

---

HOUSE BILL 1793

---

State of Washington

57th Legislature

2001 Regular Session

By Representatives Hatfield and McDermott

Read first time 02/05/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to court filing fees; amending RCW 36.18.012,  
2 36.18.016, 36.18.025, 40.14.027, 41.50.136, 46.87.370, 50.20.190,  
3 50.24.115, 51.24.060, 51.48.140, 82.32.210, 82.36.047, and 82.38.235;  
4 and reenacting and amending RCW 51.32.240.

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

6 **Sec. 1.** RCW 36.18.012 and 1999 c 42 s 634 are each amended to read  
7 as follows:

8 (1) Revenue collected under this section is subject to division  
9 with the state for deposit in the public safety and education account  
10 under RCW 36.18.025.

11 (2) The party filing a transcript or abstract of judgment or  
12 verdict from a United States court held in this state, or from the  
13 superior court of another county or from a district court in the county  
14 of issuance, shall pay at the time of filing a fee of fifteen dollars.

15 (3) ~~((For the filing of a tax warrant by the department of revenue  
16 of the state of Washington, a fee of five dollars must be paid.~~

17 ~~(4))~~ The clerk shall collect a fee of twenty dollars for: Filing  
18 a paper not related to or a part of a proceeding, civil or criminal, or

1 a probate matter, required or permitted to be filed in the clerk's  
2 office for which no other charge is provided by law.

3 ~~((+5+))~~ (4) If the defendant serves or files an answer to an  
4 unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the  
5 plaintiff shall pay before proceeding with the unlawful detainer action  
6 eighty dollars.

7 ~~((+6+))~~ (5) For a restrictive covenant for filing a petition to  
8 strike discriminatory provisions in real estate under RCW 49.60.227 a  
9 fee of twenty dollars must be charged.

10 ~~((+7+))~~ (6) A fee of twenty dollars must be charged for filing a  
11 will only, when no probate of the will is contemplated.

12 ~~((+8+))~~ (7) A fee of two dollars must be charged for filing a  
13 petition, written agreement, or written memorandum in a nonjudicial  
14 probate dispute under RCW 11.96A.220.

15 ~~((+9+))~~ (8) A fee of thirty-five dollars must be charged for filing  
16 a petition regarding a common law lien under RCW 60.70.060.

17 ~~((+10+))~~ (9) For certification of delinquent taxes by a county  
18 treasurer under RCW 84.64.190, a fee of five dollars must be charged.

19 (10) For the filing of a tax warrant for unpaid taxes or  
20 overpayment of benefits by any agency of the state of Washington, a fee  
21 of five dollars on or after the effective date of this act, and for the  
22 filing of such a tax warrant or overpayment of benefits on or after  
23 July 1, 2003, a fee of twenty dollars, of which forty-six percent of  
24 the first five dollars is directed to the public safety and education  
25 account established under RCW 43.08.250.

26 **Sec. 2.** RCW 36.18.016 and 2000 c 170 s 1 are each amended to read  
27 as follows:

28 (1) Revenue collected under this section is not subject to division  
29 under RCW 36.18.025 or 27.24.070.

30 (2) For the filing of a petition for modification of a decree of  
31 dissolution or paternity, within the same case as the original action,  
32 a fee of twenty dollars must be paid.

33 (3)(a) The party making a demand for a jury of six in a civil  
34 action shall pay, at the time, a fee of one hundred twenty-five  
35 dollars; if the demand is for a jury of twelve, a fee of two hundred  
36 fifty dollars. If, after the party demands a jury of six and pays the  
37 required fee, any other party to the action requests a jury of twelve,

1 an additional one hundred twenty-five dollar fee will be required of  
2 the party demanding the increased number of jurors.

3 (b) Upon conviction in criminal cases a jury demand charge of fifty  
4 dollars for a jury of six, or one hundred dollars for a jury of twelve  
5 may be imposed as costs under RCW 10.46.190.

6 (4) For preparing, transcribing, or certifying an instrument on  
7 file or of record in the clerk's office, with or without seal, for the  
8 first page or portion of the first page, a fee of two dollars, and for  
9 each additional page or portion of a page, a fee of one dollar must be  
10 charged. For authenticating or exemplifying an instrument, a fee of  
11 one dollar for each additional seal affixed must be charged.

12 (5) For executing a certificate, with or without a seal, a fee of  
13 two dollars must be charged.

14 (6) For a garnishee defendant named in an affidavit for garnishment  
15 and for a writ of attachment, a fee of twenty dollars must be charged.

16 (7) For approving a bond, including justification on the bond, in  
17 other than civil actions and probate proceedings, a fee of two dollars  
18 must be charged.

19 (8) For the issuance of a certificate of qualification and a  
20 certified copy of letters of administration, letters testamentary, or  
21 letters of guardianship, there must be a fee of two dollars.

22 (9) For the preparation of a passport application, the clerk may  
23 collect an execution fee as authorized by the federal government.

24 (10) For clerk's (~~special~~) services such as processing ex parte  
25 orders (~~by mail~~), performing historical searches, compiling  
26 statistical reports, and conducting exceptional record searches, the  
27 clerk may collect a fee not to exceed twenty dollars per hour or  
28 portion of an hour.

29 (11) For duplicated recordings of court's proceedings there must be  
30 a fee of ten dollars for each audio tape and twenty-five dollars for  
31 each video tape.

