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HOUSE BILL 2507

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State of Washington                      58th Legislature                      2004 Regular Session

By Representatives Conway, Bush, Morrell, Campbell, Chase and Moeller

Read first time 01/15/2004. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to the recoument of county and city employee  
2 salary and wage overpayments; and amending RCW 49.48.200, 49.48.210,  
3 and 41.04.230.

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

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

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

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

1 from agreeing to a different overpayment amount than that specified in  
2 the notice in RCW 49.48.210(1) or to a method other than a deduction  
3 from wages for 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) When an employer determines that an employee was overpaid  
7 wages, the employer shall provide written notice to the employee. The  
8 notice shall include the amount of the overpayment, the basis for the  
9 claim, a demand for payment within twenty calendar days of the date on  
10 which the employee received the notice, and the rights of the employee  
11 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. The employee's application for an  
37 adjudicative proceeding must be in writing, state the basis for

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

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

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

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

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

30 (10) As used in chapter 77, Laws of 2003:

31 (a) "Employer" means the state of Washington or a political  
32 subdivision or municipal corporation contained therein and any of its  
33 agencies, institutions, boards, or commissions; and

34 (b) "Overpayment" means a payment of wages for a pay period that is  
35 greater than the amount earned for a pay period.

36 **Sec. 3.** RCW 41.04.230 and 2002 c 61 s 5 are each amended to read  
37 as follows:

1 Any official of the state or a county or city authorized to  
2 disburse funds in payment of salaries and wages of public officers or  
3 employees is authorized, upon written request of the officer or  
4 employee, to deduct from the salaries or wages of the officers or  
5 employees, the amount or amounts of subscription payments, premiums,  
6 contributions, or continuation thereof, for payment of the following:

7 (1) Credit union deductions: PROVIDED, That twenty-five or more  
8 employees of a single state agency or a total of one hundred or more  
9 state employees of several agencies have authorized such a deduction  
10 for payment to the same credit union. An agency may, in its own  
11 discretion, establish a minimum participation requirement of fewer than  
12 twenty-five employees.

13 (2) Parking fee deductions: PROVIDED, That payment is made for  
14 parking facilities furnished by the agency or by the department of  
15 general administration.

16 (3) U.S. savings bond deductions: PROVIDED, That a person within  
17 the particular agency shall be appointed to act as trustee. The  
18 trustee will receive all contributions; purchase and deliver all bond  
19 certificates; and keep such records and furnish such bond or security  
20 as will render full accountability for all bond contributions.

21 (4) Board, lodging or uniform deductions when such board, lodging  
22 and uniforms are furnished by the state, or deductions for academic  
23 tuitions or fees or scholarship contributions payable to the employing  
24 institution.

25 (5) Dues and other fees deductions: PROVIDED, That the deduction  
26 is for payment of membership dues to any professional organization  
27 formed primarily for public employees or college and university  
28 professors: AND PROVIDED, FURTHER, That twenty-five or more employees  
29 of a single state agency, or a total of one hundred or more state  
30 employees of several agencies have authorized such a deduction for  
31 payment to the same professional organization.

32 (6) Labor or employee organization dues may be deducted in the  
33 event that a payroll deduction is not provided under a collective  
34 bargaining agreement under the provisions of RCW 41.06.150: PROVIDED,  
35 That twenty-five or more officers or employees of a single agency, or  
36 a total of one hundred or more officers or employees of several  
37 agencies have authorized such a deduction for payment to the same labor

1 or employee organization: PROVIDED, FURTHER, That labor or employee  
2 organizations with five hundred or more members in state government may  
3 have payroll deduction for employee benefit programs.

4 (7) Insurance contributions to the authority for payment of  
5 premiums under contracts authorized by the state health care authority.  
6 However, enrollment or assignment by the state health care authority to  
7 participate in a health care benefit plan, as required by RCW  
8 41.05.065(5), shall authorize a payroll deduction of premium  
9 contributions without a written consent under the terms and conditions  
10 established by the public employees' benefits board.

11 (8) Deductions to a bank, savings bank, or savings and loan  
12 association if (a) the bank, savings bank, or savings and loan  
13 association is authorized to do business in this state; and (b) twenty-  
14 five or more employees of a single agency, or fewer, if a lesser number  
15 is established by such agency, or a total of one hundred or more state  
16 employees of several agencies have authorized a deduction for payment  
17 to the same bank, savings bank, or savings and loan association.

18 Deductions from salaries and wages of public officers and employees  
19 other than those enumerated in this section or by other law, may be  
20 authorized by the director of financial management for purposes clearly  
21 related to state employment or goals and objectives of the agency and  
22 for plans authorized by the state health care authority.

23 (9) Contributions to the Washington state combined fund drive.

24 The authority to make deductions from the salaries and wages of  
25 public officers and employees as provided for in this section shall be  
26 in addition to such other authority as may be provided by law:  
27 PROVIDED, That the state or any department, division, or separate  
28 agency of the state shall not be liable to any insurance carrier or  
29 contractor for the failure to make or transmit any such deduction.

30 NEW SECTION. **Sec. 4.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

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