

# House Bill 2395

Sponsored by Representative COWAN (at the request of Oregon State Sheriffs' Association) (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**.

Eliminates requirement that certain agency warrants be issued to sheriff. Allows agency that issues warrant to record copy of warrant in County Clerk Lien Record at any time after issuance of warrant.

## A BILL FOR AN ACT

1  
2 Relating to enforcement of agency warrants; creating new provisions; and amending ORS 179.655,  
3 184.644, 314.430, 319.182, 319.742, 320.080, 321.570, 323.390, 323.610, 324.190, 657.396, 657.642 and  
4 825.504.

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

6 **SECTION 1.** ORS 179.655 is amended to read:

7 179.655. (1) If any amount due the Department of Human Services or the Department of Cor-  
8 rections for the cost of care of a person is not paid within 30 days after it becomes due, and no  
9 provision is made to secure the payment by bond, deposit or otherwise, pursuant to rules adopted  
10 by the appropriate agency, the agency may issue a distraint warrant [*directed to any county of the*  
11 *state*].

12 (2) [*After the receipt of the distraint warrant, the clerk of the county shall enter in the County Clerk*  
13 *Lien Record the name of the person, the amount for which the distraint warrant is issued and the date*  
14 *the distraint warrant is recorded. The amount of the distraint warrant shall become a lien upon the*  
15 *title to and interest in any property owned or later acquired by the debtor against whom it is issued,*  
16 *and it may be enforced by the agency in the same manner as a judgment of the circuit court.*] **At any**  
17 **time after the issuance of a distraint warrant under this section, the department issuing the**  
18 **warrant may record a copy of the warrant in any County Clerk Lien Record as provided in**  
19 **ORS 205.125. The distraint warrant may thereafter be enforced as provided in ORS 205.126.**

20 (3) In the event that an ability-to-pay order issued under ORS 179.640 (4) or (5) becomes final,  
21 and supersedes a previous final ability-to-pay order on which a distraint warrant had been issued,  
22 the agency shall issue a new distraint warrant superseding the previous distraint warrant, and the  
23 lien shall conform to the new order.

24 [(4) *The agency may direct a copy of the distraint warrant to the sheriff of any county of the state*  
25 *commanding the sheriff to levy upon and sell the real and personal property of the taxpayer found*  
26 *within that county, for the payment of the amount due, with interest, collection charge and the sheriff's*  
27 *fee. The sheriff shall return the distraint warrant to the agency and pay to it the money collected not*  
28 *less than 60 days from the date the copy of the distraint warrant was directed to the sheriff.*]

29 [(5)] (4) The [agency] **Department of Human Services or the Department of Corrections** may  
30 [issue the directive provided in subsection (4) of this section] **direct a distraint warrant issued un-**  
31 **der this section** to any agent of the [agency] **department**. In executing the distraint warrant, the

**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 agent shall have the same powers conferred by law upon sheriffs. However, the agent is not entitled  
 2 to any fee or compensation in excess of actual expenses incurred in the performance of this duty.

3 **SECTION 2.** ORS 184.644 is amended to read:

4 184.644. (1) For purposes of this section, a liquidated and delinquent debt is a debt that meets  
 5 one of the following conditions:

6 (a) Judgment has been entered on the debt; or

7 (b) Liability for and the amount of the debt have been established through an administrative  
 8 proceeding.

9 (2) If a person fails to pay in full any liquidated and delinquent debt due the Department of  
 10 Transportation, the department may issue a warrant [*under the department's official seal directed to*  
 11 *the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal*  
 12 *property of the person found within that county,*] for payment of the amount due, with the added  
 13 penalties or charges, interest and cost of executing the warrant[, *and to return the warrant to the*  
 14 *department and pay to the department the money collected from the sale by the time specified in the*  
 15 *warrant, not less than 60 days from the date of the warrant*].

