

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6198

Chapter 56, Laws of 1996

54th Legislature
1996 Regular Session

STATE RETIREMENT SYSTEM OVERPAYMENTS--COLLECTION

EFFECTIVE DATE: 6/6/96

Passed by the Senate February 7, 1996
YEAS 49 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House February 28, 1996
YEAS 94 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 13, 1996

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6198** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

March 13, 1996 - 1:25 p.m.

MIKE LOWRY

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6198

Passed Legislature - 1996 Regular Session

State of Washington

54th Legislature

1996 Regular Session

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

Read first time 01/25/96.

1 AN ACT Relating to collection of state retirement system
2 overpayments; amending RCW 36.18.016; and adding new sections to
3 chapter 41.50 RCW.

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

5 NEW SECTION. **Sec. 1.** (1) If the department finds that any member,
6 beneficiary, or other person or entity has been paid an amount of
7 retirement benefits to which that person or entity is not entitled, and
8 the person is not entitled to a continuing benefit from any of the
9 retirement systems listed in RCW 41.50.030, the department may issue an
10 order and notice of assessment specifying the amount due, including
11 interest, to be remitted to the department. The order and notice of
12 assessment shall be served upon any person or entity who may have
13 received benefits to which the person or entity is not entitled. The
14 order and notice of assessment shall be served by the department in the
15 manner prescribed for the service of a summons in a civil action, or by
16 certified mail to the last known address of the obligor as shown by the
17 records of the department.

18 (2) Any notice of assessment under subsection (1) of this section
19 shall constitute a determination of liability from which the member,

1 beneficiary, or other person or entity served may appeal by filing a
2 petition for adjudicative proceedings with the director personally or
3 by mail within sixty days from the date the assessment was served. If
4 a petition for adjudicative proceedings is not filed within sixty days
5 of the delivery of the notice of assessment, the determination that was
6 the basis for establishing the overpayment debt and the assessment is
7 conclusive and final.

8 (3) This section creates an administrative process for the
9 collection of overpayments from persons who are not entitled to a
10 continuing benefit from one of the retirement systems listed in RCW
11 41.50.030. The collection of overpayments from persons entitled to a
12 continuing benefit from one of the retirement systems listed in RCW
13 41.50.030 is governed by RCW 41.50.130.

14 NEW SECTION. **Sec. 2.** Whenever a notice of determination of
15 liability becomes conclusive and final under section 1 of this act, the
16 director, upon giving at least twenty days notice by certified mail
17 return receipt requested to the individual's last known address of the
18 intended action, may file with the superior court clerk of any county
19 within the state a warrant in the amount of the notice of determination
20 of liability plus a filing fee of five dollars payable under RCW
21 36.18.016. The clerk of the county where the warrant is filed shall
22 immediately designate a superior court cause number for the warrant,
23 and the clerk shall cause to be entered in the judgment docket under
24 the superior court cause number assigned to the warrant, the name of
25 the person mentioned in the warrant, the amount of the notice of
26 determination of liability, and the date when the warrant was filed.
27 The amount of the warrant as docketed shall become a lien upon the
28 title to, and any interest in, all real and personal property of the
29 person against whom the warrant is issued, the same as a judgment in a
30 civil case duly docketed in the office of such clerk. A copy of the
31 warrant shall be mailed to the person mentioned in the warrant by
32 certified mail to the person's last known address within five days of
33 its filing with the clerk.

34 NEW SECTION. **Sec. 3.** The department may issue subpoenas to compel
35 the statement of witnesses and the production of any books, records, or
36 documents necessary or relevant to the department's administration of
37 duties under this chapter. It is unlawful for any person or entity,

1 without just cause, to fail to comply with any subpoena issued under
2 this section.

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

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

9 (b) The director finds in his or her sole discretion that recovery
10 of the overpayment would be a manifest injustice.

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

13 (a) Provided incorrect information to the department or the
14 employer which caused the overpayment;

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

17 (c) Caused the employer to provide incorrect information or fail to
18 provide necessary information; or

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

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

23 (a) Provided incorrect information to the department which caused
24 the overpayment;

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

27 (c) Caused another party to provide incorrect information or fail
28 to provide necessary information; or

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

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

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

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

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

2 (b) The reason for the waiver; and

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

4 The department will maintain a file containing documentation of all
5 overpayments waived. The department will provide the file to any
6 person upon request.

