
Labor & Workforce Development Committee

HB 1467

Brief Description: Addressing the collection of unpaid wages.

Sponsors: Representatives Green, Sells, Reykdal, Ormsby, McCoy, Van De Wege, Appleton and Bergquist; by request of Department of Labor & Industries.

Brief Summary of Bill

- Provides a process for the Department of Labor and Industries (Department) to seize property in the possession or control of an employer against whom an unsatisfied warrant has been filed or a final assessment has been issued.
- Permits the Department to serve a Notice of Withhold and Deliver to financial institutions by electronic file transfer.
- Permits the Director of the Department to make an assessment and immediately enforce collection if he or she has reason to believe that the collection of wages will be jeopardized because an employer is insolvent or about to cease business, leave the state, or remove or dissipate assets.

Hearing Date: 2/6/13

Staff: Alexa Silver (786-7190).

Background:

If an employee files a wage complaint for a violation of a wage payment requirement, the Department of Labor and Industries (Department) must investigate the complaint. A "wage payment requirement" includes the requirements to pay minimum wages, overtime compensation, and final wages, and the requirement to withhold only lawful deductions from wages. The Department must issue either a citation and notice of assessment or a determination of compliance no later than 60 days after receiving the complaint. The Department may order

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the employer to pay employees all wages owed, including interest of 1 percent per month. If the violation was willful, the Department may also order the employer to pay a civil penalty.

If a final order is issued and the employer defaults in paying the wages owed or the civil penalty, the Director of the Department (Director) may file a warrant with the county clerk. The amount of the warrant becomes a lien on the employer's real or personal property.

If the Director has reason to believe a person or entity possesses property belonging to the employer, the Director may also issue to the person or entity a Notice of Withhold and Deliver (NWD). The person or entity has 20 days to respond from the date the NWD is served. If the person or entity possess any property that may be subject to the Department's claim, it must promptly deliver the property to the Director.

In addition, the Department may recover wages and civil penalties owed in a civil action.

Summary of Bill:

Warrants for Seizure of Property.

A judge may issue a warrant to seize property if there is probable cause to believe there is property in the possession or control of an employer against whom an unsatisfied warrant has been filed or a final assessment has been issued. The procedure for issuing, executing, and returning the warrant and for returning the property is provided in court rules. The Department may issue an order of execution directing the county sheriff to sell the property for payment of the warrant. The sheriff and court clerk may collect fees for their services. In lieu of collection by the county sheriff, the Department may direct its own agent to collect the wages owed.

The proceeds from any sale of property must be credited against the amount due. Any surplus must be paid to the debtor or a lien holder. If the warrant is not satisfied in full, the amount owed remains as a judgment against the debtor.

Account Records at Financial Institutions.

The Department may match outstanding warrants against deposit accounts held by financial institutions registered in Washington. The Department may serve an NWD to a financial institution by electronic file transfer. A financial institution has 30 days to respond to the electronic service and may respond in aggregate using the same electronic file process. The Department may not serve an institution more than once a month and must develop a process to relieve an institution from this method of service when it is burdensome. The Department may adopt rules to implement these requirements.

Immediate Assessments and Collections.

The Director may make an immediate assessment and enforce collection if he or she has reason to believe an employer is insolvent or about to cease business, leave the state, or remove or dissipate assets out of which wages, penalties, fees, or interest might be satisfied, and if the collection of wages will be jeopardized by delaying collection.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.