16 (3) [*The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the*  
 17 *county a copy of the warrant. The clerk shall enter in the County Clerk Lien Record the name of the*  
 18 *person mentioned in the warrant, the amount of the debt for which the warrant is issued and the date*  
 19 *when the copy is recorded. The amount of the warrant shall become a lien upon the title to and interest*  
 20 *in property of the person against whom the warrant is issued in the same manner as a judgment that*  
 21 *creates a judgment lien under ORS chapter 18.*] **At any time after the issuance of a warrant un-**  
 22 **der this section, the department may record a copy of the warrant in any County Clerk Lien**  
 23 **Record as provided in ORS 205.125. The warrant may thereafter be enforced as provided in**  
 24 **ORS 205.126.**

25 [(4) *The sheriff shall proceed upon the warrant in all respects, with like effect and in the same*  
 26 *manner prescribed by law in respect to executions issued against property upon judgment of a court*  
 27 *of record, and shall be entitled to the same fees for services in executing the warrant, to be added to*  
 28 *and collected as a part of the warrant liability.*]

29 [(5)] (4) In the discretion of the Department of Transportation, a warrant of like terms, force  
 30 and effect to levy upon funds of the person in possession of the Department of Revenue may be is-  
 31 sued and directed to any agent authorized by the Department of Transportation to collect liquidated  
 32 and delinquent debts for the department, and in the execution thereof the agent shall have all of the  
 33 powers conferred by law upon sheriffs but is entitled to no fee or compensation in excess of actual  
 34 expenses paid in the performance of such duty.

35 [(6)] (5) Nothing in this section affects any provision of ORS 319.182, 319.742 or 825.504.

36 **SECTION 3.** ORS 314.430 is amended to read:

37 314.430. (1) If any tax imposed under ORS chapter 118, 316, 317 or 318 or any portion of the tax  
 38 is not paid within 30 days after the date that the written notice and demand for payment required  
 39 under ORS 305.895 is mailed (or within five days after the tax becomes due, in the case of the ter-  
 40 mination of the tax year by the Department of Revenue under the provisions of ORS 314.440) and  
 41 no provision is made to secure the payment thereof by bond, deposit or otherwise, pursuant to reg-  
 42 ulations promulgated by the department, the department may issue a warrant [*directed to the sheriff*  
 43 *of any county of the state commanding the sheriff to levy upon and sell the real and personal property*  
 44 *of the taxpayer found within that county,*] for the payment of the amount of the tax, with the added  
 45 penalties, interest, collection charge and the [*sheriff's*] cost of executing the warrant[, *and to return*

1 such warrant to the department and pay to it the money collected by virtue thereof by a time to be  
 2 therein specified, not less than 60 days from the date of the warrant]. A copy of the warrant shall be  
 3 mailed or delivered to the taxpayer by the department at the taxpayer's last-known address.

4 (2) *[The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the*  
 5 *county a copy thereof, and thereupon the clerk shall enter in the County Clerk Lien Record the name*  
 6 *of the taxpayer mentioned in the warrant, and the amount of the tax or portion thereof and penalties*  
 7 *for which the warrant is issued and the date when such copy is recorded. Thereupon the amount of*  
 8 *the warrant so recorded shall become a lien upon the title to and interest in property of the taxpayer*  
 9 *against whom it is issued in the same manner as a judgment duly recorded. The sheriff thereupon shall*  
 10 *proceed upon the same in all respects, with like effect and in the same manner prescribed by law in*  
 11 *respect to executions issued against property upon judgment of a court of record, and shall be entitled*  
 12 *to the same fees for services in executing the warrant, to be added to and collected as a part of the*  
 13 *warrant liability.]* **At any time after the issuance of a warrant under this section, the depart-**  
 14 **ment may record a copy of the warrant in any County Clerk Lien Record as provided in ORS**  
 15 **205.125. The warrant may thereafter be enforced as provided in ORS 205.126.**

16 (3) In the discretion of the department a warrant of like terms, force and effect may be issued  
 17 and directed to any agent authorized to collect taxes, and in the execution thereof the agent shall  
 18 have all the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in ex-  
 19 cess of actual expenses paid in the performance of such duty.

20 *[(4) If a warrant is returned not satisfied in full, the department shall have the same remedies to*  
 21 *enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment*  
 22 *against the taxpayer for the amount of the tax, and shall balance the assessment record of the taxpayer*  
 23 *by transferring the unpaid deficiency to the taxpayer's delinquent record.]*

24 **SECTION 4.** ORS 319.182 is amended to read:

25 319.182. (1) *[If a person fails to pay in full any tax, interest or penalty due under ORS 319.010 to*  
 26 *319.430, the Department of Transportation may issue a warrant under the department's official seal*  
 27 *directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real*  
 28 *and personal property of the person found within that county, for payment of the amount due, with the*  
 29 *added penalties or charges, interest and the cost of executing the warrant, and to return the warrant*  
 30 *to the department and pay to the department the money collected from the sale by the time specified in*  
 31 *the warrant, not less than 60 days from the date of the warrant.]* **If a person fails to pay in full any**  
 32 **tax, interest or penalty due under ORS 319.010 to 319.430, the Department of Transportation**  
 33 **may issue a warrant for payment of the amount due and payment of the costs of executing**  
 34 **the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer by the de-**  
 35 **partment at the taxpayer's last-known address.**

