must be
22 completed within two years of establishing dual membership or prior to
23 retirement, whichever occurs first.

24 (3) If a member does not meet the time limitation under subsection
25 (2) of this section, the member, prior to retirement, may restore the
26 service credit destroyed by the withdrawn contributions by paying the
27 amount required under RCW 41.50.165(2). However, if a member failed to
28 meet the applicable statutory deadline and filed a petition with the
29 director of the department of retirement systems prior to January 1,
30 1995, requesting an extension of the applicable period; and if the
31 director's findings in denying the petition affirmatively show that the
32 failure was due to the fact that the department's customary bulletins
33 and other notifications that were furnished to the member's employer
34 for distribution were not furnished to the member by the employer, and
35 that the member did not otherwise receive notice through other channels
36 of communication and was not at fault, the member may elect to restore
37 the required contributions and interest and regain service credit under
38 subsection (2) of this section under the same terms and conditions and

1 without further liability as if the election had been made on a timely
2 basis. The election must be made not later than July 1, 1995, or prior
3 to retirement, whichever comes first. The department shall provide
4 written notice and an application directly to the affected members, and
5 any further assistance as may be necessary to implement this section.

6 (4) Any service accrued in one system by the member shall not
7 accrue in any other system.

8 NEW SECTION. Sec. 5. Section 4 of this act is necessary for the
9 immediate preservation of the public peace, health, or safety, or
10 support of the state government and its existing public institutions,
11 and shall take effect immediately and the remainder of this act shall
12 take effect July 1, 1996."

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16 On page 1, line 2 of the title, after "contributions;" strike the
17 remainder of the title and insert "amending RCW 41.50.140 and
18 41.54.020; adding a new section to chapter 41.50 RCW; creating a new
19 section; providing an effective date; and declaring an emergency."

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