7 (6) This section applies to overpayments identified on or after
8 September 1, 1994.

9 **Sec. 5.** RCW 36.18.016 and 1995 c 292 s 14 are each amended to read
10 as follows:

11 (1) Revenue collected under this section is not subject to division
12 under RCW 36.18.025 or 27.24.070.

13 (2) For the filing of a petition for modification of a decree of
14 dissolution or paternity, within the same case as the original action,
15 a fee of twenty dollars must be paid.

16 (3) The party making a demand for (~~{a}~~) a jury of six in a civil
17 action shall pay, at the time, a fee of fifty dollars; if the demand is
18 for a jury of twelve, a fee of one hundred dollars. If, after the
19 party demands a jury of six and pays the required fee, any other party
20 to the action requests a jury of twelve, an additional fifty-dollar fee
21 will be required of the party demanding the increased number of jurors.
22 Upon conviction in criminal cases a jury demand charge may be imposed
23 as costs under RCW 10.46.190.

24 (4) For preparing, transcribing, or certifying an instrument on
25 file or of record in the clerk's office, with or without seal, for the
26 first page or portion of the first page, a fee of two dollars, and for
27 each additional page or portion of a page, a fee of one dollar must be
28 charged. For authenticating or exemplifying an instrument, a fee of
29 one dollar for each additional seal affixed must be charged.

30 (5) For executing a certificate, with or without a seal, a fee of
31 two dollars must be charged.

32 (6) For a garnishee defendant named in an affidavit for garnishment
33 and for a writ of attachment, a fee of twenty dollars must be charged.

34 (7) For approving a bond, including justification on the bond, in
35 other than civil actions and probate proceedings, a fee of two dollars
36 must be charged.

1 (8) For the issuance of a certificate of qualification and a
2 certified copy of letters of administration, letters testamentary, or
3 letters of guardianship, there must be a fee of two dollars.

4 (9) For the preparation of a passport application, the clerk may
5 collect an execution fee as authorized by the federal government.

6 (10) For clerk's special services such as processing ex parte
7 orders by mail, performing historical searches, compiling statistical
8 reports, and conducting exceptional record searches, the clerk may
9 collect a fee not to exceed twenty dollars per hour or portion of an
10 hour.

11 (11) For duplicated recordings of court's proceedings there must be
12 a fee of ten dollars for each audio tape and twenty-five dollars for
13 each video tape.

14 (12) For the filing of oaths and affirmations under chapter 5.28
15 RCW, a fee of twenty dollars must be charged.

16 (13) For filing a disclaimer of interest under RCW 11.86.031(4), a
17 fee of two dollars must be charged.

18 (14) For registration of land titles, Torrens Act, under RCW
19 65.12.780, a fee of five dollars must be charged.

20 (15) For the issuance of extension of judgment under RCW 6.17.020
21 and chapter 9.94A RCW, a fee of one hundred ten dollars must be
22 charged.

23 (16) A facilitator surcharge of ten dollars must be charged as
24 authorized under RCW 26.12.240.

25 (17) For filing a water rights statement under RCW 90.03.180, a fee
26 of twenty-five dollars must be charged.

27 (18) For filing a warrant for overpayment of state retirement
28 systems benefits under chapter 41.50 RCW, a fee of five dollars shall
29 be charged pursuant to section 2 of this act.

30 (19) A service fee of three dollars for the first page and one
31 dollar for each additional page must be charged for receiving faxed
32 documents, pursuant to Washington state rules of court, general rule
33 17.

34 ~~((+19+))~~ (20) For preparation of clerk's papers under RAP 9.7, a
35 fee of fifty cents per page must be charged.

36 ~~((+20+))~~ (21) For copies and reports produced at the local level as
37 permitted by RCW 2.68.020 and supreme court policy, a variable fee must
38 be charged.

1 (~~(21)~~) (22) Investment service charge and earnings under RCW
2 36.48.090 must be charged.

3 (~~(22)~~) (23) Costs for nonstatutory services rendered by clerk by
4 authority of local ordinance or policy must be charged.

5 NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act are each
6 added to chapter 41.50 RCW.

 Passed the Senate February 7, 1996.

 Passed the House February 28, 1996.

 Approved by the Governor March 13, 1996.

 Filed in Office of Secretary of State March 13, 1996.