36 (2) *[The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the*  
 37 *county a copy of the warrant. The clerk shall enter in the County Clerk Lien Record the name of the*  
 38 *person mentioned in the warrant, the amount of the tax or portion of the tax and penalties or charges*  
 39 *for which the warrant is issued and the date when the copy is recorded. The amount of the warrant*  
 40 *shall become a lien upon the title to and interest in property of the person against whom it is issued*  
 41 *in the same manner as a judgment that creates a judgment lien under ORS chapter 18.]* **At any time**  
 42 **after the issuance of a warrant under this section, the department may record a copy of the**  
 43 **warrant in any County Clerk Lien Record as provided in ORS 205.125. The warrant may**  
 44 **thereafter be enforced as provided in ORS 205.126.**

45 *[(3) The sheriff shall proceed upon the warrant in all respects, with like effect and in the same*

1 *manner prescribed by law in respect to executions issued against property upon judgment of a court*  
 2 *of record, and shall be entitled to the same fees for services in executing the warrant, to be added to*  
 3 *and collected as a part of the warrant liability.]*

4 [(4)] (3) In the discretion of the Department of Transportation, a warrant of like terms, force  
 5 and effect to levy upon funds of the person in possession of the Department of Revenue may be is-  
 6 sued and directed to any agent authorized by the Department of Transportation to collect taxes  
 7 payable under ORS 319.010 to 319.430, and in the execution thereof the agent shall have all of the  
 8 powers conferred by law upon sheriffs but is entitled to no fee or compensation in excess of actual  
 9 expenses paid in the performance of such duty.

10 **SECTION 5.** ORS 319.742 is amended to read:

11 319.742. (1) If a person fails to pay in full any obligation due under ORS 319.510 to 319.880, the  
 12 Department of Transportation may issue a warrant [*under the department's official seal directed to*  
 13 *the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal*  
 14 *property of the person found within that county,]* for payment of the amount of the obligation and the  
 15 cost of executing the warrant[, *and to return the warrant to the department and pay to the department*  
 16 *the money collected from the sale by the time specified in the warrant, not less than 60 days from the*  
 17 *date of the warrant].*

18 (2) [*The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the*  
 19 *county a copy of the warrant. The clerk shall enter in the County Clerk Lien Record the name of the*  
 20 *person mentioned in the warrant, the amount of the obligation for which the warrant is issued and the*  
 21 *date when the copy is recorded. The amount of the warrant shall become a lien upon the title to and*  
 22 *interest in property of the person against whom it is issued in the same manner as a judgment that*  
 23 *creates a judgment lien under ORS chapter 18.]* **At any time after the issuance of a warrant un-**  
 24 **der this section, the department may record a copy of the warrant in any County Clerk Lien**  
 25 **Record as provided in ORS 205.125. The warrant may thereafter be enforced as provided in**  
 26 **ORS 205.126.**

27 [(3) *The sheriff shall proceed upon the warrant in all respects, with like effect and in the same*  
 28 *manner prescribed by law in respect to executions issued against property upon judgment of a court*  
 29 *of record, and shall be entitled to the same fees for services in executing the warrant, to be added to*  
 30 *and collected as a part of the warrant liability.]*

31 [(4)] (3) In the discretion of the Department of Transportation, a warrant of like terms, force  
 32 and effect to levy upon funds of the person in possession of the Department of Revenue may be is-  
 33 sued and directed to any agent authorized by the Department of Transportation to collect taxes  
 34 payable under ORS 319.510 to 319.880, and in the execution thereof the agent shall have all of the  
 35 powers conferred by law upon sheriffs but is entitled to no fee or compensation in excess of actual  
 36 expenses paid in the performance of such duty.