32 (12) For the filing of oaths and affirmations under chapter 5.28  
33 RCW, a fee of twenty dollars must be charged.

34 (13) For filing a disclaimer of interest under RCW 11.86.031(4), a  
35 fee of (~~two~~) twenty dollars must be charged.

36 (14) For registration of land titles, Torrens Act, under RCW  
37 65.12.780, a fee of five dollars must be charged.

1 (15) For the issuance of extension of judgment under RCW 6.17.020  
2 and chapter 9.94A RCW, a fee of one hundred ten dollars must be  
3 charged.

4 (16) A facilitator surcharge of ten dollars must be charged as  
5 authorized under RCW 26.12.240.

6 (17) For filing a water rights statement under RCW 90.03.180, a fee  
7 of twenty-five dollars must be charged.

8 ~~(18) ((For filing a warrant for overpayment of state retirement  
9 systems benefits under chapter 41.50 RCW, a fee of five dollars shall  
10 be charged pursuant to RCW 41.50.136.~~

11 ~~(19))~~ A service fee of three dollars for the first page and one  
12 dollar for each additional page must be charged for receiving faxed  
13 documents, pursuant to Washington state rules of court, general rule  
14 17.

15 ~~((20))~~ (19) For preparation of clerk's papers under RAP 9.7, a  
16 fee of fifty cents per page must be charged.

17 ~~((21))~~ (20) For copies and reports produced at the local level as  
18 permitted by RCW 2.68.020 and supreme court policy, a variable fee must  
19 be charged.

20 ~~((22))~~ (21) Investment service charge and earnings under RCW  
21 36.48.090 must be charged.

22 ~~((23))~~ (22) Costs for nonstatutory services rendered by clerk by  
23 authority of local ordinance or policy must be charged.

24 ~~((24))~~ (23) For filing a request for mandatory arbitration, a fee  
25 may be assessed against the party filing a statement of arbitrability  
26 not to exceed one hundred twenty dollars as established by authority of  
27 local ordinance and approved by a vote of the people if it is  
28 determined by a court of competent jurisdiction that such a vote is  
29 required by chapter 1, Laws of 2000 (Initiative Measure No. 695). This  
30 charge shall be used solely to offset the cost of the mandatory  
31 arbitration program.

32 ~~((25))~~ (24) For filing a request for trial de novo of an  
33 arbitration award, a fee not to exceed two hundred fifty dollars as  
34 established by authority of local ordinance must be charged.

35 **Sec. 3.** RCW 36.18.025 and 1992 c 54 s 2 are each amended to read  
36 as follows:

37 Forty-six percent of the money received from filing fees paid  
38 pursuant to RCW 36.18.020, except those collected for the filing of

1 warrants for unpaid taxes or overpayments by state agencies as outlined  
2 in RCW 36.18.012(10), shall be transmitted by the county treasurer each  
3 month to the state treasurer for deposit in the public safety and  
4 education account established under RCW 43.08.250.

5 **Sec. 4.** RCW 40.14.027 and 1996 c 245 s 4 are each amended to read  
6 as follows:

7 State agencies shall collect a surcharge of twenty dollars from the  
8 judgment debtor upon the satisfaction of a warrant filed in superior  
9 court for unpaid taxes or liabilities. The surcharge is imposed on the  
10 judgment debtor in the form of a penalty in addition to the filing fee  
11 provided in RCW 36.18.012(~~((3))~~) (10). The surcharge revenue shall be  
12 transmitted to the state treasurer for deposit in the archives and  
13 records management account.

14 Surcharge revenue deposited in the archives and records management  
15 account shall be expended by the secretary of state exclusively for  
16 disaster recovery, essential records protection services, and records  
17 management training for local government agencies by the division of  
18 archives and records management. The secretary of state shall, with  
19 local government representatives, establish a committee to advise the  
20 state archivist on the local government archives and records management  
21 program.

22 **Sec. 5.** RCW 41.50.136 and 1996 c 56 s 2 are each amended to read  
23 as follows:

24 Whenever a notice of determination of liability becomes conclusive  
25 and final under RCW 41.50.135, the director, upon giving at least  
26 twenty days notice by certified mail return receipt requested to the  
27 individual's last known address of the intended action, may file with  
28 the superior court clerk of any county within the state a warrant in  
29 the amount of the notice of determination of liability plus a filing  
30 fee (~~((of five dollars payable))~~) under RCW (~~((36.18.016))~~) 36.18.012(10).  
31 The clerk of the county where the warrant is filed shall immediately  
32 designate a superior court cause number for the warrant, and the clerk  
33 shall cause to be entered in the judgment docket under the superior  
34 court cause number assigned to the warrant, the name of the person  
35 mentioned in the warrant, the amount of the notice of determination of  
36 liability, and the date when the warrant was filed. The amount of the  
37 warrant as docketed shall become a lien upon the title to, and any

1 interest in, all real and personal property of the person against whom  
2 the warrant is issued, the same as a judgment in a civil case duly  
3 docketed in the office of such clerk. A copy of the warrant shall be  
4 mailed to the person mentioned in the warrant by certified mail to the  
5 person's last known address within five days of its filing with the  
6 clerk.

