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HOUSE BILL 2630

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State of Washington

64th Legislature

2016 Regular Session

By Representatives Appleton, Manweller, Sells, and Kilduff

Read first time 01/18/16. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to the overpayment of wages by a municipal  
2 corporation; and amending RCW 49.48.210.

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

4 **Sec. 1.** RCW 49.48.210 and 2004 c 7 s 2 are each amended to read  
5 as follows:

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

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

17 (3) Within twenty calendar days after receiving the notice from  
18 the employer that an overpayment has occurred, the employee may  
19 request, in writing, that the employer review its finding that an  
20 overpayment has occurred. The employee may choose to have the review  
21 conducted through written submission of information challenging the

1 overpayment or through a face-to-face meeting with the employer. If  
2 the request is not made within the twenty-day period as provided in  
3 this subsection, the employee may not further challenge the  
4 overpayment and has no right to further agency review, an  
5 adjudicative proceeding, or judicial review.

6 (4) Upon receipt of an employee's written request for review of  
7 the overpayment, the employer shall review the employee's challenge  
8 to the overpayment. Upon completion of the review, the employer shall  
9 notify the employee in writing of the employer's decision regarding  
10 the employee's challenge. The notification must be sent by certified  
11 mail, return receipt requested, to the employee at his or her last  
12 known address.

13 (5) If the employee is dissatisfied with the employer's decision  
14 regarding the employee's challenge to the overpayment, the employee  
15 may request an adjudicative proceeding governed by the administrative  
16 procedure act, chapter 34.05 RCW or, in the case of a county or city  
17 employee, an adjudicative proceeding provided pursuant to ordinance  
18 or resolution of the county or city. The employee's application for  
19 an adjudicative proceeding must be in writing, state the basis for  
20 contesting the overpayment notice, and include a copy of the  
21 employer's notice of overpayment. The application must be served on  
22 and received by the employer within twenty-eight calendar days of the  
23 employee's receipt of the employer's decision following review of the  
24 employee's challenge. Notwithstanding RCW 34.05.413(3), agencies may  
25 not vary the requirements of this subsection (5) by rule or  
26 otherwise. The employee must serve the employer by certified mail,  
27 return receipt requested.

28 (6) If the employee does not request an adjudicative proceeding  
29 within the twenty-eight-day period, the amount of the overpayment  
30 provided in the notice shall be deemed final and the employer may  
31 proceed to recoup the overpayment as provided in this section and RCW  
32 49.48.200.

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

36 (8) If the employee fails to attend or participate in the  
37 adjudicative proceeding, upon a showing of valid service, the  
38 presiding or reviewing officer may enter an administrative order  
39 declaring the amount claimed in the notice sent to the employee after  
40 the employer's review of the employee's challenge to the overpayment

1 to be assessed against the employee and subject to collection action  
2 by the employer as provided in RCW 49.48.200.

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

10 (10) When an employer determines that an employee covered by a  
11 collective bargaining agreement was overpaid wages, the employer  
12 shall provide written notice to the employee. The notice shall  
13 include the amount of the overpayment, the basis for the claim, and  
14 the rights of the employee under the collective bargaining agreement.  
15 Any dispute relating to the occurrence or amount of the overpayment  
16 shall be resolved using the grievance procedures contained in the  
17 collective bargaining agreement.

18 (11) As used in this section or RCW (~~(49.48.210-[49.48.200])~~)  
19 49.48.200 and 49.48.220:

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

21 (b) "Employer" means the state of Washington or a county (~~(or)~~)  
22 city, or municipal corporation, and any of its agencies,  
23 institutions, boards, or commissions; and

24 (c) "Overpayment" means a payment of wages for a pay period that  
25 is greater than the amount earned for a pay period.

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