37 **SECTION 6.** ORS 320.080 is amended to read:

38 320.080. (1) [*If any tax or penalty imposed by ORS 320.005 to 320.150 is not paid as required by*  
 39 *ORS 320.005 to 320.150 within 30 days after the date that the written notice and demand for payment*  
 40 *required under ORS 305.895 is mailed, the Department of Revenue shall issue a warrant directed to*  
 41 *the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal*  
 42 *property of the person or persons named in the warrant and liable for the tax found within the county,*  
 43 *for the payment of the amount thereof with the added penalty and the cost of executing the warrant,*  
 44 *and to return the warrant to the department and pay to it the money collected by virtue thereof by a*  
 45 *time to be therein specified not more than 30 days from the date of the warrant. A copy of the warrant*

1 *shall be mailed or delivered to the taxpayer by the department at the taxpayer's last-known address.]*  
 2 **If any tax or penalty imposed by ORS 320.005 to 320.150 is not paid as required by ORS 320.005**  
 3 **to 320.150 within 30 days after the date that the written notice and demand for payment re-**  
 4 **quired under ORS 305.895 is mailed, the Department of Revenue may issue a warrant for**  
 5 **payment of the amount due and payment of the costs of executing the warrant. A copy of**  
 6 **the warrant shall be mailed or delivered to the taxpayer by the department at the taxpayer's**  
 7 **last-known address.**

8 (2) *[The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the*  
 9 *county a copy thereof. Thereupon the clerk shall enter in the County Clerk Lien Record the names of*  
 10 *the persons mentioned in the warrant, and the amount of the tax and penalty for which the warrant*  
 11 *is issued and the date when such copy is recorded. Thereupon the amount of the warrant so recorded*  
 12 *shall become a lien upon the title to any interest in real property or personal property of the persons*  
 13 *against whom it is issued in the same manner as a judgment that creates a judgment lien under ORS*  
 14 *chapter 18. The sheriff shall thereupon proceed upon the same in all respects, with like effect and in*  
 15 *the manner prescribed by law in respect to execution issued against property upon judgment of a court*  
 16 *of record, and the sheriff is entitled to the same fees for services in executing the warrant to be collected*  
 17 *in the same manner. If a warrant is returned not satisfied in full, the department shall have the same*  
 18 *remedies to enforce the claim for taxes as if the people of the state had recovered judgment for the*  
 19 *amount of the tax.]* **At any time after the issuance of a warrant under this section, the de-**  
 20 **partment may record a copy of the warrant in any County Clerk Lien Record as provided in**  
 21 **ORS 205.125. The warrant may thereafter be enforced as provided in ORS 205.126.**

22 **SECTION 7.** ORS 321.570 is amended to read:

23 321.570. (1) *[If any tax imposed by ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to*  
 24 *321.754, or any portion of the tax, is not paid within 30 days after the date that the written notice and*  
 25 *demand for payment required under ORS 305.895 is mailed, the Department of Revenue may issue a*  
 26 *warrant, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell*  
 27 *the real and personal property of the taxpayer owning the same, found within that county, for the*  
 28 *payment of the amount of the tax, with the added penalties, interest and cost of executing the warrant,*  
 29 *and to return the warrant to the department and to pay to it the money collected from the sale, within*  
 30 *60 days after receipt of the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer*  
 31 *by the department at the taxpayer's last-known address.]* **If any tax imposed by ORS 321.005 to**  
 32 **321.185, 321.560 to 321.600 or 321.700 to 321.754, or any portion of the tax, is not paid within**  
 33 **30 days after the date that the written notice and demand for payment required under ORS**  
 34 **305.895 is mailed, the Department of Revenue may issue a warrant for payment of the**  
 35 **amount due and payment of the costs of executing the warrant. A copy of the warrant shall**  
 36 **be mailed or delivered to the taxpayer by the department at the taxpayer's last-known ad-**  
 37 **dress.**

38 (2) *[The sheriff shall, within five days after the receipt of the warrant, record a copy with the*  
 39 *county clerk, and the clerk shall immediately enter in the County Clerk Lien Record the name of the*  
 40 *taxpayer mentioned in the warrant, and the amount of the tax or portion of the tax and penalties for*  
 41 *which the warrant is issued and the date when the copy is recorded. The amount of the warrant so*  
 42 *recorded shall become a lien upon the title to and interest in real property of the taxpayer against*  
 43 *which it is issued, in the same manner as a judgment that creates a judgment lien under ORS chapter*  
 44 *18. The sheriff immediately shall proceed upon the warrant in all respects, with like effect, and in the*  
 45 *same manner prescribed by law in respect to executions issued against property upon judgments of a*

1 court of record, and shall be entitled to the same fees for services in executing the warrant, to be added  
 2 to and collected as a part of the warrant liability.] **At any time after the issuance of a warrant**  
 3 **under this section, the department may record a copy of the warrant in any County Clerk**  
 4 **Lien Record as provided in ORS 205.125. The warrant may thereafter be enforced as provided**  
 5 **in ORS 205.126.**

6 (3) In the discretion of the department a warrant of like terms, force and effect may be issued  
 7 and directed to any agent authorized to collect this tax. In the execution of the warrant, such agent  
 8 has the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess  
 9 of actual expenses paid in the performance of such duty.