7 **Sec. 6.** RCW 46.87.370 and 1987 c 244 s 50 are each amended to read  
8 as follows:

9 Whenever any assessment has become final in accordance with this  
10 chapter, the department may file with the clerk of any county within  
11 this state a warrant in the amount of fees, taxes, penalties, interest,  
12 and a filing fee (~~(of five dollars)~~) under RCW 36.18.012(10). The  
13 clerk of the county in which the warrant is filed shall immediately  
14 designate a superior court cause number for the warrant, and the clerk  
15 shall cause to be entered in the judgment docket under the superior  
16 court cause number assigned to the warrant the name of the delinquent  
17 owner of proportionally registered vehicles mentioned in the warrant,  
18 the amount of the fees, taxes, penalties, interest, and filing fee, and  
19 the date when the warrant was filed. The aggregate amount of the  
20 warrant as docketed constitutes a lien upon the title to, and interest  
21 in, all real and personal property of the named person against whom the  
22 warrant is issued, the same as a judgment in a civil case duly docketed  
23 in the office of the clerk. A warrant so docketed is sufficient to  
24 support the issuance of writs of execution and writs of garnishment in  
25 favor of the state in the manner provided by law in the case of civil  
26 judgment wholly or partially unsatisfied. The clerk of the court is  
27 entitled to a filing fee (~~(of five dollars)~~) under RCW 36.18.012(10),  
28 which shall be added to the amount of the warrant.

29 **Sec. 7.** RCW 50.20.190 and 1995 c 90 s 1 are each amended to read  
30 as follows:

31 (1) An individual who is paid any amount as benefits under this  
32 title to which he or she is not entitled shall, unless otherwise  
33 relieved pursuant to this section, be liable for repayment of the  
34 amount overpaid. The department shall issue an overpayment assessment  
35 setting forth the reasons for and the amount of the overpayment. The  
36 amount assessed, to the extent not collected, may be deducted from any  
37 future benefits payable to the individual: PROVIDED, That in the

1 absence of a back pay award, a settlement affecting the allowance of  
2 benefits, fraud, misrepresentation, or willful nondisclosure, every  
3 determination of liability shall be mailed or personally served not  
4 later than two years after the close of or final payment made on the  
5 individual's applicable benefit year for which the purported  
6 overpayment was made, whichever is later, unless the merits of the  
7 claim are subjected to administrative or judicial review in which event  
8 the period for serving the determination of liability shall be extended  
9 to allow service of the determination of liability during the six-month  
10 period following the final decision affecting the claim.

11 (2) The commissioner may waive an overpayment if the commissioner  
12 finds that ~~((said))~~ the overpayment was not the result of fraud,  
13 misrepresentation, willful nondisclosure, or fault attributable to the  
14 individual and that the recovery thereof would be against equity and  
15 good conscience: PROVIDED, HOWEVER, That the overpayment so waived  
16 shall be charged against the individual's applicable entitlement for  
17 the eligibility period containing the weeks to which the overpayment  
18 was attributed as though such benefits had been properly paid.

19 (3) Any assessment herein provided shall constitute a determination  
20 of liability from which an appeal may be had in the same manner and to  
21 the same extent as provided for appeals relating to determinations in  
22 respect to claims for benefits: PROVIDED, That an appeal from any  
23 determination covering overpayment only shall be deemed to be an appeal  
24 from the determination which was the basis for establishing the  
25 overpayment unless the merits involved in the issue set forth in such  
26 determination have already been heard and passed upon by the appeal  
27 tribunal. If no such appeal is taken to the appeal tribunal by the  
28 individual within thirty days of the delivery of the notice of  
29 determination of liability, or within thirty days of the mailing of the  
30 notice of determination, whichever is the earlier, ~~((said))~~ the  
31 determination of liability shall be deemed conclusive and final.  
32 Whenever any such notice of determination of liability becomes  
33 conclusive and final, the commissioner, upon giving at least twenty  
34 days notice by certified mail return receipt requested to the  
35 individual's last known address of the intended action, may file with  
36 the superior court clerk of any county within the state a warrant in  
37 the amount of the notice of determination of liability plus a filing  
38 fee ~~((of five dollars))~~ under RCW 36.18.012(10). The clerk of the  
39 county where the warrant is filed shall immediately designate a

1 superior court cause number for the warrant, and the clerk shall cause  
2 to be entered in the judgment docket under the superior court cause  
3 number assigned to the warrant, the name of the person(s) mentioned in  
4 the warrant, the amount of the notice of determination of liability,  
5 and the date when the warrant was filed. The amount of the warrant as  
6 docketed shall become a lien upon the title to, and any interest in,  
7 all real and personal property of the person(s) against whom the  
8 warrant is issued, the same as a judgment in a civil case duly docketed  
9 in the office of such clerk. A warrant so docketed shall be sufficient  
10 to support the issuance of writs of execution and writs of garnishment  
11 in favor of the state in the manner provided by law for a civil  
12 judgment. A copy of the warrant shall be mailed to the person(s)  
13 mentioned in the warrant by certified mail to the person's last known  
14 address within five days of its filing with the clerk.

15 (4) On request of any agency which administers an employment  
16 security law of another state, the United States, or a foreign  
17 government and which has found in accordance with the provisions of  
18 such law that a claimant is liable to repay benefits received under  
19 such law, the commissioner may collect the amount of such benefits from  
20 the claimant to be refunded to the agency. In any case in which under  
21 this section a claimant is liable to repay any amount to the agency of  
22 another state, the United States, or a foreign government, such amounts  
23 may be collected without interest by civil action in the name of the  
24 commissioner acting as agent for such agency if the other state, the  
25 United States, or the foreign government extends such collection rights  
26 to the employment security department of the state of Washington, and  
27 provided that the court costs be paid by the governmental agency  
28 benefiting from such collection.

