

A-Engrossed
Senate Bill 185

Ordered by the House May 23
Including House Amendments dated May 23

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for Department of Revenue)

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.

[Creates specific provisions relating to garnishment by Department of Revenue. Makes new provisions operative on January 1, 2014.]

Provides that Department of Revenue is not required to deliver warrant or true copy of warrant with notice of garnishment. Provides that notice of garnishment issued by department need not be signed by person issuing notice on behalf of department.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to garnishment by the Department of Revenue; creating new provisions; amending ORS
3 18.855; and declaring an emergency.

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

5 **SECTION 1.** ORS 18.855 is amended to read:

6 18.855. (1) Notwithstanding ORS 18.607, a notice of garnishment issued by a state agency need
7 not contain the name of a court whose authority is invoked.

8 (2) State agencies shall make such modifications as are necessary in the wage exemption cal-
9 culation form provided by ORS 18.840 if a notice of garnishment is issued for a debt due for a state
10 tax that is subject to the provisions of ORS 18.385 (6).

11 (3) Notwithstanding ORS 18.625, but subject to ORS 18.618 (2), a notice of garnishment issued
12 by a state agency acts to garnish all wages earned by the debtor by reason of services to the
13 garnishee until the full amount of the debt is paid or until the notice of garnishment is released by
14 the state agency or by court order. A notice of garnishment issued by a state agency must contain
15 language reasonably designed to notify the garnishee of the provisions of this subsection.

16 (4) Notwithstanding ORS 18.690, a garnishee who receives a notice of garnishment issued by a
17 state agency need not deliver a copy of the garnishee response to the clerk of the court, but must
18 deliver the original of the response to the state agency.

19 (5) Notwithstanding ORS 18.700, a challenge to a notice of garnishment issued by a state agency
20 must be delivered in person or by first class mail to the state agency within the time specified by
21 ORS 18.700 (2). Upon receiving a challenge, the state agency shall provide notice of the challenge
22 in the manner provided by ORS 18.702. Upon a sheriff receiving notice under ORS 18.702, the sheriff
23 shall proceed as provided by ORS 18.760, except that upon determination of the challenge by an
24 administrative law judge, the sheriff shall proceed as directed by the judge. Within 14 days after
25 receiving the challenge, the state agency must either concede the challenge or give the person

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 making the challenge opportunity for hearing. If the person making the challenge requests a hearing,
2 the agency shall immediately refer the challenge to the Office of Administrative Hearings estab-
3 lished under ORS 183.605. The hearing shall be conducted as soon as possible. Notwithstanding ORS
4 183.315, the hearing shall be conducted as a contested case hearing. An issue that was decided in
5 a previous hearing, or for which the debtor was previously afforded an opportunity for hearing, may
6 not be reconsidered.

7 (6) If a state agency is issuing a notice of garnishment for collection of a state tax, and the state
8 agency has reason to believe that the debtor intends to leave the state or do any other act that
9 would jeopardize collection of the tax, the state agency may issue a special notice of garnishment.
10 Any earnings, as defined in ORS 18.375, garnished under a special notice of garnishment are not
11 subject to a claim of exemption under ORS 18.385. A special notice of garnishment issued under this
12 subsection garnishes only that property of the debtor that is in the garnishee's possession, control
13 or custody at the time the special notice is delivered, including debts not yet due, and all wages
14 owed by the garnishee to the debtor at the time the special notice is delivered. A special notice of
15 garnishment does not act to garnish wages earned by the debtor by reason of services rendered to
16 the garnishee after the delivery of the special notice of garnishment.

17 (7) A special notice of garnishment issued under subsection (6) of this section shall contain a
18 statement indicating that it is a special notice of garnishment under subsection (6) of this section
19 and a statement reflecting the provisions of subsection (6) of this section. Notwithstanding ORS
20 18.854 (1), a wage exemption calculation form shall not be delivered to the garnishee with a special
21 notice of garnishment.

22 **(8) Notwithstanding ORS 18.854 (1)(b), the Department of Revenue is not required to de-**
23 **liver a warrant or true copy of a warrant with the notice of garnishment when garnishing**
24 **property of a debtor.**

25 **(9) Notwithstanding ORS 18.607 (4), a notice of garnishment issued by the Department**
26 **of Revenue must include the name of the person issuing the notice on behalf of the depart-**
27 **ment, but need not be signed by that person.**

28 **SECTION 2. The amendments to ORS 18.855 by section 1 of this 2013 Act apply only to**
29 **notices of garnishment issued on and after January 1, 2014.**

30 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**
31 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
32 **on its passage.**

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