10 [(4) If a warrant is returned not satisfied in full, the department shall have the same remedies to  
 11 enforce the claim for taxes against the taxpayer as if the state had a recorded judgment against the  
 12 taxpayer for the amount of the tax.]

13 **SECTION 8.** ORS 323.390 is amended to read:

14 323.390. (1) If any tax imposed by ORS 323.005 to 323.482 or any portion of such tax is not paid  
 15 within 30 days after notice of a deficiency determination is given pursuant to ORS 323.403 or of a  
 16 tax determined under ORS 323.385, and no provision is made to secure the payment thereof by bond,  
 17 deposit or otherwise, pursuant to regulations promulgated by the Department of Revenue, the de-  
 18 partment [shall] **may**:

19 (a) Assess a collection charge of \$5 if the sum of the tax, penalty and interest then due exceeds  
 20 \$10[.]; **and**

21 (b) [Issue a warrant directed to the sheriff of any county of the state commanding the sheriff to levy  
 22 upon and sell the real and personal property of the taxpayer found within that county, for the payment  
 23 of the amount of the tax, with the added penalties, interest, collection charge and the sheriff's cost of  
 24 executing the warrant, and to return such warrant to the department and pay to it the money collected  
 25 by virtue thereof by a time to be therein specified, not less than 60 days from the date of the  
 26 warrant.] **Issue a warrant for payment of the amount due and payment of the costs of exe-**  
 27 **cuting the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer by**  
 28 **the department at the taxpayer's last-known address.**

29 (2) [The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the  
 30 county a copy thereof, and thereupon the clerk shall enter in the County Clerk Lien Record the name  
 31 of the taxpayer mentioned in the warrant, and the amount of the tax or portion thereof and penalties  
 32 and interest for which the warrant is issued and the date when such copy is recorded. Thereupon the  
 33 amount of the warrant so recorded shall become a lien upon the title to and interest in property of the  
 34 taxpayer against whom it is issued in the same manner as a judgment that creates a judgment lien  
 35 under ORS chapter 18. The sheriff thereupon shall proceed upon the same in all respects, with like  
 36 effect and in the same manner prescribed by law in respect to executions issued against property upon  
 37 judgment of a court of record, and shall be entitled to the same fees for services in executing the war-  
 38 rant, to be added to and collected as a part of the warrant liability.] **At any time after the issuance**  
 39 **of a warrant under this section, the department may record a copy of the warrant in any**  
 40 **County Clerk Lien Record as provided in ORS 205.125. The warrant may thereafter be en-**  
 41 **forced as provided in ORS 205.126.**

42 (3) In the discretion of the department a warrant of like terms, force and effect may be issued  
 43 and directed to any agent authorized to collect income taxes, and in the execution thereof the agent  
 44 shall have all the powers conferred by law upon sheriffs, but is entitled to no fee or compensation  
 45 in excess of actual expenses paid in the performance of such duty.

1        *[(4) If a warrant is returned not satisfied in full, the department shall have the same remedies to*  
 2 *enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment*  
 3 *against the taxpayer for the amount of the tax.]*

4        **SECTION 9.** ORS 323.610 is amended to read:

5        323.610. (1) If any tax imposed under ORS 323.500 to 323.645, or any portion of the tax, is not  
 6 paid within the time provided by law and no provision is made to secure the payment of the tax by  
 7 bond, deposit or otherwise, pursuant to rules adopted by the Department of Revenue, the department  
 8 may issue a warrant *[directed to the sheriff of any county of the state commanding the sheriff to levy*  
 9 *upon and sell the real and personal property of the taxpayer found within the county,]* for the payment  
 10 of the amount of the tax, with the added penalties, interest and the *[sheriff's cost]* **costs** of executing  
 11 the warrant*[, and to return the warrant to the department and pay to it the money collected from the*  
 12 *sale, within 60 days after the date of receipt of the warrant].*

