

SENATE BILL REPORT

SHB 1738

As Reported By Senate Committee On:
Commerce & Trade, April 3, 2003

Title: An act relating to the recoupment of state employee salary and wage overpayments.

Brief Description: Providing for recoupment of state employee salary and wage overpayments.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Haigh and Armstrong; by request of Office of Financial Management).

Brief History:

Committee Activity: Commerce & Trade: 4/3/03 [DP].

SENATE COMMITTEE ON COMMERCE & TRADE

Majority Report: Do pass.

Signed by Senators Honeyford, Chair; Hewitt, Vice Chair; Franklin, Keiser and Mulliken.

Staff: Jennifer Ziegler (786-7316)

Background: It is unlawful for an employer to withhold or divert any portion of an employee's wages except in three limited circumstances. These circumstances do not include the recovery of overpayments or salary or wages. Consequently, an employer must bring a civil action against an employee to collect such overpayments.

In *State v. Adams*, 107 Wn. 2d 611 (1987), the Department of Transportation sought a declaratory judgment that the state had authority to recoup overpayments of wages by deducting "reasonable amounts" from employee paychecks until the amounts owed were recovered. The Washington Supreme Court concluded that, in the absence of statutory procedures to protect an employee from an erroneous claim, the state may collect overpayments of wages only by bringing a civil action against an employee. The Supreme Court determined that deducting amounts from employee paychecks without notice and an opportunity to be heard violated employee rights to due process.

Summary of Bill: The state of Washington, as an employer, is authorized to recover overpayments of salary or wages to an employee by deductions from subsequent payments of salary or wages to the employee or by a civil action. In general, deductions may not exceed 5 percent of the employee's disposable earnings per pay period. However, deductions may be for the amount still outstanding from a final pay period.

The state may make deductions only in accordance with a specified process for reviewing and recovering overpayments of salary or wages. The process includes notice to the employee, a review of any challenges to the determination of an overpayment, and the ability for the employee to receive an adjudicative proceeding.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Under current law, state agencies must sue employees to recover overpayment of wages. State agencies are not consistent in their approach to recovering overpayment of wages. This bill creates a consistent statutory process.

Testimony Against: None.

Testified: Jennifer Strus, OFM (pro).