

REVENUE: No revenue impact

FISCAL: No fiscal impact

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	5 - 0 - 0
<b>Yeas:</b>	Bonamici, Boquist, Dingfelder, Whitsett, Prozanski
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	Bill Taylor, Counsel
<b>Meeting Dates:</b>	2/9, 2/23, 3/10

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**WHAT THE MEASURE DOES:** Makes an employer liable to an employee when the employer fails to pay to the Support Enforcement Division in a timely manner wages being withheld as a result of a support enforcement order. Clarifies that an employer is liable to an employee for failing to pay withholding or withholding too much. Makes the employer liable for any damages, a penalty not to exceed \$250, and attorney fees if the employer is willfully or grossly negligent in paying on time.

**ISSUES DISCUSSED:**

- In *Kurahashi*, the employer deliberately delayed paying the withholding to the Support Enforcement Division in order to improve cash flow

**EFFECT OF COMMITTEE AMENDMENT:** Clarifies that the person served with a withholding order is liable for failure to abide by the order.

**BACKGROUND:** The Support Enforcement Division of the Oregon Department of Justice will attach the wages of anyone owing child support regardless of whether the person is in arrears. This is a federal requirement. The division does so by serving a writ of attachment upon the person's employer. The employer has a legal duty to withhold. Currently, if the employer fails to do so or withholds too much, the employer is liable. In *Arivdson v. Kurahashi*, 217 Or. 74, the employer periodically delayed forwarding the withholdings from the wages of its employee. As a result, the employee was subject to fines, fees and assessments for late payment. The employee sued his now former employer. The Court of Appeals found that the statute did not allow the employee to recover damages. SB 373A would allow an employee to do so when the employer delayed paying the withholding.