13        (2) *[The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the*  
 14 *county a copy of the warrant, and the clerk shall immediately enter in the County Clerk Lien Record*  
 15 *the name of the taxpayer mentioned in the warrant, the amount of the tax or portion of the tax and*  
 16 *penalties for which the warrant is issued and the date the copy is recorded. The amount of the warrant*  
 17 *so recorded shall become a lien upon the title to and interest in real property of the taxpayer against*  
 18 *whom it is issued in the same manner as a judgment that creates a judgment lien under ORS chapter*  
 19 *18. The sheriff immediately shall proceed upon the warrant in all respects, with like effect and in the*  
 20 *same manner prescribed by law in respect to executions issued against property upon judgment of a*  
 21 *court of record, and shall be entitled to the same fees for services in executing the warrant, to be added*  
 22 *to and collected as a part of the warrant liability.]* **At any time after the issuance of a warrant**  
 23 **under this section, the department may record a copy of the warrant in any County Clerk**  
 24 **Lien Record as provided in ORS 205.125. The warrant may thereafter be enforced as provided**  
 25 **in ORS 205.126.**

26        (3) In the discretion of the department a warrant of like terms, force and effect may be issued  
 27 and directed to any agent authorized to collect the taxes imposed by ORS 323.500 to 323.645. In the  
 28 execution of the warrant, the agent shall have all the powers conferred by law upon sheriffs, but is  
 29 entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

30        *[(4) If a warrant is returned not satisfied in full, the department shall have the same remedies to*  
 31 *enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment*  
 32 *against the taxpayer for the amount of the tax.]*

33        **SECTION 10.** ORS 324.190 is amended to read:

34        324.190. (1) If any tax imposed by this chapter, or any portion of such tax, is not paid within 30  
 35 days after the date that the written notice and demand for payment required under ORS 305.895 is  
 36 mailed, the Department of Revenue shall issue a warrant*[, directed to the sheriff of any county of the*  
 37 *state, commanding the sheriff to levy upon and sell the real and personal property of the person owing*  
 38 *the tax, found within that county,]* for the payment in the amount thereof, with the added penalties,  
 39 interest and *[cost]* **costs** of executing the warrant*[, and to return the warrant to the department and*  
 40 *to pay to it the money collected by virtue thereof, within 60 days after receipt of the warrant].* A copy  
 41 of the warrant shall be mailed or delivered to the taxpayer by the department at the taxpayer's  
 42 last-known address.

43        (2) *[The sheriff shall, within five days after the receipt of the warrant, record a copy with the*  
 44 *county clerk, and thereupon the clerk shall enter in the County Clerk Lien Record the name of the*  
 45 *person mentioned in the warrant, and the amount of the tax or portion thereof and penalties for which*

1 *the warrant is issued and the date when the copy is recorded. Thereupon the amount of the warrant*  
 2 *so recorded shall become a lien upon the title to and interest in real property of the person against*  
 3 *which it is issued, in the same manner as a judgment that creates a judgment lien under ORS chapter*  
 4 *18. The sheriff thereupon shall proceed upon the warrant in all respects, with like effect, and in the*  
 5 *same manner prescribed by law in respect to executions issued against property upon judgments of a*  
 6 *court of records, and shall be entitled to the same fees for services in executing the warrant, to be*  
 7 *added to and collected as a part of the warrant liability.] At any time after the issuance of a*  
 8 **warrant under this section, the department may record a copy of the warrant in any County**  
 9 **Clerk Lien Record as provided in ORS 205.125. The warrant may thereafter be enforced as**  
 10 **provided in ORS 205.126.**

11 (3) In the discretion of the department a warrant of like terms, force and effect may be issued  
 12 and directed to any agent of the department authorized by it to collect this tax. In the execution  
 13 of the warrant, such agent has the powers conferred by law upon sheriffs, but is entitled to no fee  
 14 or compensation in excess of actual expenses paid in the performance of such duty.

15 [(4) *If a warrant is returned not satisfied in full, the department shall have the same remedies to*  
 16 *enforce the claim for taxes against the owner as if the state had a recorded judgment against the owner*  
 17 *for the amount of the tax.]*

18 **SECTION 11.** ORS 657.396 is amended to read:

19 657.396. (1) In any case in which the Director of the Employment Department may bring a civil  
 20 action for the collection of amounts liable to be repaid under ORS 657.310, interest on those amounts  
 21 or penalties, the director may instead:

22 (a) Assess a collection charge of \$5 if the amount liable to be repaid, the interest then due or  
 23 the penalty exceeds \$10.