29 (5) Any employer who is a party to a back pay award or settlement  
30 due to loss of wages shall, within thirty days of the award or  
31 settlement, report to the department the amount of the award or  
32 settlement, the name and social security number of the recipient of the  
33 award or settlement, and the period for which it is awarded. When an  
34 individual has been awarded or receives back pay, for benefit purposes  
35 the amount of the back pay shall constitute wages paid in the period  
36 for which it was awarded. For contribution purposes, the back pay  
37 award or settlement shall constitute wages paid in the period in which  
38 it was actually paid. The following requirements shall also apply:

1 (a) The employer shall reduce the amount of the back pay award or  
2 settlement by an amount determined by the department based upon the  
3 amount of unemployment benefits received by the recipient of the award  
4 or settlement during the period for which the back pay award or  
5 settlement was awarded;

6 (b) The employer shall pay to the unemployment compensation fund,  
7 in a manner specified by the commissioner, an amount equal to the  
8 amount of such reduction;

9 (c) The employer shall also pay to the department any taxes due for  
10 unemployment insurance purposes on the entire amount of the back pay  
11 award or settlement notwithstanding any reduction made pursuant to (a)  
12 of this subsection;

13 (d) If the employer fails to reduce the amount of the back pay  
14 award or settlement as required in (a) of this subsection, the  
15 department shall issue an overpayment assessment against the recipient  
16 of the award or settlement in the amount that the back pay award or  
17 settlement should have been reduced; and

18 (e) If the employer fails to pay to the department an amount equal  
19 to the reduction as required in (b) of this subsection, the department  
20 shall issue an assessment of liability against the employer which shall  
21 be collected pursuant to the procedures for collection of assessments  
22 provided herein and in RCW 50.24.110.

23 (6) When an individual fails to repay an overpayment assessment  
24 that is due and fails to arrange for satisfactory repayment terms, the  
25 commissioner shall impose an interest penalty of one percent per month  
26 of the outstanding balance. Interest shall accrue immediately on  
27 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed  
28 when the assessment becomes final. For any other overpayment, interest  
29 shall accrue when the individual has missed two or more of their  
30 monthly payments either partially or in full. The interest penalty  
31 shall be used to fund detection and recovery of overpayment and  
32 collection activities.

33 **Sec. 8.** RCW 50.24.115 and 1983 1st ex.s. c 23 s 16 are each  
34 amended to read as follows:

35 Whenever any order and notice of assessment or jeopardy assessment  
36 shall have become final in accordance with the provisions of this title  
37 the commissioner may file with the clerk of any county within the state  
38 a warrant in the amount of the notice of assessment plus interest,

1 penalties, and a filing fee (~~(of five dollars)~~) under RCW  
2 36.18.012(10). The clerk of the county wherein the warrant is filed  
3 shall immediately designate a superior court cause number for such  
4 warrant, and the clerk shall cause to be entered in the judgment docket  
5 under the superior court cause number assigned to the warrant, the name  
6 of the employer mentioned in the warrant, the amount of the tax,  
7 interest, penalties, and filing fee and the date when such warrant was  
8 filed. The aggregate amount of such warrant as docketed shall become  
9 a lien upon the title to, and interest in all real and personal  
10 property of the employer against whom the warrant is issued, the same  
11 as a judgment in a civil case duly docketed in the office of such  
12 clerk. Such warrant so docketed shall be sufficient to support the  
13 issuance of writs of execution and writs of garnishment in favor of the  
14 state in the manner provided by law in the case of civil judgment,  
15 wholly or partially unsatisfied. The clerk of the court shall be  
16 entitled to a filing fee (~~(of five dollars)~~) under RCW 36.18.012(10),  
17 which shall be added to the amount of the warrant, and charged by the  
18 commissioner to the employer or employing unit. A copy of the warrant  
19 shall be mailed to the employer or employing unit by certified mail to  
20 his last known address within five days of filing with the clerk.

21 **Sec. 9.** RCW 51.24.060 and 1995 c 199 s 4 are each amended to read  
22 as follows:

23 (1) If the injured worker or beneficiary elects to seek damages  
24 from the third person, any recovery made shall be distributed as  
25 follows:

26 (a) The costs and reasonable attorneys' fees shall be paid  
27 proportionately by the injured worker or beneficiary and the department  
28 and/or self-insurer: PROVIDED, That the department and/or self-insurer  
29 may require court approval of costs and attorneys' fees or may petition  
30 a court for determination of the reasonableness of costs and attorneys'  
31 fees;

32 (b) The injured worker or beneficiary shall be paid twenty-five  
33 percent of the balance of the award: PROVIDED, That in the event of a  
34 compromise and settlement by the parties, the injured worker or  
35 beneficiary may agree to a sum less than twenty-five percent;

36 (c) The department and/or self-insurer shall be paid the balance of  
37 the recovery made, but only to the extent necessary to reimburse the  
38 department and/or self-insurer for benefits paid;

1 (i) The department and/or self-insurer shall bear its proportionate  
2 share of the costs and reasonable attorneys' fees incurred by the  
3 worker or beneficiary to the extent of the benefits paid under this  
4 title: PROVIDED, That the department's and/or self-insurer's  
5 proportionate share shall not exceed one hundred percent of the costs  
6 and reasonable attorneys' fees;

