

# Senate Bill 968

Sponsored by Senator WINTERS; Senators ATKINSON, GEORGE, GIROD, KRUSE, MORSE, NELSON, TELFER, WHITSETT

## 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**.

Provides for enforcement of judgment against current or former public employee convicted of crime that occurred while employee was engaged in performance of duties, or that employee's position allowed employee to commit.

Requires that Public Employees Retirement Board and Department of Revenue place hold on payments to current or former public employee charged with crime specified in Act.

Provides that corpus of pension or retirement plan of public employee is subject to execution if person is convicted of crime specified in Act.

Requires Department of Revenue to collect and apply income tax refunds of judgment debtor if judgment debtor is current or former public employee convicted of crime specified in Act.

## A BILL FOR AN ACT

1  
2 Relating to public employees.

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

4 **SECTION 1. If a current or former employee of a public employer is charged with a crime**  
5 **and the district attorney determines that the conduct on which the charge is based occurred**  
6 **while the employee was engaged in the performance of the employee's duties, or that the**  
7 **employee's position allowed the employee to engage in the conduct that is the basis of the**  
8 **charge, the district attorney shall promptly notify the Public Employees Retirement Board**  
9 **and the Department of Revenue. Upon receipt of a notice under this section, the board and**  
10 **the department may not make any payment to the person identified in the notice until re-**  
11 **ceiving subsequent notice from the district attorney indicating that the criminal proceedings**  
12 **have been completed and that a conviction as described in section 2 of this 2009 Act has not**  
13 **been entered against the defendant in the proceedings.**

14 **SECTION 2. (1) If a current or former employee of a public employer is convicted of a**  
15 **crime and the conduct on which the conviction is based occurred while the employee was**  
16 **engaged in the performance of the employee's duties, or the employee's position allowed the**  
17 **employee to engage in the conduct that is the basis of the conviction, the pension plan or**  
18 **retirement plan of the employee is subject to execution under this section.**

19 **(2) Notwithstanding ORS 18.358 and 238.445 and any other law providing exemptions from**  
20 **execution, if a current or former employee of a public employer is convicted of a crime as**  
21 **described in subsection (1) of this section, the corpus of any pension plan or retirement plan**  
22 **funded in whole or part by a public employer in which the convicted person has an interest**  
23 **is subject to execution under the judgment. If a convicted person's interest under a pension**  
24 **plan or retirement plan is sold pursuant to a writ of garnishment under this section, the**  
25 **administrator of the pension plan or retirement plan shall treat the garnishor in the same**  
26 **manner as provided for alternate payees under ORS 237.600 and 238.465.**

27 **(3) For the purposes of this section, "employee" and "public employer" have the meanings**

**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 given those terms in ORS 238.005.

2 **SECTION 3.** (1) If a current or former employee of a public employer is convicted of a  
3 crime as described in section 2 (1) of this 2009 Act, the district attorney shall promptly for-  
4 ward a copy of the judgment to the Department of Revenue. The department shall collect  
5 and apply against the judgment any income tax refund then due to the judgment debtor or  
6 that subsequently becomes due to the judgment debtor.

7 (2) The Department of Justice may adopt rules:

8 (a) Setting out additional requirements for application of income tax refunds against  
9 judgments for convictions as described in section 2 (1) of this 2009 Act; and

10 (b) Directing how amounts collected by the Department of Revenue shall be applied  
11 against judgments for convictions as described in section 2 (1) of this 2009 Act.

12 **SECTION 4.** Sections 2 and 3 of this 2009 Act apply to all convictions for crimes as de-  
13 scribed in section 2 (1) of this 2009 Act that are entered on or after January 1, 2008.

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