

the purpose of carrying out the functions previously administered by the Higher Education Facilities Commission. Since this sum is included in the budget as an appropriation through the Council on Higher Education to the commission, I have vetoed Section 10 of this bill."

CHAPTER 264

[Engrossed Substitute Senate Bill No. 168]

GARNISHMENT

AN ACT Relating to garnishment; creating new sections; adding a new section to chapter 50.20 RCW, repealing section 1, chapter 56, Laws of 1893 and RCW 7.32.010; repealing section 2, chapter 56, Laws of 1893 and RCW 7.32.020; repealing section 3, chapter 56, Laws of 1893, section 1, chapter 110, Laws of 1931, section 1, chapter 26, Laws of 1955, section 4, chapter 304, Laws of 1961, section 1, chapter 142, Laws of 1967, and RCW 7.32.030; repealing section 4, chapter 56, Laws of 1893, section 2, chapter 142, Laws of 1967, and RCW 7.32.040; repealing section 1, chapter 130, Laws of 1915, section 1, chapter 15, Laws of 1933, and RCW 7.32.060; repealing section 2, chapter 130, Laws of 1915, section 2, chapter 15, Laws of 1933, and RCW 7.32.070; repealing section 3, chapter 15, Laws of 1933, section 4, chapter 142, Laws of 1967, and RCW 7.32.080; repealing section 4, chapter 15, Laws of 1933, section 5, chapter 142, Laws of 1967, and RCW 7.32.090; repealing section 6, chapter 56, Laws of 1893, section 6, chapter 142, Laws of 1967, and RCW 7.32.100; repealing section 7, chapter 56, Laws of 1893, section 1, chapter 68, Laws of 1903, section 7, chapter 142, Laws of 1967, and RCW 7.32.110; repealing section 8, chapter 56, Laws of 1893, section 2, chapter 68, Laws of 1903, section 1, chapter 44, Laws of 1933 ex. sess., section 1, chapter 267, Laws of 1959, section 8, chapter 142, Laws of 1967, and RCW 7.32.120; repealing section 9, chapter 56, Laws of 1893; section 2, chapter 44, Laws of 1933 ex. sess., section 9, chapter 142, Laws of 1967, and RCW 7.32.130; repealing section 9½, chapter 56, Laws of 1893, section 1, chapter 146, Laws of 1903, and RCW 7.32.140; repealing section 10, chapter 56, Laws of 1893,

section 10, chapter 142, Laws of 1967, and RCW 7.32.150; repealing section 11, chapter 142, Laws of 1967, and RCW 7.32.155; repealing section 11, chapter 56, Laws of 1893, section 12, chapter 142, Laws of 1967, and RCW 7.32.160; repealing section 12, chapter 56, Laws of 1893 and RCW 7.32.170; repealing section 13, chapter 56, Laws of 1893, section 13, chapter 142, Laws of 1967, and RCW 7.32.180; repealing section 14, chapter 56, Laws of 1893 and RCW 7.32.190; repealing section 15, chapter 56, Laws of 1893, section 14, chapter 142, Laws of 1967, and RCW 7.32.200; repealing section 16, chapter 56, Laws of 1893 and RCW 7.32.210; repealing section 17, chapter 56, Laws of 1893, section 15, chapter 142, Laws of 1967, and RCW 7.32.220; repealing section 18, chapter 56, Laws of 1893 and RCW 7.32.230; repealing section 19, chapter 56, Laws of 1893, section 16, chapter 142, Laws of 1967, and RCW 7.32.240; repealing section 18, chapter 142, Laws of 1967 and RCW 7.32.245; repealing section 20, chapter 56, Laws of 1893 and RCW 7.32.250; repealing section 21, chapter 56, Laws of 1893 and RCW 7.32.260; repealing section 22, chapter 56, Laws of 1893 and RCW 7.32.270; repealing section 23, chapter 56, Laws of 1893, section 1, chapter 24, Laws of 1897, section 1, chapter 139, Laws of 1901, section 1, chapter 210, Laws of 1907, section 1, chapter 287, Laws of 1927, section 1, chapter 13, Laws of 1963, and RCW 7.32.280; repealing section 24, chapter 56, Laws of 1893 and RCW 7.32.290; repealing section 25, chapter 56, Laws of 1893, section 17, chapter 142, Laws of 1967, and RCW 7.32.300; repealing section 26, chapter 56, Laws of 1893, section 3, chapter 142, Laws of 1967, and RCW 7.32.310; repealing section 20, chapter 142, Laws of 1967 and RCW 7.32.900; repealing section 1, chapter 160, Laws of 1909, section 1, chapter 126, Laws of 1911, section 1, chapter 143, Laws of 1967, and RCW 12.32.010; repealing section 2, chapter 95, Laws of 1965, section 2, chapter 96, Laws of 1965, and RCW 12.32.015; repealing section 2, chapter 160, Laws of 1909, section 2, chapter 126, Laws of 1911, section 1, chapter 109, Laws of 1913, section 2, chapter 143, Laws of 1967, and RCW

