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SB 185: Notices of Garnishment

What the concept does:

This bill eliminates the requirement for the Department of Revenue to send Notices of Garnishment with the warrant attached and without the notice being signed by hand.

Background:

ORS 18.854 currently authorizes state agencies that have warrant authority to issue Notices of Garnishment to collect state debt. It requires that a copy of the warrant be attached to the Notice of Garnishment. ORS 18.607 and 18.830 require that the Notice be certified by the person who issued the Notice. These two requirements cause the garnishment process to be a manual process. Because the warrant is issued, in most cases, some amount of time before the Notice of Garnishment is issued, we have to order a copy and wait for it to arrive and then manually match it up with the Notice of Garnishment. Then the agent that issued the Notice has to hand sign the Notice before mailing it.

Requiring a warrant or copy thereof to be attached to the Notice of Garnishment was meant to verify that there is an underlying debt that we are authorized to collect. The way our current system works, a Notice of Garnishment cannot be issued if a warrant does not precede it. These controls ensure that there is an underlying debt upon which the Notice of Garnishment is based.

Requiring an agent to hand sign the document made sense at a time when they were also prepared by hand to certify that the agent had read it and that it was issued properly. The agent still has to make a decision whether to initiate issuing a garnishment. We have programmed our system such that when an agent initiates a garnishment, the system will generate every garnishment in conformance with the law. This technology makes certifying that you have read it and that there is good grounds to issue the Notice unnecessary.

Concerns:

Currently SB 184 makes changes to the manner of delivery of the Notices of Garnishment from being sent via certified mail with return receipt requested to the first attempt being mailed by first class mail. This bill, as drafted, likely conflicts with that bill. Because SB 185 states that ORS 18.854 would not apply to the Department of Revenue, the changes we are asking for in SB 184 would not apply to our agency. We suggest minor changes to SB 185 to conform to the request in SB 184.

Suggested language: Page 1, line 25 strike (2); page 1, line 27, insert "or by first class mail" after "garnishment and before the end of that sentence."

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