

2 SSB 6638 - S AMD - 706  
3 By Senator Horn

4

5 On page 10, after line 25, insert the following:

6 "NEW SECTION. **Sec. 9.** A new section is added to chapter 18.27 RCW  
7 to read as follows:

8 (1) If any contractor, whether registered or not, defaults in any  
9 payment, penalty, or fine due to the department, the director or the  
10 director's designee may issue a notice of assessment certifying the  
11 amount due, which notice shall be served upon the contractor by mailing  
12 such notice to the contractor by certified mail to the contractor's  
13 last known address or served in the manner prescribed for the service  
14 of a summons in a civil action.

15 (2) A notice of assessment becomes final thirty days from the date  
16 the notice was served upon the contractor unless a written request for  
17 reconsideration is filed with the department or an appeal is filed in  
18 superior court in the manner specified in RCW 34.05.510 through  
19 34.05.598. The request for reconsideration shall set forth with  
20 particularity the reason for the contractor's request. The department,  
21 within thirty days after receiving a written request for  
22 reconsideration, may modify, or reverse any notice of assessment, or  
23 may hold any such notice of assessment in abeyance pending further  
24 investigation. If a final decision of any court in favor of the  
25 department is not appealed within the time allowed by law, then the  
26 amount of the unappealed assessment, or such amount of the assessment  
27 as is found due by the final decision of the court, shall be deemed  
28 final.

29 (3) The director or the director's designee may file with the clerk  
30 of any county within the state a warrant in the amount of the notice of  
31 assessment. The clerk of the county wherein the warrant is filed shall  
32 immediately designate a superior court cause number for such warrant,  
33 and the clerk shall cause to be entered in the judgment docket under  
34 the superior court cause number assigned to the warrant, the name of  
35 such contractor mentioned in the warrant, the amount of payment,  
36 penalty, or fine due thereon, and the date when such warrant was filed.

1 The aggregate amount of such warrant as docketed shall become a lien  
2 upon the title to, and interest in all real and personal property of  
3 the contractor against whom the warrant is issued, the same as a  
4 judgment in a civil case duly docketed in the office of such clerk.  
5 The sheriff shall thereupon proceed upon the same in all respects and  
6 with like effect as prescribed by law with respect to execution or  
7 other process issued against rights or property upon judgment in the  
8 superior court. Such warrant so docketed shall be sufficient to  
9 support the issuance of writs of garnishment in favor of the state in  
10 a manner provided by law in case of judgment, wholly or partially  
11 unsatisfied. The clerk of the court shall be entitled to a filing fee  
12 of five dollars, which shall be added to the amount of the warrant. A  
13 copy of such warrant shall be mailed to the contractor within three  
14 days of filing with the clerk.

15 (4) The director or the director's designee is hereby authorized to  
16 issue to any person, firm, corporation, municipal corporation,  
17 political subdivision of the state, a public corporation, or any agency  
18 of the state, a notice and order to withhold and deliver property of  
19 any kind whatsoever when he or she has reason to believe that there is  
20 in the possession of such person, firm, corporation, municipal  
21 corporation, political subdivision of the state, public corporation, or  
22 any agency of the state, property which is or shall become due, owing,  
23 or belonging to any contractor upon whom a notice of assessment has  
24 been served by the department for payments, penalties, or fines due to  
25 the department. The effect of a notice and order to withhold and  
26 deliver shall be continuous from the date such notice and order to  
27 withhold and deliver is first made until the liability out of which  
28 such notice and order to withhold and deliver arose is satisfied or  
29 becomes unenforceable because of lapse of time. The department shall  
30 release the notice and order to withhold and deliver when the liability  
31 out of which the notice and order to withhold and deliver arose is  
32 satisfied or becomes unenforceable by reason of lapse of time and shall  
33 notify the person against whom the notice and order to withhold and  
34 deliver was made that such notice and order to withhold and deliver has  
35 been released.

36 The notice and order to withhold and deliver shall be served by the  
37 sheriff of the county or by the sheriff's deputy, by certified mail,  
38 return receipt requested, or by any duly authorized representatives of  
39 the director. Any person, firm, corporation, municipal corporation,

1 political subdivision of the state, public corporation, or any agency  
2 of the state upon whom service has been made is hereby required to  
3 answer the notice within twenty days exclusive of the day of service,  
4 under oath and in writing, and shall make true answers to the matters  
5 inquired of in the notice and order to withhold and deliver. In the  
6 event there is in the possession of the party named and served with a  
7 notice and order to withhold and deliver, any property which may be  
8 subject to the claim of the department, such property shall be  
9 delivered forthwith to the director or the director's duly authorized  
10 representative upon service of the notice to withhold and deliver which  
11 will be held in trust by the director for application on the  
12 contractor's indebtedness to the department, or for return without  
13 interest, in accordance with a final determination of a petition for  
14 review, or in the alternative such party shall furnish a good and  
15 sufficient surety bond satisfactory to the director conditioned upon  
16 final determination of liability. Should any party served and named in  
17 the notice to withhold and deliver fail to make answer to such notice  
18 and order to withhold and deliver, within the time prescribed herein,  
19 it shall be lawful for the court, after the time to answer such order  
20 has expired, to render judgment by default against the party named in  
21 the notice to withhold and deliver for the full amount claimed by the  
22 director in the notice to withhold and deliver together with costs. In  
23 the event that a notice to withhold and deliver is served upon a  
24 contractor and the property found to be subject thereto is wages, then  
25 the contractor shall be entitled to assert in the answer to all  
26 exemptions provided for by chapter 6.27 RCW to which the wage earner  
27 may be entitled.

28 (5) In addition to the procedure for collection of any payment,  
29 penalty, or fine due to the department as set forth in this section,  
30 the department may recover civil penalties imposed under this chapter  
31 in a civil action in the name of the department brought in the superior  
32 court of the county where the violation is alleged to have occurred."

33 Renumber the remaining sections consecutively and correct any  
34 internal references accordingly.

1        EFFECT:   Gives the Department of Labor and Industries the same  
2 authority to collect moneys owed from contractors as they have for non-  
3 payment of workers' compensation obligations.

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