12.32.020; repealing section 3, chapter 160, Laws of 1909, section 3, chapter 126, Laws of 1911, section 3, chapter 143, Laws of 1967, and RCW 12.32.030; repealing section 4, chapter 160, Laws of 1909, section 4, chapter 126, Laws of 1911, section 4, chapter 143, Laws of 1967, and RCW 12.32.040; repealing section 5, chapter 160, Laws of 1909, section 5, chapter 143, Laws of 1967, and RCW 12.32.050; repealing section 6, chapter 160, Laws of 1909, section 1, chapter 70, Laws of 1939, section 1, chapter 218, Laws of 1961, section 6, chapter 143, Laws of 1967, and RCW 12.32.060; repealing section 7, chapter 160, Laws of 1909, section 7, chapter 143, Laws of 1967, and RCW 12.32.070; repealing section 8, chapter 160, Laws of 1909, section 8, chapter 143, Laws of 1967, and RCW 12.32.080; repealing section 9, chapter 160, Laws of 1909, and RCW 12.32.090; repealing section 10, chapter 160, Laws of 1909, section 9, chapter 143, Laws of 1967, and RCW 12.32.100; repealing section 14, chapter 143, Laws of 1967, and RCW 12.32.105; repealing section 11, chapter 160, Laws of 1909, section 10, chapter 143, Laws of 1967, and RCW 12.32.110; repealing section 12, chapter 160, Laws of 1909, section 5, chapter 126, Laws of 1911, and RCW 12.32.120; repealing section 13, chapter 160, Laws of 1909, and RCW 12.32.130; repealing section 14, chapter 160, Laws of 1909, and RCW 12.32.140; repealing section 15, chapter 160, Laws of 1909, and RCW 12.32.150; repealing section 16, chapter 160, Laws of 1909, and RCW 12.32.160; repealing section 17, chapter 160, Laws of 1909, section 11, chapter 143, Laws of 1967, and RCW 12.32.170; repealing section 18, chapter 160, Laws of 1909, and RCW 12.32.180; repealing section 19, chapter 160, Laws of 1909, and RCW 12.32.190; repealing section 13, chapter 143, Laws of 1967, and RCW 12.32.195; repealing section 20, chapter 160, Laws of 1909, and RCW 12.32.200; repealing section 21, chapter 160, Laws of 1909, and RCW 12.32.210; repealing section 22, chapter 160, Laws of 1909, section 12, chapter 143, Laws of 1967, and RCW 12.32.220; repealing section 23, chapter 160, Laws of 1909, and RCW 12.32.230; and repealing section 24, chapter 160, Laws of 1909, and RCW 12.32.240.

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

NEW SECTION. Section 1. (1) Except as is provided in subsection (2) of this section, the clerks of the superior courts in the various counties in the state may issue writs of garnishment returnable to their respective courts in the following cases:

(a) Where an original attachment has been issued in accordance with the statutes in relation to attachments.

(b) Where the plaintiff sues for a debt and the plaintiff or someone in his behalf makes affidavit that such debt is just, due and unpaid, and that the garnishment applied for is not sued out to injure either the defendant or the garnishee.

(c) Where the plaintiff has a judgment wholly or partially unsatisfied in the court from which he seeks to have a writ of garnishment issued.

(2) A writ of garnishment which is not sought in order to satisfy an existing judgment shall not be issued by the clerk of the superior court against any employer for the purpose of garnishing any earnings he owes his employee, unless the plaintiff sues for a debt and the plaintiff believes that the employee:

(a) is not a resident of this state, or is about to move from this state; or

(b) has concealed himself, absconded, or absented himself so that ordinary process of law cannot be served on him; or

(c) has removed or is about to remove any of his property from this state, with intent to delay or defraud his creditors; and the plaintiff or someone on his behalf files an affidavit stating the specific facts upon which his belief is founded and the court pursuant to an ex parte hearing finds that there is sufficient reason to find the belief true.

(3) As used in this article, the term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

NEW SECTION. Sec. 2. All of the provisions of this act, except the provisions of section 3, shall apply to actions and proceedings before courts of limited jurisdiction. Where proceedings are in courts of limited jurisdiction, references to the superior court and/or the clerk thereof shall be translated to apply to the appropriate court of limited jurisdiction and/or clerk thereof.

