

SENATE AMENDMENTS TO SENATE BILL 43

By COMMITTEE ON JUDICIARY

March 14

- 1 On page 1 of the printed bill, line 3, after “25.414,” insert “238.445.”
- 2 In lines 25 through 28, restore the bracketed material.
- 3 In line 28, after “section” insert “, if the order to withhold is issued for:
- 4 “(A) Disability benefits payments from the United States Social Security Administration;
- 5 “(B) Black lung benefits payments from the United States Department of Labor; or
- 6 “(C) Disability benefits payments from the United States Department of Veterans Affairs”.
- 7 On page 2, line 26, after “(5)” insert “(a)” and after the comma insert “when the withholding is
- 8 only for arrearage,” and delete “may” and insert “shall”.
- 9 In line 28, after “support” delete the rest of the line and line 29 and insert “or the obligor’s
- 10 ability to provide for the obligor’s basic needs. The factors to be considered by the administrator in
- 11 determining whether the obligor can provide for the obligor’s basic needs include but are not limited
- 12 to:
- 13 “(A) The health expenses of the obligor;
- 14 “(B) A verified disability affecting the obligor’s ability to work;
- 15 “(C) Whether the obligor’s income remaining after withholding would be less than the self-
- 16 support reserve established by rule of the Department of Justice under paragraph (c) of this sub-
- 17 section;
- 18 “(D) The available resources of the obligor; and
- 19 “(E) The number and basic needs of other persons in the obligor’s household.
- 20 “(b) The administrator shall establish a procedure to give advance and periodic notice to the
- 21 obligor of the provisions of paragraph (a) of this subsection and of the means to reduce the amount
- 22 stated in the order to withhold.
- 23 “(c) The Department of Justice shall adopt rules to implement this subsection.”.
- 24 On page 13, after line 6, insert:
- 25 “**SECTION 8.** ORS 238.445 is amended to read:
- 26 “238.445. (1) Except as provided in this section, the right of a person to a pension, an annuity
- 27 or a retirement allowance, to the return of contribution, the pension, annuity or retirement allow-
- 28 ance itself, any optional benefit or death benefit, or any other right accrued or accruing to any
- 29 person under the provisions of this chapter or ORS chapter 238A, and the money in the various
- 30 funds created by ORS 238.660 and 238.670, shall be exempt from garnishment and all state, county
- 31 and municipal taxes heretofore or hereafter imposed, except as provided under ORS chapter 118,
- 32 shall not be subject to execution, garnishment, attachment or any other process or to the operation
- 33 of any bankruptcy or insolvency law heretofore or hereafter existing or enacted, and shall be un-
- 34 assignable.
- 35 “(2) Subsection (1) of this section does not apply to state personal income taxation of amounts

1 paid under this chapter and ORS chapter 238A.

2 “(3) Unless otherwise ordered by a court under ORS 25.387, the exemption from execution or
3 other process granted under this section applies to [75] **50** percent of amounts paid under this
4 chapter and ORS chapter 238A if the execution or other process is issued for a support obligation
5 or an order or notice entered or issued under ORS chapter 25, 107, 108, 109, 110, 416, 419B or
6 419C.”.

7 In line 7, delete “8” and insert “9” and after “25.414,” insert “238.445,”.

8 In line 8, delete “7” and insert “8”.

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