

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2507

58th Legislature
2004 Regular Session

Passed by the House February 16, 2004
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 2, 2004
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2507** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2507

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Bush, Morrell, Campbell, Chase and Moeller)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to the recoupment of county and city employee
2 salary and wage overpayments; and amending RCW 49.48.200 and 49.48.210.

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

4 **Sec. 1.** RCW 49.48.200 and 2003 c 77 s 1 are each amended to read
5 as follows:

6 (1) Debts due the state or a county or city for the overpayment of
7 wages to ((state)) their respective employees may be recovered by the
8 employer by deductions from subsequent wage payments as provided in RCW
9 49.48.210, or by civil action. If the overpayment is recovered by
10 deduction from the employee's subsequent wages, each deduction shall
11 not exceed: (a) Five percent of the employee's disposable earnings in
12 a pay period other than the final pay period; or (b) the amount still
13 outstanding from the employee's disposable earnings in the final pay
14 period. The deductions from wages shall continue until the overpayment
15 is fully recouped.

16 (2) Nothing in ((chapter 77, Laws of 2003)) this section or RCW
17 49.48.210 or 49.48.220 prevents: (a) An employee from making payments
18 in excess of the amount specified in subsection (1)(a) of this section
19 to an employer; or (b) an employer and employee from agreeing to a

1 different overpayment amount than that specified in the notice in RCW
2 49.48.210(1) or to a method other than a deduction from wages for
3 repayment of the overpayment amount.

4 **Sec. 2.** RCW 49.48.210 and 2003 c 77 s 2 are each amended to read
5 as follows:

6 (1) Except as provided in subsection (10) of this section, when an
7 employer determines that an employee was overpaid wages, the employer
8 shall provide written notice to the employee. The notice shall include
9 the amount of the overpayment, the basis for the claim, a demand for
10 payment within twenty calendar days of the date on which the employee
11 received the notice, and the rights of the employee under this section.

12 (2) The notice may be served upon the employee in the manner
13 prescribed for the service of a summons in a civil action, or be mailed
14 by certified mail, return receipt requested, to the employee at his or
15 her last known address.

16 (3) Within twenty calendar days after receiving the notice from the
17 employer that an overpayment has occurred, the employee may request, in
18 writing, that the employer review its finding that an overpayment has
19 occurred. The employee may choose to have the review conducted through
20 written submission of information challenging the overpayment or
21 through a face-to-face meeting with the employer. If the request is
22 not made within the twenty-day period as provided in this subsection,
23 the employee may not further challenge the overpayment and has no right
24 to further agency review, an adjudicative proceeding, or judicial
25 review.

26 (4) Upon receipt of an employee's written request for review of the
27 overpayment, the employer shall review the employee's challenge to the
28 overpayment. Upon completion of the review, the employer shall notify
29 the employee in writing of the employer's decision regarding the
30 employee's challenge. The notification must be sent by certified mail,
31 return receipt requested, to the employee at his or her last known
32 address.

33 (5) If the employee is dissatisfied with the employer's decision
34 regarding the employee's challenge to the overpayment, the employee may
35 request an adjudicative proceeding governed by the administrative
36 procedure act, chapter 34.05 RCW or, in the case of a county or city
37 employee, an adjudicative proceeding provided pursuant to ordinance or

1 resolution of the county or city. The employee's application for an
2 adjudicative proceeding must be in writing, state the basis for
3 contesting the overpayment notice, and include a copy of the employer's
4 notice of overpayment. The application must be served on and received
5 by the employer within twenty-eight calendar days of the employee's
6 receipt of the employer's decision following review of the employee's
7 challenge. Notwithstanding RCW 34.05.413(3), agencies may not vary the
8 requirements of this subsection (5) by rule or otherwise. The employee
9 must serve the employer by certified mail, return receipt requested.

10 (6) If the employee does not request an adjudicative proceeding
11 within the twenty-eight-day period, the amount of the overpayment
12 provided in the notice shall be deemed final and the employer may
13 proceed to recoup the overpayment as provided in this section and RCW
14 49.48.200.

15 (7) Where an adjudicative proceeding has been requested, the
16 presiding or reviewing officer shall determine the amount, if any, of
17 the overpayment received by the employee.

18 (8) If the employee fails to attend or participate in the
19 adjudicative proceeding, upon a showing of valid service, the presiding
20 or reviewing officer may enter an administrative order declaring the
21 amount claimed in the notice sent to the employee after the employer's
22 review of the employee's challenge to the overpayment to be assessed
23 against the employee and subject to collection action by the ((state))
24 employer as provided in RCW 49.48.200.

25 (9) Failure to make an application for a review by the employer as
26 provided in subsections (3) and (4) of this section or an adjudicative
27 proceeding within twenty-eight calendar days of the date of receiving
28 notice of the employer's decision after review of the overpayment shall
29 result in the establishment of a final debt against the employee in the
30 amount asserted by the employer, which debt shall be collected as
31 provided in RCW 49.48.200.

32 (10) When an employer determines that an employee covered by a
33 collective bargaining agreement was overpaid wages, the employer shall
34 provide written notice to the employee. The notice shall include the
35 amount of the overpayment, the basis for the claim, and the rights of
36 the employee under the collective bargaining agreement. Any dispute
37 relating to the occurrence or amount of the overpayment shall be

1 resolved using the grievance procedures contained in the collective
2 bargaining agreement.

3 (11) As used in ((chapter 77, Laws of 2003)) this section or RCW
4 49.48.210 and 49.48.220:

5 (a) "City" means city or town;

6 (b) "Employer" means the state of Washington or a county or city,
7 and any of its agencies, institutions, boards, or commissions; and

8 ~~((b))~~ (c) "Overpayment" means a payment of wages for a pay period
9 that is greater than the amount earned for a pay period.

10 NEW SECTION. Sec. 3. If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

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