7 (ii) The department's and/or self-insurer's proportionate share of  
8 the costs and reasonable attorneys' fees shall be determined by  
9 dividing the gross recovery amount into the benefits paid amount and  
10 multiplying this percentage times the costs and reasonable attorneys'  
11 fees incurred by the worker or beneficiary;

12 (iii) The department's and/or self-insurer's reimbursement share  
13 shall be determined by subtracting their proportionate share of the  
14 costs and reasonable attorneys' fees from the benefits paid amount;

15 (d) Any remaining balance shall be paid to the injured worker or  
16 beneficiary; and

17 (e) Thereafter no payment shall be made to or on behalf of a worker  
18 or beneficiary by the department and/or self-insurer for such injury  
19 until the amount of any further compensation and benefits shall equal  
20 any such remaining balance minus the department's and/or self-insurer's  
21 proportionate share of the costs and reasonable attorneys' fees in  
22 regards to the remaining balance. This proportionate share shall be  
23 determined by dividing the gross recovery amount into the remaining  
24 balance amount and multiplying this percentage times the costs and  
25 reasonable attorneys' fees incurred by the worker or beneficiary.  
26 Thereafter, such benefits shall be paid by the department and/or self-  
27 insurer to or on behalf of the worker or beneficiary as though no  
28 recovery had been made from a third person.

29 (2) The recovery made shall be subject to a lien by the department  
30 and/or self-insurer for its share under this section.

31 (3) The department or self-insurer has sole discretion to  
32 compromise the amount of its lien. In deciding whether or to what  
33 extent to compromise its lien, the department or self-insurer shall  
34 consider at least the following:

35 (a) The likelihood of collection of the award or settlement as may  
36 be affected by insurance coverage, solvency, or other factors relating  
37 to the third person;

38 (b) Factual and legal issues of liability as between the injured  
39 worker or beneficiary and the third person. Such issues include but

1 are not limited to possible contributory negligence and novel theories  
2 of liability; and

3 (c) Problems of proof faced in obtaining the award or settlement.

4 (4) In an action under this section, the self-insurer may act on  
5 behalf and for the benefit of the department to the extent of any  
6 compensation and benefits paid or payable from state funds.

7 (5) It shall be the duty of the person to whom any recovery is paid  
8 before distribution under this section to advise the department or  
9 self-insurer of the fact and amount of such recovery, the costs and  
10 reasonable attorneys' fees associated with the recovery, and to  
11 distribute the recovery in compliance with this section.

12 (6) The distribution of any recovery made by award or settlement of  
13 the third party action shall be confirmed by department order, served  
14 by registered or certified mail, and shall be subject to chapter 51.52  
15 RCW. In the event the order of distribution becomes final under  
16 chapter 51.52 RCW, the director or the director's designee may file  
17 with the clerk of any county within the state a warrant in the amount  
18 of the sum representing the unpaid lien plus interest accruing from the  
19 date the order became final. The clerk of the county in which the  
20 warrant is filed shall immediately designate a superior court cause  
21 number for such warrant and the clerk shall cause to be entered in the  
22 judgment docket under the superior court cause number assigned to the  
23 warrant, the name of such worker or beneficiary mentioned in the  
24 warrant, the amount of the unpaid lien plus interest accrued and the  
25 date when the warrant was filed. The amount of such warrant as  
26 docketed shall become a lien upon the title to and interest in all real  
27 and personal property of the injured worker or beneficiary against whom  
28 the warrant is issued, the same as a judgment in a civil case docketed  
29 in the office of such clerk. The sheriff shall then proceed in the  
30 same manner and with like effect as prescribed by law with respect to  
31 execution or other process issued against rights or property upon  
32 judgment in the superior court. Such warrant so docketed shall be  
33 sufficient to support the issuance of writs of garnishment in favor of  
34 the department in the manner provided by law in the case of judgment,  
35 wholly or partially unsatisfied. The clerk of the court shall be  
36 entitled to a filing fee (~~of five dollars~~) under RCW 36.18.012(10),  
37 which shall be added to the amount of the warrant. A copy of such  
38 warrant shall be mailed to the injured worker or beneficiary within  
39 three days of filing with the clerk.

1 (7) The director, or the director's designee, may issue to any  
2 person, firm, corporation, municipal corporation, political subdivision  
3 of the state, public corporation, or agency of the state, a notice and  
4 order to withhold and deliver property of any kind if he or she has  
5 reason to believe that there is in the possession of such person, firm,  
6 corporation, municipal corporation, political subdivision of the state,  
7 public corporation, or agency of the state, property which is due,  
8 owing, or belonging to any worker or beneficiary upon whom a warrant  
9 has been served by the department for payments due to the state fund.  
10 The notice and order to withhold and deliver shall be served by the  
11 sheriff of the county or by the sheriff's deputy; by certified mail,  
12 return receipt requested; or by any authorized representatives of the  
13 director. Any person, firm, corporation, municipal corporation,  
14 political subdivision of the state, public corporation, or agency of  
15 the state upon whom service has been made shall answer the notice  
16 within twenty days exclusive of the day of service, under oath and in  
17 writing, and shall make true answers to the matters inquired of in the  
18 notice and order to withhold and deliver. In the event there is in the  
19 possession of the party named and served with such notice and order,  
20 any property which may be subject to the claim of the department, such  
21 property shall be delivered forthwith to the director or the director's  
22 authorized representative upon demand. If the party served and named  
23 in the notice and order fails to answer the notice and order within the  
24 time prescribed in this section, the court may, after the time to  
25 answer such order has expired, render judgment by default against the  
26 party named in the notice for the full amount claimed by the director  
27 in the notice together with costs. In the event that a notice to  
28 withhold and deliver is served upon an employer and the property found  
29 to be subject thereto is wages, the employer may assert in the answer  
30 to all exemptions provided for by chapter 6.27 RCW to which the wage  
31 earner may be entitled.

