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HOUSE BILL 1296

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Sommers, Carlson and Sehlin; by request of Department of Retirement Systems

Read first time 01/20/95. Referred to Committee on Appropriations.

1 AN ACT Relating to employer responsibility for retirement  
2 contributions; amending RCW 41.50.140; adding a new section to chapter  
3 41.50 RCW; creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Since enactment of chapter 227, Laws of 1984 most employers  
7 that participate in state retirement systems have been responsible for  
8 ensuring that member retirement contributions are transferred to the  
9 retirement trust funds, even in situations where service credit is  
10 being established on a retroactive basis for a member who is no longer  
11 employed by the employer.

12 (2) It is the responsibility of employers to accurately report  
13 their employees' compensation and service, and to ensure that all  
14 required member and employer contributions are transferred to the  
15 department of retirement systems. However, in situations where an  
16 employer determines that a former employee should have had  
17 contributions transferred, it is more reasonable and efficient to bill  
18 the employee for the past due member contributions than to make the  
19 employer responsible for them.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 41.50 RCW  
2 to read as follows:

3        (1) If an employer, pursuant to RCW 41.50.140(2), does not transfer  
4 member contributions for a former employee's prior period of service,  
5 the member shall not receive service credit for the period of service  
6 unless the member pays the required member contributions as provided in  
7 this section. In such cases the member shall have the option, but  
8 shall not be obligated, to pay the member contributions necessary to  
9 receive credit for the period of service. As provided by RCW  
10 41.50.140(1), the department shall collect from the employer all  
11 employer contributions due for periods of service, regardless of  
12 whether the member elects to pay the member contributions necessary to  
13 receive credit for the period of service.

14        (2) The department shall adopt, by rule, a process by which  
15 separated and active members may pay member contributions needed to  
16 establish service credit for prior periods of service for which their  
17 employers did not transmit member contributions.

18        **Sec. 3.**    RCW 41.50.140 and 1982 1st ex.s. c 52 s 33 are each  
19 amended to read as follows:

20        (1) Every employer participating in one or more of the retirement  
21 systems listed in RCW 41.50.030 shall fully cooperate in the  
22 administration of the systems in which its employees participate,  
23 including the distribution of information to employees, and shall  
24 accept and carry out all other duties as required by law, regulation,  
25 or administrative instruction. Every employer shall transmit to the  
26 department all member and employer contributions due for periods of  
27 service rendered in the retirement systems, except as provided in  
28 subsection (2) of this section.

29        (2) When the department bills an employer for member and employer  
30 contributions owed for a prior period of service, the employer shall  
31 transmit the required contributions if the member is still an employee  
32 of the employer at the time of the billing. The employer shall have no  
33 duty to transfer member contributions for persons who are not employees  
34 on the date the department bills the employer but shall transfer the  
35 required employer contributions for the prior service.

36        (3) Members for whom member contributions for a prior period of  
37 service are not transferred by the employer pursuant to subsection (2)

1 of this section shall have the option of paying the required member  
2 contributions pursuant to section 2 of this act.

3 ~~((2) If an employee is entitled to retroactive service credit~~  
4 ~~which was not previously established through no fault of the employee,~~  
5 ~~or through an employer error which has caused a member's compensation~~  
6 ~~or contributions to be understated or overstated so as to cause a loss~~  
7 ~~to the retirement funds, the director may bill the employer for the~~  
8 ~~loss, to include interest, if applicable. The employer contributions,~~  
9 ~~with interest thereon, will be treated as if in fact the interest was~~  
10 ~~part of the normal employer contribution and no distribution of~~  
11 ~~interest received shall be required.~~

12 ~~(3) Employer paid employee contributions will not be credited to a~~  
13 ~~member's account until the employer notifies the director in writing~~  
14 ~~that the employer has been reimbursed by the employee or beneficiary~~  
15 ~~for the payment. The employer shall have the right to collect from the~~  
16 ~~employee the amount of the employee's obligation. Failure on the part~~  
17 ~~of the employer to collect all or any part of the sums which may be due~~  
18 ~~from the employee or beneficiary shall in no way cause the employer~~  
19 ~~obligation for the total liability to be lessened.))~~

20 (4) If an employer transfers member contributions which were not  
21 paid by the member, the employer shall have the right to collect the  
22 amount of the employee's obligation from the employee.

23 NEW SECTION. Sec. 4. This act shall take effect July 1, 1996.

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