
HOUSE BILL 1738

State of Washington

58th Legislature

2003 Regular Session

By Representatives Haigh and Armstrong; by request of Office of Financial Management

Read first time 02/06/2003. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the recoupment of state employee salary and wage
2 overpayments; and adding new sections to chapter 49.48 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.48 RCW
5 to read as follows:

6 Debts due the state for the overpayment of salary or wages to state
7 employees may be recovered by the employer by deductions from
8 subsequent salary or wage payments as provided in section 2 of this
9 act, or by civil action. If the overpayment is recovered by deduction
10 from the employee's subsequent salary or wages, each deduction shall
11 not exceed five percent of the employee's net pay per pay period. The
12 deductions from salary or wages shall continue until the overpayment is
13 fully recouped.

14 Nothing in this act prevents an employer and employee from agreeing
15 to a different overpayment amount than that specified in the notice in
16 section 2(1) of this act or to a method other than a salary or wage
17 deduction for repayment of the salary overpayment amount.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.48 RCW
2 to read as follows:

3 (1) When an employer determines that an employee was overpaid
4 salary or wages, the employer shall provide written notice to the
5 employee. The notice shall include the amount of the overpayment, the
6 basis for the claim, a demand for payment within twenty days of the
7 date on which the employee received the notice, and the rights of the
8 employee under this section.

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

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

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

30 (5) If the employee is dissatisfied with the employer's decision
31 regarding the employee's challenge to the overpayment, the employee may
32 request an adjudicative proceeding governed by the administrative
33 procedure act, chapter 34.05 RCW. The employee's application for an
34 adjudicative proceeding must be in writing, state the basis for
35 contesting the overpayment notice, and include a copy of the employer's
36 notice of overpayment. The application must be served on and received
37 by the employer within twenty-eight calendar days of the employee's
38 receipt of the employer's decision following review of the employee's

1 challenge. Notwithstanding RCW 34.05.413(3), agencies may not vary the
2 requirements of this subsection (5) by rule or otherwise. The employee
3 must serve the employer by certified mail, return receipt requested.

4 (6) If the employee does not request an adjudicative proceeding
5 within the twenty-eight-day period, the amount of the overpayment
6 provided in the notice shall be deemed final and the employer may
7 proceed to recoup the overpayment as provided in this section and
8 section 1 of this act.

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

12 (8) If the employee fails to attend or participate in the
13 adjudicative proceeding, upon a showing of valid service, the presiding
14 or reviewing officer may enter an administrative order declaring the
15 amount claimed in the notice sent to the employee after the employer's
16 review of the employee's challenge to the overpayment to be assessed
17 against the employee and subject to collection action by the state as
18 provided in section 1 of this act.

19 (9) Failure to make an application for a review by the employer as
20 provided in subsections (3) and (4) of this section or an adjudicative
21 proceeding within twenty-eight calendar days of the date of receiving
22 notice of the employer's decision after review of the overpayment shall
23 result in the establishment of a final debt against the employee in the
24 amount asserted by the employer, which debt shall be collected as
25 provided in section 1 of this act.

26 (10) As used in this section and section 1 of this act, "employer"
27 means the state of Washington and any of its agencies, institutions,
28 boards, or commissions.

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