32 **Sec. 10.** RCW 51.32.240 and 1999 c 396 s 1 and 1999 c 119 s 1 are  
33 each reenacted and amended to read as follows:

34 (1) Whenever any payment of benefits under this title is made  
35 because of clerical error, mistake of identity, innocent  
36 misrepresentation by or on behalf of the recipient thereof mistakenly  
37 acted upon, or any other circumstance of a similar nature, all not  
38 induced by fraud, the recipient thereof shall repay it and recoupment

1 may be made from any future payments due to the recipient on any claim  
2 with the state fund or self-insurer, as the case may be. The  
3 department or self-insurer, as the case may be, must make claim for  
4 such repayment or recoupment within one year of the making of any such  
5 payment or it will be deemed any claim therefor has been waived. The  
6 director, pursuant to rules adopted in accordance with the procedures  
7 provided in the administrative procedure act, chapter 34.05 RCW, may  
8 exercise his discretion to waive, in whole or in part, the amount of  
9 any such timely claim where the recovery would be against equity and  
10 good conscience.

11 (2) Whenever the department or self-insurer fails to pay benefits  
12 because of clerical error, mistake of identity, or innocent  
13 misrepresentation, all not induced by recipient fraud, the recipient  
14 may request an adjustment of benefits to be paid from the state fund or  
15 by the self-insurer, as the case may be, subject to the following:

16 (a) The recipient must request an adjustment in benefits within one  
17 year from the date of the incorrect payment or it will be deemed any  
18 claim therefore has been waived.

19 (b) The recipient may not seek an adjustment of benefits because of  
20 adjudicator error. "Adjudicator error" includes the failure to  
21 consider information in the claim file, failure to secure adequate  
22 information, or an error in judgment.

23 (3) Whenever the department issues an order rejecting a claim for  
24 benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for  
25 temporary disability benefits has been paid by a self-insurer pursuant  
26 to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the  
27 recipient thereof shall repay such benefits and recoupment may be made  
28 from any future payments due to the recipient on any claim with the  
29 state fund or self-insurer, as the case may be. The director, under  
30 rules adopted in accordance with the procedures provided in the  
31 administrative procedure act, chapter 34.05 RCW, may exercise  
32 discretion to waive, in whole or in part, the amount of any such  
33 payments where the recovery would be against equity and good  
34 conscience.

35 (4) Whenever any payment of benefits under this title has been made  
36 pursuant to an adjudication by the department or by order of the board  
37 or any court and timely appeal therefrom has been made where the final  
38 decision is that any such payment was made pursuant to an erroneous  
39 adjudication, the recipient thereof shall repay it and recoupment may

1 be made from any future payments due to the recipient on any claim with  
2 the state fund or self-insurer, as the case may be. The director,  
3 pursuant to rules adopted in accordance with the procedures provided in  
4 the administrative procedure act, chapter 34.05 RCW, may exercise his  
5 discretion to waive, in whole or in part, the amount of any such  
6 payments where the recovery would be against equity and good  
7 conscience.

8 (5) Whenever any payment of benefits under this title has been  
9 induced by fraud the recipient thereof shall repay any such payment  
10 together with a penalty of fifty percent of the total of any such  
11 payments and the amount of such total sum may be recouped from any  
12 future payments due to the recipient on any claim with the state fund  
13 or self-insurer against whom the fraud was committed, as the case may  
14 be, and the amount of such penalty shall be placed in the supplemental  
15 pension fund. Such repayment or recoupment must be demanded or ordered  
16 within three years of the discovery of the fraud.

17 (6) The worker, beneficiary, or other person affected thereby shall  
18 have the right to contest an order assessing an overpayment pursuant to  
19 this section in the same manner and to the same extent as provided  
20 under RCW 51.52.050 and 51.52.060. In the event such an order becomes  
21 final under chapter 51.52 RCW and notwithstanding the provisions of  
22 subsections (1) through (5) of this section, the director, director's  
23 designee, or self-insurer may file with the clerk in any county within  
24 the state a warrant in the amount of the sum representing the unpaid  
25 overpayment and/or penalty plus interest accruing from the date the  
26 order became final. The clerk of the county in which the warrant is  
27 filed shall immediately designate a superior court cause number for  
28 such warrant and the clerk shall cause to be entered in the judgment  
29 docket under the superior court cause number assigned to the warrant,  
30 the name of the worker, beneficiary, or other person mentioned in the  
31 warrant, the amount of the unpaid overpayment and/or penalty plus  
32 interest accrued, and the date the warrant was filed. The amount of  
33 the warrant as docketed shall become a lien upon the title to and  
34 interest in all real and personal property of the worker, beneficiary,  
35 or other person against whom the warrant is issued, the same as a  
36 judgment in a civil case docketed in the office of such clerk. The  
37 sheriff shall then proceed in the same manner and with like effect as  
38 prescribed by law with respect to execution or other process issued  
39 against rights or property upon judgment in the superior court. Such

1 warrant so docketed shall be sufficient to support the issuance of  
2 writs of garnishment in favor of the department or self-insurer in the  
3 manner provided by law in the case of judgment, wholly or partially  
4 unsatisfied. The clerk of the court shall be entitled to a filing fee  
5 (~~of five dollars~~) under RCW 36.18.012(10), which shall be added to  
6 the amount of the warrant. A copy of such warrant shall be mailed to  
7 the worker, beneficiary, or other person within three days of filing  
8 with the clerk.