NEW SECTION. Sec. 3. In all cases of garnishment before judgment the plaintiff shall execute a bond with two or more good and sufficient sureties, to be approved by the clerk issuing the writ, payable to the defendant in the suit, in double the amount of the debt claimed therein, conditioned that he will prosecute his suit and pay all damages and costs that may be adjudged against him for wrongfully suing out such garnishment: PROVIDED, That nothing in this section shall prohibit a credit agency, or other party contemplating multiple garnishments before judgment, from posting one large bond covering more than one garnishment proceeding.

NEW SECTION. Sec. 4. Before the issuance of the writ of garnishment the plaintiff or someone in his behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, including the amount alleged to be due, and that the plaintiff has reason to believe, and does believe, that the garnishee, stating his name and residence, is indebted to the defendant, or that he has in his possession, or under his control, personal property or effects belonging to the defendant, and shall pay to the clerk of the court a fee as provided by law. The party applying for this writ shall state in such affidavit whether or not the party who is to be the garnishee is the employer of the defendant.

NEW SECTION. Sec. 5. When the foregoing requisites have been complied with the clerk shall docket the case in the name of the plaintiff as plaintiff and of the garnishee as defendant, and shall immediately issue a writ of garnishment, in such form as provided in section 13 of this act, directed to the garnishee, commanding him to answer said writ on forms served with and complying with section 15 of

this act within twenty days after the service of the writ upon him.

NEW SECTION. Sec. 6. The state of Washington, all counties, cities, towns, school districts and other municipal corporations shall be subject to garnishment in the superior and justice courts as provided in the case of other garnishees.

NEW SECTION. Sec. 7. The venue of any garnishment proceeding under sections 6 through 8 of this act shall be the same as the original action. The writ shall be issued by the court having jurisdiction of such original action and shall require such garnishee defendant to answer such writ in like manner and with the same effect as other writs of garnishment issued by such court after judgment.

NEW SECTION. Sec. 8. The writ of garnishment provided for in sections 6 through 8 of this act shall be served in the same manner and upon the same officer as is required and provided by law for service of summons upon the commencement of a civil action against the state, county, city, town, school district, or other municipal corporation, as the case may be; and forms and envelopes shall be served with the writ as provided in section 11 of this act.

NEW SECTION. Sec. 9. The writ of garnishment shall set forth the amount which garnishee is required to hold which shall be an amount determined as follows: (1) The amount of (a) the judgment remaining unsatisfied or (b) if before judgment, the amount prayed for in the complaint; (2) Plus interest to the date of garnishment at the rate specified in the contractual document or the statutory rate, if there be no contractual document; (3) Plus whichever shall be greater of (a) fifty dollars or (b) ten percent of (i) the amount of the judgment remaining unsatisfied or (ii) the amount prayed for in the complaint. The court may, by order, upon a showing of good cause by plaintiff, set a higher amount.

NEW SECTION. Sec. 10. In cases where the writ of garnishment issued under the provisions of this chapter is directed to a bank, banking association, mutual savings bank or savings and loan association in the state of Washington, the plaintiff, in addition to serving the writ of garnishment

and accompanying answer forms and addressed envelopes upon said garnishee, shall at the same time and as a part of said service deliver to said garnishee a statement in writing signed by the plaintiff or his attorney, stating the place of residence of the defendant and his business, occupation, trade, profession or account number; and unless such statement is so delivered with said writ of garnishment, the service of said writ shall not be deemed complete and the garnishee shall not be held liable for funds which it fails to discover thereon owing to defendant.

NEW SECTION. Sec. 11. Said writ shall be substantially in the following form:

"IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF _____

.....,
Plaintiff

vs.

.....,
Defendant

NO.

.....,
Garnishee

WRIT OF GARNISHMENT

THE STATE OF WASHINGTON TO:
Garnishee

AND TO:
Defendant

The above-named plaintiff claims that the above-named defendant is indebted to plaintiff and that the amount ofdollars should be held to satisfy that indebtedness and has applied for a writ of garnishment against you.

You are hereby commanded to answer this writ by filling in the attached form according to the instructions thereon, and you must mail or deliver the original of such answer to the court, one copy to the plaintiff or his attorney, and one copy to the defendant within twenty days after the service of the writ upon you.

If you owe the defendant any wages, salary or other compensation for personal services, then you shall do as follows:

- (1) For each week of such wages, salary or other compensation

for personal services you owe the defendant, deduct twenty-five per cent of the disposable earnings of defendant, or the amount by which his disposable earnings exceed ... dollars for each week, whichever shall be less.

(2) The total amount deducted above is subject to garnishment, and all other sums shall be paid to the defendant on the day you would customarily pay him such wages, salary or other compensation.