24 (b) Issue a warrant [*under official seal directed to the sheriff of any county of the state com-*  
 25 *manding the sheriff to levy upon and sell the real and personal property of the individual found within*  
 26 *that county,]* for the payment of the amount liable to be repaid with the added interest, penalty,  
 27 collection charge and the [*sheriff's cost*] **costs** of executing the warrant[, *and to return the warrant*  
 28 *to the director and pay to the director the money collected by virtue of the warrant by a time to be*  
 29 *specified in the warrant, but not less than 60 days from the date of the warrant].*

30 (2) [*The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the*  
 31 *county a copy of the warrant, and thereupon the clerk shall enter in the County Clerk Lien Record the*  
 32 *name of the individual mentioned in the warrant and the amount liable to be repaid, interest, penalty*  
 33 *and collection charge for which the warrant is issued and the date when the copy is recorded. There-*  
 34 *upon the amount of the warrant so recorded shall become a lien upon the title to and interest in*  
 35 *property of the individual against whom it is issued in the same manner as a judgment that creates a*  
 36 *judgment lien under ORS chapter 18. The sheriff thereupon shall proceed upon the same in all respects,*  
 37 *with like effect and in the same manner prescribed by law in respect to executions issued against*  
 38 *property upon the judgment of a court of record, and shall be entitled to the same fees for services in*  
 39 *executing the warrant, to be added to and collected as a part of the warrant liability.] At any time*  
 40 **after the issuance of a warrant under this section, the department may record a copy of the**  
 41 **warrant in any County Clerk Lien Record as provided in ORS 205.125. The warrant may**  
 42 **thereafter be enforced as provided in ORS 205.126.**

43 (3) In the discretion of the director, a warrant of like terms, force and effect may be issued and  
 44 directed to any agent authorized by the director to collect amounts liable to be repaid and in the  
 45 execution of the warrant the agent shall have all the powers conferred by law upon sheriffs, but is



1 entitled to no fee or compensation in excess of actual expenses paid in the performance of the  
 2 agent's duty.

3 *[(4) If a warrant is returned not satisfied in full, the director has the same remedies to enforce the*  
 4 *claim for amounts due, interest and penalty against the individual as if the director had recovered*  
 5 *judgment against the individual for the amount liable to be repaid, interest and penalty.]*

6 *[(5)] (4) Interest upon the amounts liable to be repaid and the penalty as set forth in the warrant*  
 7 *shall be paid and collected at the rate prescribed in ORS 657.310.*

8 **SECTION 12.** ORS 657.642 is amended to read:

9 657.642. (1) In any case in which the Director of the Employment Department may bring a civil  
 10 action for the collection of taxes, interest and penalties under this chapter, the director may instead:

11 (a) Assess a collection charge of \$5 if the sum of the tax, penalty and interest then due exceeds  
 12 \$10[.]; **and**

13 (b) *[Issue a warrant under official seal directed to the sheriff of any county of the state command-*  
 14 *ing the sheriff to levy upon and sell the real and personal property of the employer found within that*  
 15 *county, for the payment of the amount of the tax with the added penalties, interest, collection charge*  
 16 *and the sheriff's cost of executing the warrant, and to return such warrant to the director and pay to*  
 17 *the director the money collected by virtue thereof by a time to be therein specified, not less than 60 days*  
 18 *from the date of the warrant.]* **Issue a warrant for payment of the amount due and payment of**  
 19 **the costs of executing the warrant. A copy of the warrant shall be mailed or delivered to the**  
 20 **taxpayer by the department at the taxpayer's last-known address.**

21 (2) *[The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the*  
 22 *county a copy thereof, and thereupon the clerk shall enter in the County Clerk Lien Record the name*  
 23 *of the employer mentioned in the warrant, and the amount of the tax, interest, penalties and collection*  
 24 *charge for which the warrant is issued and the date when such copy is recorded. Thereupon the amount*  
 25 *of the warrant so recorded shall become a lien upon the title to and interest in property of the employer*  
 26 *against whom it is issued in the same manner as a judgment that creates a judgment lien under ORS*  
 27 *chapter 18. The sheriff thereupon shall proceed upon the same in all respects, with like effect and in*  
 28 *the same manner prescribed by law in respect to executions issued against property upon the judgment*  
 29 *of a court of record, and shall be entitled to the same fees for services in executing the warrant, to be*  
 30 *added to and collected as a part of the warrant liability.]* **At any time after the issuance of a**  
 31 **warrant under this section, the department may record a copy of the warrant in any County**  
 32 **Clerk Lien Record as provided in ORS 205.125. The warrant may thereafter be enforced as**  
 33 **provided in ORS 205.126.**

34 (3) In the discretion of the director, a warrant of like terms, force and effect may be issued and  
 35 directed to any agent authorized by the director to collect taxes and in the execution thereof the  
 36 agent shall have all the powers conferred by law upon sheriffs, but is entitled to no fee or compen-  
 37 sation in excess of actual expenses paid in the performance of such duty.

