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HOUSE BILL 2862

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Hargrove and McMorris

Read first time 01/23/96. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the department of social and health services  
2 lien and notice to withhold and deliver; and amending RCW 43.20B.720,  
3 43.20B.725, 43.20B.730, 43.20B.735, and 43.20B.740.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 43.20B.720 and 1985 c 245 s 7 are each amended to read  
6 as follows:

7 By accepting public assistance from the department of social and  
8 health services, the recipient thereof shall be deemed to have  
9 subrogated said department to the recipient's right to recover time  
10 loss compensation due to such recipient and his or her dependents  
11 pursuant to the provisions of Title 51 RCW to the extent of such  
12 assistance or compensation, whichever is less, furnished to the  
13 recipient and his or her dependents for or during the period for which  
14 time loss compensation is payable: PROVIDED, That the amount to be  
15 repaid to the department of social and health services shall bear its  
16 proportionate share of attorney's fees and costs, if any, incurred by  
17 the injured worker or the worker's dependents. The department of  
18 social and health services may assert and enforce a lien and notice to  
19 withhold and deliver ((as hereinafter provided)) to secure

1 reimbursement (~~of any public assistance paid for or during the period~~  
2 ~~and for the purposes expressed in this section~~)).

3 **Sec. 2.** RCW 43.20B.725 and 1987 c 75 s 33 are each amended to read  
4 as follows:

5 The lien and notice to withhold and deliver in RCW 43.20B.720 shall  
6 (~~be signed by the secretary or the secretary's authorized~~  
7 ~~representative and shall~~) identify the recipient of public assistance  
8 and time loss compensation(~~(τ)~~) and the amount claimed by the  
9 department(~~(τ and the demand to withhold and deliver the sum claimed by~~  
10 ~~the department)~~)).

11 **Sec. 3.** RCW 43.20B.730 and 1987 c 75 s 34 are each amended to read  
12 as follows:

13 The effective date of the statement of lien and notice to withhold  
14 and deliver provided in RCW 43.20B.725, shall be the day that it is  
15 received by the (~~director of the~~) department of labor and  
16 industries(~~(τ, an employee of the director's office of suitable~~  
17 ~~discretion,τ)~~) or a self-insurer as defined in chapter 51.08 RCW:  
18 PROVIDED, That service of such statement of lien and notice to withhold  
19 and deliver may be made personally (~~(or)~~), by regular mail, postage  
20 prepaid, or by electronic device: PROVIDED, FURTHER, That a (~~copy of~~  
21 ~~the~~) statement of lien and notice to withhold and deliver shall be  
22 mailed to the recipient at the recipient's last known address by  
23 certified mail, return receipt requested, no later than (~~the next~~)  
24 two business days after such statement of lien and notice to withhold  
25 and deliver has been (~~mailed or delivered to~~) received by the  
26 department of labor and industries or (~~to~~) a self-insurer as defined  
27 in chapter 51.08 RCW.

28 **Sec. 4.** RCW 43.20B.735 and 1973 1st ex.s. c 102 s 4 are each  
29 amended to read as follows:

30 The director of the department of labor and industries or his or  
31 her designee, following receipt of the statement of lien and notice to  
32 withhold and deliver, shall deliver to the secretary of the department  
33 of social and health services or his or her designee any funds up to  
34 the amount claimed (~~he~~) the director may hold, or which may at any  
35 time come into (~~his~~) the director's possession, on account of time  
36 loss compensation payable to said recipient (~~for or during the period~~

1 stated)), immediately upon a final determination of the recipient's  
2 entitlement to the time loss compensation in accordance with the  
3 provisions of Title 51 RCW.

4 **Sec. 5.** RCW 43.20B.740 and 1989 c 175 s 101 are each amended to  
5 read as follows:

6 Any person feeling aggrieved by the action of the department of  
7 social and health services in impounding his or her time loss  
8 compensation as provided in RCW 43.20B.720 through 43.20B.745 shall  
9 have the right to an adjudicative proceeding.

10 Any such person who desires a hearing shall, within twenty-eight  
11 days after the notice to withhold and deliver has been mailed to (~~or~~  
12 ~~served upon the director of the department of labor and industries~~  
13 ~~and~~)) said appellant, file with the secretary an application for an  
14 adjudicative proceeding. If the appellant files an application more  
15 than twenty-eight days, but within one year, of the date the notice to  
16 withhold and deliver was mailed, the appellant is entitled to a hearing  
17 if the appellant shows good cause for failure to file a timely  
18 application. The filing of a late application does not affect prior  
19 collection action pending the final adjudicative order. Until good  
20 cause for failure to file a timely application is decided, the  
21 department may continue to collect under the lien and notice to  
22 withhold and deliver.

23 The proceeding shall be governed by chapter 34.05 RCW, the  
24 Administrative Procedure Act.

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