

2 EHB 2645 - S COMM AMD
3 By Committee on Ways & Means

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

7 "Sec. 1. RCW 41.50.130 and 1987 c 490 s 1 are each amended to read
8 as follows:

9 (1) The director may at any time correct errors appearing in the
10 records of the retirement systems listed in RCW 41.50.030. Should any
11 error in such records result in any member or beneficiary receiving
12 more or less than he or she would have been entitled to had the records
13 been correct, the director, subject to the conditions set forth in this
14 section, shall adjust the payment in such a manner that the benefit to
15 which such member or beneficiary was correctly entitled shall be paid
16 in accordance with the following:

17 (a) In the case of underpayments to a member or beneficiary, the
18 retirement system shall correct all future payments from the point of
19 error detection, and shall compute the additional payment due for the
20 allowable prior period which shall be paid in a lump sum by the
21 appropriate retirement system.

22 (b) In the case of overpayments to a member or beneficiary, the
23 retirement system shall adjust the payment in such a manner that the
24 benefit to which such member or beneficiary was correctly entitled
25 shall be reduced by an amount equal to the actuarial equivalent of the
26 amount of overpayment. Alternatively the member shall have the option
27 of repaying the overpayment in a lump sum within ninety days of
28 notification and receive the proper benefit in the future. In the case

1 of overpayments to a member or beneficiary resulting from actual fraud
2 on the part of the member or beneficiary, the benefits shall be
3 adjusted to reflect the full amount of such overpayment, plus interest
4 at the maximum rate allowed under RCW 19.52.020(1) as it was in effect
5 the first month the overpayment occurred.

6 (2) Except in the case of actual fraud, in the case of overpayments
7 to a member or beneficiary, the benefits shall be adjusted to reflect
8 only the amount of overpayments made within three years of discovery of
9 the error, notwithstanding any provision to the contrary in chapter
10 4.16 RCW.

11 (3) Except in the case of actual fraud, the director, under rules
12 adopted under the administrative procedure act, chapter 34.05 RCW, may
13 exercise discretion to waive, in whole or in part, any overpayment
14 received by a member or beneficiary through no fault of his or her own,
15 if the amount waived does not exceed fifty dollars per month for any
16 member or beneficiary. The department of retirement systems shall
17 report annually to the fiscal committees of the senate and the house of
18 representatives each overpayment made the previous calendar year and
19 the amount waived.

20 (4)(a) The employer shall elicit on a written form from all new
21 employees as to their having been retired from a retirement system
22 listed in RCW 41.50.030.

23 (b) In the case of overpayments which result from the failure of an
24 employer to report properly to the department the employment of a
25 retiree from information received in ((subparagraph)) (a) of this
26 subsection, the employer shall, upon receipt of a billing from the
27 department, pay into the appropriate retirement system the amount of
28 the overpayment plus interest as determined by the director. However,
29 except in the case of actual employer fraud, the overpayments charged
30 to the employer under this subsection shall not exceed five thousand

1 dollars for each year of overpayments received by a retiree. The
2 retiree's benefits upon reretirement shall not be reduced because of
3 such overpayment except as necessary to recapture contributions
4 required for periods of employment.

5 (c) The provision of this subsection regarding the reduction of
6 retirees' benefits shall apply to recovery actions commenced on or
7 after January 1, 1986, even though the overpayments resulting from
8 retiree employment were discovered by the department prior to that
9 date. The provisions of this subsection regarding the billing of
10 employers for overpayments shall apply to overpayments made after
11 January 1, 1986.

12 ~~((4))~~ (5) Except in the case of actual fraud, no monthly benefit
13 shall be reduced by more than fifty percent of the member's or
14 beneficiary's corrected benefit.

15 ~~((5))~~ (6) Except as provided in subsection (2) of this section,
16 obligations of employers or members until paid to the department shall
17 constitute a debt from the employer or member to the department,
18 recovery of which shall not be barred by laches or statutes of
19 limitation."

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23 On page 1, line 3 of the title, after "adjustments;" strike the
24 remainder of the title and insert "and amending RCW 41.50.130."