38 *[(4) If a warrant is returned not satisfied in full, the director shall have the same remedies to en-*  
 39 *force the claim for taxes, interest and penalties against the employer as if the director had recovered*  
 40 *judgment against the employer for the amount of the taxes, interest and penalties.]*

41 *[(5)] (4) Interest upon the taxes due as set forth in the warrant shall be paid and collected at*  
 42 *the rate prescribed in ORS 657.515 (2).*

43 **SECTION 13.** ORS 825.504 is amended to read:

44 825.504. (1) *[If any tax, or fee in lieu of tax, reported due, or any final assessment made by the*  
 45 *Department of Transportation under ORS 825.490, 825.494 and 825.496, including any penalties or*

1 *charges therein imposed, or any final penalty imposed under ORS 825.950, 825.955 or 825.960, is not*  
 2 *paid in full, the department may issue a warrant under the department's official seal directed to the*  
 3 *sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal*  
 4 *property of the taxpayer found within that county, for payment of the amount thereof, with the added*  
 5 *penalties or charges, interest and the cost of executing the warrant, and to return such warrant to the*  
 6 *department and pay to the department the money collected by virtue thereof by a time to be specified*  
 7 *therein, not less than 60 days from the date of the warrant.]* **If any tax, or fee in lieu of tax, re-**  
 8 **ported due, or any final assessment made by the Department of Transportation under ORS**  
 9 **825.490, 825.494 and 825.496, including any penalties or charges therein imposed, or any final**  
 10 **penalty imposed under ORS 825.950, 825.955 or 825.960, is not paid in full, the department may**  
 11 **issue a warrant for payment of the amount due and payment of the costs of executing the**  
 12 **warrant. A copy of the warrant shall be mailed or delivered to the debtor by the department**  
 13 **at the taxpayer's last-known address.**

14 (2) *[The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the*  
 15 *county a copy thereof, and thereupon the clerk shall enter in the County Clerk Lien Record the name*  
 16 *of the taxpayer mentioned in the warrant, and the amount of the tax or portion thereof and penalties*  
 17 *or charges for which the warrant is issued and the date when such copy is recorded. Thereupon the*  
 18 *amount of the warrant so recorded shall become a lien upon the title to and interest in property of the*  
 19 *taxpayer against whom it is issued in the same manner as a judgment that creates a judgment lien*  
 20 *under ORS chapter 18.]* **At any time after the issuance of a warrant under this section, the**  
 21 **department may record a copy of the warrant in any County Clerk Lien Record as provided**  
 22 **in ORS 205.125. The warrant may thereafter be enforced as provided in ORS 205.126.**

23 [(3) *The sheriff thereupon shall proceed upon the same in all respects, with like effect and in the*  
 24 *same manner prescribed by law in respect to executions issued against property upon judgment of a*  
 25 *court of record, and shall be entitled to the same fees for services in executing the warrant, to be added*  
 26 *to and collected as a part of the warrant liability.]*

27 [(4) (3) In the discretion of the Department of Transportation, a warrant of like terms, force  
 28 and effect to levy upon funds of the taxpayer in possession of the Department of Revenue may be  
 29 issued and directed to any agent authorized by the Department of Transportation to collect taxes  
 30 payable under this chapter, and in the execution thereof the agent shall have all of the powers  
 31 conferred by law upon sheriffs but is entitled to no fee or compensation in excess of actual expenses  
 32 paid in the performance of such duty.

33 [(5) (4) The procedures authorized by this section may also be used for collection of any fees  
 34 and penalties imposed on persons registering vehicles under ORS chapter 826.

35 **SECTION 14. The amendments to ORS 179.655, 184.644, 314.430, 319.182, 319.742, 320.080,**  
 36 **321.570, 323.390, 323.610, 324.190, 657.396, 657.642 and 825.504 by sections 1 to 13 of this 2009**  
 37 **Act apply only to warrants issued on or after the effective date of this 2009 Act.**