

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1738

58th Legislature
2003 Regular Session

Passed by the House March 11, 2003
Yeas 93 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 10, 2003
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1738** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1738

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Haigh and Armstrong; by request of Office of Financial Management)

READ FIRST TIME 03/03/03.

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 (1) Debts due the state for the overpayment of wages to state
7 employees may be recovered by the employer by deductions from
8 subsequent wage payments as provided in section 2 of this act, or by
9 civil action. If the overpayment is recovered by deduction from the
10 employee's subsequent wages, each deduction shall not exceed: (a) Five
11 percent of the employee's disposable earnings in a pay period other
12 than the final pay period; or (b) the amount still outstanding from the
13 employee's disposable earnings in the final pay period. The deductions
14 from wages shall continue until the overpayment is fully recouped.

15 (2) Nothing in this act prevents: (a) An employee from making
16 payments in excess of the amount specified in subsection (1)(a) of this
17 section to an employer; or (b) an employer and employee from agreeing
18 to a different overpayment amount than that specified in the notice in

1 section 2(1) of this act or to a method other than a deduction from
2 wages for repayment of the overpayment amount.

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

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

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

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

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

32 (5) If the employee is dissatisfied with the employer's decision
33 regarding the employee's challenge to the overpayment, the employee may
34 request an adjudicative proceeding governed by the administrative
35 procedure act, chapter 34.05 RCW. The employee's application for an
36 adjudicative proceeding must be in writing, state the basis for
37 contesting the overpayment notice, and include a copy of the employer's

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

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

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

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

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

29 (10) As used in this act:

30 (a) "Employer" means the state of Washington and any of its
31 agencies, institutions, boards, or commissions; and

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

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.48 RCW
35 to read as follows:

1 The office of financial management shall adopt the rules necessary
2 to implement this act.

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