

Enrolled Senate Bill 60

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CHAPTER

AN ACT

Relating to fees incurred by Bureau of Labor and Industries for collection of judgment; amending ORS 652.390 and 659A.850.

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

SECTION 1. ORS 652.390 is amended to read:

652.390. (1) The Commissioner of the Bureau of Labor and Industries may deduct and retain any moneys collected on each wage claim as costs, attorney fees or commissioner's penalties. The amount deducted shall be paid into the General Fund after deducting actual costs and disbursements incurred in the prosecution [*thereof*] **of the wage claim.**

(2) The commissioner may charge a claimant **or respondent** on a wage claim for which the commissioner has obtained a judgment the actual collection fees charged to the Bureau of Labor and Industries by any other governmental agency assisting in the collection of the judgment.

(3) The commissioner is authorized to assign wage claim judgments and orders issued pursuant to ORS 652.332 for collection or to obtain assistance in collection of such judgments and orders and may deduct and pay out from any moneys so collected a collection fee.

SECTION 2. ORS 659A.850, as amended by section 12, chapter 36, Oregon Laws 2008, is amended to read:

659A.850. (1)(a) All proceedings before the Commissioner of the Bureau of Labor and Industries under this section shall be conducted as contested case proceedings under the provisions of ORS chapter 183. Except as provided in paragraph (b) of this subsection, the commissioner may appoint a special tribunal or hearing officer to hear the matter. The commissioner may affirm, reverse, modify or supplement the determinations, conclusions or order of any special tribunal or hearing officer appointed under this subsection. The scheduling of a hearing under this section does not affect the ability of the commissioner and any respondent to thereafter settle the matters alleged in the complaint through conference, conciliation and persuasion.

(b) In a proceeding under this section alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law:

(A) Only an employee of the Bureau of Labor and Industries may be a member of a special tribunal or a hearing officer appointed to hear the matter.

(B) An aggrieved person may intervene as a party in the proceeding.

(2) After considering all the evidence, the commissioner shall cause to be issued findings of facts and conclusions of law.

(3) The commissioner shall issue an order dismissing the formal charges against any respondent not found to have engaged in any unlawful practice alleged in the complaint.

(4) After a hearing under this section, the commissioner shall issue an appropriate cease and desist order against any respondent found to have engaged in any unlawful practice alleged in the complaint. The order must be signed by the commissioner and must take into account the need to supervise compliance with the terms of order. The order may require that the respondent:

(a) Perform an act or series of acts designated in the order that are reasonably calculated to:

(A) Carry out the purposes of this chapter;

(B) Eliminate the effects of the unlawful practice that the respondent is found to have engaged in, including but not limited to paying an award of actual damages suffered by the complainant and complying with injunctive or other equitable relief; and

(C) Protect the rights of the complainant and other persons similarly situated;

(b) Submit reports to the commissioner on the manner of compliance with other terms and conditions specified in the commissioner's order, and take other action as may be required to ensure compliance with the commissioner's order; and

(c) Refrain from any action specified in the order that would jeopardize the rights of the complainant or other persons similarly situated, or that would otherwise frustrate the purposes of this chapter.

(5) A cease and desist order issued under subsection (4) of this section may be recorded in the County Clerk Lien Record in the manner provided by ORS 205.125 and enforced in the manner provided by ORS 205.126. In addition to enforcement under ORS 205.126, the order may be enforced by writ of mandamus or a civil action to compel specific performance of the order.

(6) The commissioner may charge a respondent on a cease and desist order the actual collection fees charged to the bureau by any other governmental agency or any private collection agency assisting in the collection of the judgment.

Passed by Senate February 9, 2009

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Secretary of Senate

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President of Senate

Passed by House May 12, 2009

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Speaker of House

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State