

Senate Bill 392

Sponsored by Senator FERRIOLI (Pre-session filed.)

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**.

Repeals law authorizing Commissioner of Bureau of Labor and Industries to issue warrants to collect unpaid debt.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the repeal of certain power of the Commissioner of the Bureau of Labor and Industries
3 to issue warrants to collect debt; amending ORS 18.854; repealing ORS 651.065; and declaring
4 emergency.

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

6 **SECTION 1. ORS 651.065 is repealed.**

7 **SECTION 2.** ORS 18.854 is amended to read:

8 18.854. (1) Any state agency authorized to issue warrants to collect taxes and debts owed to the
9 State of Oregon, including but not limited to warrants issued pursuant to ORS 179.655, 184.644,
10 267.385, 293.250, 314.430, 316.207, 320.080, 321.570, 323.390, 411.703, [651.065,] 657.396, 657.642,
11 657.646, 705.175 and 825.504, or any county tax collector authorized to issue warrants to collect
12 taxes and debts owed to the county pursuant to ORS 311.625, may garnish property of a debtor in
13 the possession, control or custody of a person other than the debtor by delivering to the person all
14 of the following:

15 (a) A notice of garnishment;

16 (b) A warrant, or a true copy of a warrant;

17 (c) The items specified in ORS 18.650 (1)(b) to (d); and

18 (d) Any garnishee's search fee payable as provided in ORS 18.790.

19 (2) A notice of garnishment may be issued by any person designated by the state agency or by
20 the county tax collector. A warrant need not be recorded in the County Clerk Lien Record as a
21 condition of issuing a notice of garnishment under the provisions of this section. The provisions of
22 ORS 18.800 do not apply to a notice of garnishment.

23 (3) If any of the items described in subsection (1) of this section are not delivered to the
24 garnishee, a notice of garnishment shall not be effective to garnish any property of the debtor, and
25 the garnishee shall not be required to respond to the garnishment and may proceed to deal with any
26 property of the debtor as though the notice of garnishment had not been issued.

27 (4)(a) Notwithstanding ORS 18.652, but subject to paragraph (c) of this subsection, a notice of
28 garnishment and the other items required by subsection (1) of this section may be delivered in per-
29 son to the garnishee by any employee of the state agency or of the county tax collector who is au-
30 thorized by the agency or the county to deliver the notice of garnishment, may be mailed to the
31 garnishee by first class or certified mail or may be sent to the garnishee by other means if the

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 garnishee has agreed to a different delivery method.

2 (b) An employee who delivers documents under paragraph (a) of this subsection need not be
 3 covered by the errors and omissions insurance required in ORS 18.652.

4 (c) A state agency or a county may not seek sanctions against a noncomplying garnishee under
 5 ORS 18.775 unless the notice of garnishment and the other items required by subsection (1) of this
 6 section are personally delivered to the garnishee under paragraph (a) of this subsection or mailed
 7 to the garnishee by certified mail.

8 (5) Notwithstanding any provision of ORS 18.600 to 18.850, a debt calculation form need not be
 9 prepared or delivered for any notice of garnishment.

10 (6) Notwithstanding ORS 18.792, the duty of a garnishee to deliver any property of the debtor
 11 that may be contained in a safe deposit box that is in the garnishee's possession, control or custody
 12 at the time of delivery of the notice of garnishment to the garnishee is conditioned upon the state
 13 agency or the county tax collector first paying to the garnishee, in addition to the search fee pro-
 14 vided for in ORS 18.790, all reasonable costs incurred by the garnishee in gaining entry to the safe
 15 deposit box. The costs shall be paid to the garnishee by the state agency or the county tax collector
 16 at least five days before the date the state agency or the county tax collector takes possession of
 17 the property in the safe deposit box. If the state agency or the county tax collector fails to pay such
 18 costs to the garnishee within 20 days after the delivery of the garnishee response, the garnishment
 19 shall not be effective to garnish any property of the debtor that may be contained in the safe deposit
 20 box and the garnishee may proceed to deal with the safe deposit box and its contents as though the
 21 notice of garnishment had not been issued. Nothing in this subsection limits the rights of a state
 22 agency or county tax collector to reach the contents of any safe deposit box in any manner other-
 23 wise provided by law.

24 (7) Except as provided in this section and ORS 18.855 and 18.857, all provisions of ORS 18.600
 25 to 18.850 apply to notices of garnishment. The state agency or county tax collector shall modify the
 26 forms provided in ORS 18.600 to 18.850 as necessary to allow use of those forms for notices of
 27 garnishment. The form of the notice of garnishment must clearly indicate that the document is a
 28 notice of garnishment and must reflect the date of all warrants on which the notice of garnishment
 29 is based.

30 (8) The Attorney General may adopt model forms for notices of garnishment and other docu-
 31 ments issued by state agencies and county tax collectors under this section and ORS 18.855 and
 32 18.857. There is a presumption, as described in ORS 40.120, that any state agency or county tax
 33 collector that uses a model form adopted by the Attorney General under this subsection has com-
 34 plied with the requirements of ORS 18.600 to 18.850, and with the provisions of this section and ORS
 35 18.855 and 18.857, with respect to the form of notices of garnishment.

36 **SECTION 3. This 2017 Act being necessary for the immediate preservation of the public**
 37 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
 38 **on its passage.**