

Senate Bill 468

Sponsored by Senator DEMBROW; Senator PROZANSKI, Representatives DOHERTY, HOLVEY, NOSSE (at the request of Commissioner of the Bureau of Labor and Industries Brad Avakian) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Commissioner of Bureau of Labor and Industries to issue warrants for collection of certain debts owed to bureau. Requires county clerk to record warrant in County Clerk Lien Record.

A BILL FOR AN ACT

1
2 Relating to authority of Commissioner of Bureau of Labor and Industries to issue warrants for cer-
3 tain debts; creating new provisions; and amending ORS 18.854.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) If an amount due to the Bureau of Labor and Industries is not paid**
6 **within 30 days of the date payment becomes due, and no provision has been made to secure**
7 **the payment, the Commissioner of the Bureau of Labor and Industries may issue a warrant.**
8 **The warrant may be filed with the county clerk of any county in this state and recorded in**
9 **the County Clerk Lien Record of the county in which it is filed. The amount of the warrant**
10 **issued under this section must include the principal amount of the debt, any added interest**
11 **accumulated pursuant to ORS 82.010 or other applicable law and any costs associated with**
12 **the recording, indexing and serving of the warrant and any satisfaction and release thereof.**
13 **A copy of the warrant shall be mailed to the debtor by the bureau at the last know address**
14 **of the debtor.**

15 **(2) After receiving the warrant, the county clerk shall enter the warrant in the County**
16 **Clerk Lien Record in the manner described in ORS 205.125. The warrant shall have the effect**
17 **described in this section and ORS 205.125 and 205.126 and may be enforced as provided in ORS**
18 **18.854, 205.125 and 205.126.**

19 **SECTION 2. ORS 18.854 is amended to read:**

20 18.854. (1) Any state agency authorized to issue warrants to collect taxes and debts owed to the
21 State of Oregon, including but not limited to warrants issued pursuant to ORS 179.655, 184.644,
22 267.385, 293.250, 314.430, 316.207, 320.080, 321.570, 323.390, 411.703, 657.396, 657.642, 657.646, 705.175
23 and 825.504 **and section 1 of this 2015 Act**, or any county tax collector authorized to issue war-
24 rants to collect taxes and debts owed to the county pursuant to ORS 311.625, may garnish property
25 of a debtor in the possession, control or custody of a person other than the debtor by delivering to
26 the person all of the following:

- 27 (a) A notice of garnishment;
28 (b) A warrant, or a true copy of a warrant;
29 (c) The items specified in ORS 18.650 (1)(b) to (d); and
30 (d) Any garnishee's search fee payable as provided in ORS 18.790.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) A notice of garnishment may be issued by any person designated by the state agency or by
2 the county tax collector. A warrant need not be recorded in the County Clerk Lien Record as a
3 condition of issuing a notice of garnishment under the provisions of this section. The provisions of
4 ORS 18.800 do not apply to a notice of garnishment.

5 (3) If any of the items described in subsection (1) of this section are not delivered to the
6 garnishee, a notice of garnishment shall not be effective to garnish any property of the debtor, and
7 the garnishee shall not be required to respond to the garnishment and may proceed to deal with any
8 property of the debtor as though the notice of garnishment had not been issued.

9 (4)(a) Notwithstanding ORS 18.652, but subject to paragraph (c) of this subsection, a notice of
10 garnishment and the other items required by subsection (1) of this section may be delivered in per-
11 son to the garnishee by any employee of the state agency or of the county tax collector who is au-
12 thorized by the agency or the county to deliver the notice of garnishment, may be mailed to the
13 garnishee by first class or certified mail or may be sent to the garnishee by other means if the
14 garnishee has agreed to a different delivery method.

15 (b) An employee who delivers documents under paragraph (a) of this subsection need not be
16 covered by the errors and omissions insurance required in ORS 18.652.

17 (c) A state agency or a county may not seek sanctions against a noncomplying garnishee under
18 ORS 18.775 unless the notice of garnishment and the other items required by subsection (1) of this
19 section are personally delivered to the garnishee under paragraph (a) of this subsection or mailed
20 to the garnishee by certified mail.

21 (5) Notwithstanding any provision of ORS 18.600 to 18.850, a debt calculation form need not be
22 prepared or delivered for any notice of garnishment.

23 (6) Notwithstanding ORS 18.792, the duty of a garnishee to deliver any property of the debtor
24 that may be contained in a safe deposit box that is in the garnishee's possession, control or custody
25 at the time of delivery of the notice of garnishment to the garnishee is conditioned upon the state
26 agency or the county tax collector first paying to the garnishee, in addition to the search fee pro-
27 vided for in ORS 18.790, all reasonable costs incurred by the garnishee in gaining entry to the safe
28 deposit box. The costs shall be paid to the garnishee by the state agency or the county tax collector
29 at least five days before the date the state agency or the county tax collector takes possession of
30 the property in the safe deposit box. If the state agency or the county tax collector fails to pay such
31 costs to the garnishee within 20 days after the delivery of the garnishee response, the garnishment
32 shall not be effective to garnish any property of the debtor that may be contained in the safe deposit
33 box and the garnishee may proceed to deal with the safe deposit box and its contents as though the
34 notice of garnishment had not been issued. Nothing in this subsection limits the rights of a state
35 agency or county tax collector to reach the contents of any safe deposit box in any manner other-
36 wise provided by law.

37 (7) Except as provided in this section and ORS 18.855 and 18.857, all provisions of ORS 18.600
38 to 18.850 apply to notices of garnishment. The state agency or county tax collector shall modify the
39 forms provided in ORS 18.600 to 18.850 as necessary to allow use of those forms for notices of
40 garnishment. The form of the notice of garnishment must clearly indicate that the document is a
41 notice of garnishment and must reflect the date of all warrants on which the notice of garnishment
42 is based.

43 (8) The Attorney General may adopt model forms for notices of garnishment and other docu-
44 ments issued by state agencies and county tax collectors under this section and ORS 18.855 and
45 18.857. There is a presumption, as described in ORS 40.120, that any state agency or county tax

1 collector that uses a model form adopted by the Attorney General under this subsection has com-
2 plied with the requirements of ORS 18.600 to 18.850, and with the provisions of this section and ORS
3 18.855 and 18.857, with respect to the form of notices of garnishment.

4 **SECTION 3. Section 1 of this 2015 Act and the amendments to ORS 18.854 by section 2**
5 **of this 2015 Act apply to all debts owed to the Bureau of Labor and Industries before, on or**
6 **after the effective date of this 2015 Act.**

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