9       The director, director's designee, or self-insurer may issue to any  
10 person, firm, corporation, municipal corporation, political subdivision  
11 of the state, public corporation, or agency of the state, a notice to  
12 withhold and deliver property of any kind if there is reason to believe  
13 that there is in the possession of such person, firm, corporation,  
14 municipal corporation, political subdivision of the state, public  
15 corporation, or agency of the state, property that is due, owing, or  
16 belonging to any worker, beneficiary, or other person upon whom a  
17 warrant has been served for payments due the department or self-  
18 insurer. The notice and order to withhold and deliver shall be served  
19 by certified mail accompanied by an affidavit of service by mailing or  
20 served by the sheriff of the county, or by the sheriff's deputy, or by  
21 any authorized representative of the director, director's designee, or  
22 self-insurer. Any person, firm, corporation, municipal corporation,  
23 political subdivision of the state, public corporation, or agency of  
24 the state upon whom service has been made shall answer the notice  
25 within twenty days exclusive of the day of service, under oath and in  
26 writing, and shall make true answers to the matters inquired or in the  
27 notice and order to withhold and deliver. In the event there is in the  
28 possession of the party named and served with such notice and order,  
29 any property that may be subject to the claim of the department or  
30 self-insurer, such property shall be delivered forthwith to the  
31 director, the director's authorized representative, or self-insurer  
32 upon demand. If the party served and named in the notice and order  
33 fails to answer the notice and order within the time prescribed in this  
34 section, the court may, after the time to answer such order has  
35 expired, render judgment by default against the party named in the  
36 notice for the full amount, plus costs, claimed by the director,  
37 director's designee, or self-insurer in the notice. In the event that  
38 a notice to withhold and deliver is served upon an employer and the  
39 property found to be subject thereto is wages, the employer may assert

1 in the answer all exemptions provided for by chapter 6.27 RCW to which  
2 the wage earner may be entitled.

3 This subsection shall only apply to orders assessing an overpayment  
4 which are issued on or after July 28, 1991: PROVIDED, That this  
5 subsection shall apply retroactively to all orders assessing an  
6 overpayment resulting from fraud, civil or criminal.

7 (7) Orders assessing an overpayment which are issued on or after  
8 July 28, 1991, shall include a conspicuous notice of the collection  
9 methods available to the department or self-insurer.

10 **Sec. 11.** RCW 51.48.140 and 1989 c 175 s 121 are each amended to  
11 read as follows:

12 If a notice of appeal is not served on the director and the board  
13 of industrial insurance appeals pursuant to RCW 51.48.131 within thirty  
14 days from the date of service of the notice of assessment, or if a  
15 final decision and order of the board of industrial insurance appeals  
16 in favor of the department is not appealed to superior court in the  
17 manner specified in RCW 34.05.510 through 34.05.598, or if a final  
18 decision of any court in favor of the department is not appealed within  
19 the time allowed by law, then the amount of the unappealed assessment,  
20 or such amount of the assessment as is found due by the final decision  
21 and order of the board of industrial insurance appeals or final  
22 decision of the court shall be deemed final and the director or the  
23 director's designee may file with the clerk of any county within the  
24 state a warrant in the amount of the notice of assessment. The clerk  
25 of the county wherein the warrant is filed shall immediately designate  
26 a superior court cause number for such warrant, and the clerk shall  
27 cause to be entered in the judgment docket under the superior court  
28 cause number assigned to the warrant, the name of such employer  
29 mentioned in the warrant, the amount of the taxes and penalties due  
30 thereon, and the date when such warrant was filed. The aggregate  
31 amount of such warrant as docketed shall become a lien upon the title  
32 to, and interest in all real and personal property of the employer  
33 against whom the warrant is issued, the same as a judgment in a civil  
34 case duly docketed in the office of such clerk. The sheriff shall  
35 thereupon proceed upon the same in all respects and with like effect as  
36 prescribed by law with respect to execution or other process issued  
37 against rights or property upon judgment in the superior court. Such  
38 warrant so docketed shall be sufficient to support the issuance of

1 writs of garnishment in favor of the state in a manner provided by law  
2 in case of judgment, wholly or partially unsatisfied. The clerk of the  
3 court shall be entitled to a filing fee (~~(of five dollars)~~) under RCW  
4 36.18.012(10), which shall be added to the amount of the warrant. A  
5 copy of such warrant shall be mailed to the employer within three days  
6 of filing with the clerk.

7 **Sec. 12.** RCW 82.32.210 and 1998 c 311 s 8 are each amended to read  
8 as follows:

9 (1) If any fee, tax, increase, or penalty or any portion thereof is  
10 not paid within fifteen days after it becomes due, the department of  
11 revenue may issue a warrant in the amount of such unpaid sums, together  
12 with interest thereon from the date the warrant is issued until the  
13 date of payment. If, however, the department of revenue believes that  
14 a taxpayer is about to cease business, leave the state, or remove or  
15 dissipate the assets out of which fees, taxes or penalties might be  
16 satisfied and that any tax or penalty will not be paid when due, it may  
17 declare the fee, tax or penalty to be immediately due and payable and  
18 may issue a warrant immediately.

