
SENATE BILL 6363

State of Washington

52nd Legislature

1992 Regular Session

By Senators Anderson, Murray and McMullen; by request of Department of Labor & Industries

Read first time 01/27/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to industrial insurance assessments; and amending
2 RCW 51.16.200, 51.48.120, and 51.48.150.

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

4 **Sec. 1.** RCW 51.16.200 and 1986 c 9 s 6 are each amended to read as
5 follows:

6 Whenever any employer quits business, or sells out, exchanges, or
7 otherwise disposes of the employer's business or stock of goods, any
8 tax payable hereunder shall become immediately due and payable, and the
9 employer shall, within ten days thereafter, make a return and pay the
10 tax due; and any person who becomes a successor to such business shall
11 become liable for the full amount of the tax and withhold from the
12 purchase price a sum sufficient to pay any tax due from the employer
13 until such time as the employer shall produce a receipt from the
14 department showing payment in full of any tax due or a certificate that

1 no tax is due and, if such tax is not paid by the employer within ten
2 days from the date of such sale, exchange, or disposal, the successor
3 shall become liable for the payment of the full amount of tax, and the
4 payment thereof by such successor shall, to the extent thereof, be
5 deemed a payment upon the purchase price, and if such payment is
6 greater in amount than the purchase price the amount of the difference
7 shall become a debt due such successor from the employer.

8 No successor may be liable for any tax due from the person from
9 whom that person has acquired a business or stock of goods if that
10 person gives written notice to the department of such acquisition and
11 no assessment is issued by the department within ((~~sixty~~)) one hundred
12 eighty days of receipt of such notice against the former operator of
13 the business and a copy thereof mailed to such successor.

14 **Sec. 2.** RCW 51.48.120 and 1986 c 9 s 10 are each amended to read
15 as follows:

16 If any employer should default in any payment due to the state fund
17 the director or the director's designee may issue a notice of
18 assessment certifying the amount due, which notice shall be served upon
19 the employer by mailing such notice to the employer by certified mail
20 to the employer's last known address((~~, accompanied by an affidavit of~~
21 ~~service by mailing,~~)) or served in the manner prescribed for the
22 service of a summons in a civil action. Such notice shall contain the
23 information that an appeal must be filed with the board of industrial
24 insurance appeals and the director by mail or personally within thirty
25 days of the date of service of the notice of assessment in order to
26 appeal the assessment unless a written request for reconsideration is
27 filed with the department of labor and industries.

1 **Sec. 3.** RCW 51.48.150 and 1987 c 442 s 1119 are each amended to
2 read as follows:

3 The director or the director's designee is hereby authorized to
4 issue to any person, firm, corporation, municipal corporation,
5 political subdivision of the state, a public corporation, or any agency
6 of the state, a notice and order to withhold and deliver property of
7 any kind whatsoever when he or she has reason to believe that there is
8 in the possession of such person, firm, corporation, municipal
9 corporation, political subdivision of the state, public corporation, or
10 any agency of the state, property which is or shall become due, owing,
11 or belonging to any employer upon whom a notice of assessment has been
12 served by the department for payments due to the state fund. The
13 effect of a notice and order to withhold and deliver shall be
14 continuous from the date such notice and order to withhold and deliver
15 is first made until the liability out of which such notice and order to
16 withhold and deliver arose is satisfied or becomes unenforceable
17 because of lapse of time. The department shall release the notice and
18 order to withhold and deliver when the liability out of which the
19 notice and order to withhold and deliver arose is satisfied or becomes
20 unenforceable by reason of lapse of time and shall notify the person
21 against whom the notice and order to withhold and deliver was made that
22 such notice and order to withhold and deliver has been released.

23 The notice and order to withhold and deliver shall be served by the
24 sheriff of the county or by the sheriff's deputy, by certified mail,
25 return receipt requested, or by any duly authorized representatives of
26 the director. Any person, firm, corporation, municipal corporation,
27 political subdivision of the state, public corporation or any agency of
28 the state upon whom service has been made is hereby required to answer
29 the notice within twenty days exclusive of the day of service, under
30 oath and in writing, and shall make true answers to the matters

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