Department of Planning and Budget
2012 Fiscal Impact Statement

1. **Bill Number:** HB939

House of Origin	☒ Introduced	☐ Substitute	☐ Engrossed
Second House	☐ In Committee	☐ Substitute	☐ Enrolled

2. **Patron:** Lingamfelter

3. **Committee:** General Laws

4. **Title:** Department of Accounts; recovery of erroneous or improper payments to state employees.

5. **Summary:** This bill provides that when a state officer or employee receives compensation or payments in error that such officer or employee will not be liable for repayment if the recipient officer or employee was not at fault for the error and did not have actual knowledge of or could not have reasonably detected the error. The bill also authorizes the employer (i) to seek, with the approval of the Attorney General and Governor, compromise and settlement in the case of erroneous overpayments, and (ii) to use payroll deductions limited to 25 percent of disposal earnings to effect repayment. In addition, the bill requires the employer to waive any repayment that would cause hardship if it is determined that such improper payment occurred through no fault of the recipient officer or employee and such officer or employee did not have actual knowledge of or could not have reasonably detected the error.

6. **Budget Amendment Necessary**: No.

7. **Fiscal Impact Estimates:** Indeterminate.

8. **Fiscal Implications:** Overall, in as much as this bill makes it more difficult to recover improper payments made to state employees and officers, it will result in a loss of state funds. However, the number of cases and the total amount of dollars being waived for repayment are indeterminate at this time.

   In accordance with current public payroll practice, employees are required to return overpayments made due to administrative error through future payroll deductions. As this bill authorizes employees to avoid repayment by asserting that the error was not their fault, they did not know about the error and could not have reasonably detected the error and absent such assertions to seek compromise and settlement of erroneous overpayments, it may result in the potential loss of public dollars that would have otherwise been returned to state accounts. Although the merits of any potential overpayment claim must be evaluated on a case-by-case basis, both the Office of the Attorney General (OAG) and the Department of Accounts (DOA) anticipate that this bill will result in a lower number of returned overpayments than that which is currently collected, particularly because of the subjectivity of determining whether the employee could have reasonably detected the error and because the bill does not define the parameters that equate to a repayment plan resulting in a "hardship" on an employee.

The Division of Debt Collection (DDC) within the OAG is self-funded and operates on a contingency fee basis, based on the amount of debt collected by the division. As such, in as much as this bill may result in a reduction on collections by the DDC, the division's operational budget may incur a commensurate reduction in funds. However, according to the DDC, referrals for this type of debt are rare and so the division anticipates that any fiscal impact resulting from this bill, both on the workload of the DDC and on the OAG as an employer, would be minimal and can be absorbed within the agency's current resources.

9. **Specific Agency or Political Subdivisions Affected:** Office of the Attorney General, Division of Debt Collection, Department of Accounts.

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** None.

Date: 1/25/2012