19 (a) Interest imposed before January 1, 1999, shall be computed at  
20 the rate of one percent of the amount of the warrant for each thirty  
21 days or portion thereof.

22 (b) Interest imposed after December 31, 1998, shall be computed on  
23 a daily basis on the amount of outstanding tax or fee at the rate as  
24 computed under RCW 82.32.050(2). The rate so computed shall be  
25 adjusted on the first day of January of each year for use in computing  
26 interest for that calendar year. As used in this subsection, "fee"  
27 does not include an administrative filing fee such as a court filing  
28 fee and warrant fee.

29 (2) The department shall file a copy of the warrant with the clerk  
30 of the superior court of any county of the state in which real and/or  
31 personal property of the taxpayer may be found. The clerk is entitled  
32 to a filing fee under RCW 36.18.012(10). Upon filing, the clerk shall  
33 enter in the judgment docket, the name of the taxpayer mentioned in the  
34 warrant and in appropriate columns the amount of the fee, tax or  
35 portion thereof and any increases and penalties for which the warrant  
36 is issued and the date when the copy is filed, and thereupon the amount  
37 of the warrant so docketed shall become a specific lien upon all goods,  
38 wares, merchandise, fixtures, equipment, or other personal property

1 used in the conduct of the business of the taxpayer against whom the  
2 warrant is issued, including property owned by third persons who have  
3 a beneficial interest, direct or indirect, in the operation of the  
4 business, and no sale or transfer of the personal property in any way  
5 affects the lien.

6 (3) The lien shall not be superior, however, to bona fide interests  
7 of third persons which had vested prior to the filing of the warrant  
8 when the third persons do not have a beneficial interest, direct or  
9 indirect, in the operation of the business, other than the securing of  
10 the payment of a debt or the receiving of a regular rental on  
11 equipment. The phrase "bona fide interests of third persons" does not  
12 include any mortgage of real or personal property or any other credit  
13 transaction that results in the mortgagee or the holder of the security  
14 acting as trustee for unsecured creditors of the taxpayer mentioned in  
15 the warrant who executed the chattel or real property mortgage or the  
16 document evidencing the credit transaction.

17 (4) The amount of the warrant so docketed shall thereupon also  
18 become a lien upon the title to and interest in all other real and  
19 personal property of the taxpayer against whom it is issued the same as  
20 a judgment in a civil case duly docketed in the office of the clerk.  
21 The warrant so docketed shall be sufficient to support the issuance of  
22 writs of garnishment in favor of the state in the manner provided by  
23 law in the case of judgments wholly or partially unsatisfied.

24 **Sec. 13.** RCW 82.36.047 and 1998 c 176 s 17 are each amended to  
25 read as follows:

26 When an assessment becomes final in accordance with this chapter,  
27 the department may file with the clerk of any county within the state  
28 a warrant in the amount of the assessment of taxes, penalties,  
29 interest, and a filing fee (~~(of five dollars)~~) under RCW 36.18.012(10).  
30 The clerk of the county in which the warrant is filed shall immediately  
31 designate a superior court cause number for the warrant, and the clerk  
32 shall cause to be entered in the judgment docket under the superior  
33 court cause number assigned to the warrant the name of the licensee or  
34 person mentioned in the warrant, the amount of the tax, penalties,  
35 interest, and filing fee, and the date when the warrant was filed. The  
36 aggregate amount of the warrant as docketed becomes a lien upon the  
37 title to and interest in all real and personal property of the named  
38 person against whom the warrant is issued, the same as a judgment in a

1 civil case duly docketed in the office of the clerk. The warrant so  
2 docketed is sufficient to support the issuance of writs of execution  
3 and writs of garnishment in favor of the state in the manner provided  
4 by law in the case of a civil judgment, wholly or partially  
5 unsatisfied. The clerk of the court is entitled to a filing fee ((~~of~~  
6 ~~five dollars~~)) under RCW 36.18.012(10).

7 **Sec. 14.** RCW 82.38.235 and 1998 c 176 s 78 are each amended to  
8 read as follows:

9 Whenever any assessment shall have become final in accordance with  
10 the provisions of this chapter, the department may file with the clerk  
11 of any county within the state a warrant in the amount of the  
12 assessment of taxes, penalties plus interest and a filing fee ((~~of five~~  
13 ~~dollars~~)) under RCW 36.18.012(10). The clerk of the county wherein the  
14 warrant is filed shall immediately designate a superior court cause  
15 number for such warrant, and the clerk shall cause to be entered in the  
16 judgment docket under the superior court cause number assigned to the  
17 warrant, the name of the licensee mentioned in the warrant, the amount  
18 of the tax, penalties, interest and filing fee and the date when such  
19 warrant was filed. The aggregate amount of such warrant as docketed  
20 shall become a lien upon the title to, and interest in all real and  
21 personal property of named person against whom the warrant is issued,  
22 the same as a judgment in a civil case duly docketed in the office of  
23 such clerk. Such warrant so docketed shall be sufficient to support  
24 the issuance of writs of execution and writs of garnishment in favor of  
25 the state in the manner provided by law in the case of civil judgment,  
26 wholly or partially unsatisfied. The clerk of the court shall be  
27 entitled to a filing fee ((~~of five dollars~~)) under RCW 36.18.012(10),  
28 which shall be added to the amount of the warrant.

--- END ---