Unless directed by the court, do not pay any debt, whether wages subject to this garnishment or any other debt, owed the defendant when this writ was served, or deliver, sell or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control when this writ was served; any such payment, delivery, sale or transfer is void as to so much of the debt, property or shares as are necessary to satisfy plaintiff's claim and costs for this writ with interest.

In the event that you owe to defendant a debt payable in money and subject to this garnishment in excess of the amount set forth in the first paragraph of this garnishment, hold only the amount set forth in said first paragraph of this garnishment and release all additional funds or property to defendant.

WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR DEFENDANT'S CLAIMED DEBT TO PLAINTIFF.

Witness, the Honorable....., Judge of the Superior Court, and the seal thereof, this.....day of, 19..... .

[Seal]

.....
Attorney for Plaintiff (or
Plaintiff, if no attorney)

.....
Clerk of Superior Court

.....
Address

.....
By

NEW SECTION. Sec. 12. The writ of garnishment shall be dated and attested as in the form prescribed in section 11 of this act and

the name and office address of the plaintiff's attorney shall be indorsed thereon or in case the plaintiff has no attorney, then the name and address of the plaintiff shall be indorsed thereon and delivered by the clerk who issues it to the plaintiff or his attorney.

NEW SECTION. Sec. 13. Service of the writ of garnishment is invalid unless there is served therewith (1) Four answer forms as provided in section 15 of this act together with stamped envelopes addressed respectively to the clerk of the court issuing the writ, the attorney for the plaintiff (or to the plaintiff if he has no attorney), and the defendant; and (2) Cash, a certified check or a cashier's check made payable to the garnishee in the amount of ten dollars. The writ of garnishment may be served by the sheriff of the county in which the garnishee lives or it may be served by any citizen of the state of Washington over the age of twenty-one years and not a party to the action in which it is issued in the same manner as a summons in an action is served: PROVIDED, HOWEVER, That where the writ is directed to a bank, banking association, mutual savings bank or savings and loan association maintaining branch offices, as garnishee, the writ must be directed to and service thereof must be made by leaving a copy of the writ with the manager or any other officer or cashier or assistant cashier of such bank or association at the office or branch thereof at which the account evidencing such indebtedness of the defendant is carried or at the office or branch which has in its possession or under its control credits or other personal property belonging to the defendant. In every case where a writ of garnishment is served by an officer, such officer shall make his return thereon showing the time, place and manner of service and that the writ was accompanied by answer forms and addressed envelopes and cash or a check as required by this section, and noting thereon his fees for making such service and shall sign his name to such return. In case such service is made by any person other than an officer, such person shall attach to the original writ his affidavit showing his qualifications to make such service, and that the writ was accompanied by

answer forms and addressed envelopes and cash deposit or a check as required by this section, and the time, place and manner of making service, and shall endorse thereon the legal fees therefor.

NEW SECTION. Sec. 14. From and after the service of such writ of garnishment, it shall not be lawful, except as directed by the court, for the garnishee to pay any debt owing to the defendant at the time of such service, or to deliver, sell or transfer, or recognize any sale or transfer of, any personal property or effects belonging to the defendant in the garnishee's possession or under his control at the time of such service; and any such payment, delivery, sale or transfer shall be void and of no effect as to so much of said debt, personal property or effects, shares, or interest as may be necessary to satisfy the plaintiff's demand: PROVIDED, HOWEVER, That in case the garnishee is a bank, banking association, mutual savings bank or savings and loan association maintaining branch offices, service must be made as provided for in section 13 of this act, and shall only be effective to attach the accounts, credits, or other personal property of the defendant in that particular branch upon which service is made and to which the writ is directed: PROVIDED, FURTHER, That this section shall have no effect as to any portion of a debt which is exempt from garnishment: AND PROVIDED, FURTHER, That garnishee shall incur no liability for releasing funds or property in excess of the amount stated in the writ of garnishment where garnishee shall continue to hold an amount equal to the amount stated in the writ of garnishment.

NEW SECTION. Sec. 15. The answer of the garnishee shall be signed by him or his attorney or if the garnishee is a corporation by an officer, attorney or duly authorized agent of the garnishee, under penalty of perjury, and the original delivered, either personally or by mail, to the clerk of the superior court, one copy to the plaintiff or his attorney, and one copy to the defendant. The answer shall be made on forms, served on the garnishee with the writ, substantially as follows:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF

..... NO.

Plaintiff

vs.

ANSWER TO WRIT OF

..... GARNISHMENT

Defendant

.....

Garnishee

At the time of service of the writ of garnishment on the garnishee there was due and owing from the garnishee to the above-named defendant \$..... . Garnishee has deducted from this amount \$..... which is the exemption to which the defendant is entitled.

On the reverse side of this answer form, or on a schedule attached hereto, give the following information: (1) An explanation of the dollar amount stated, or reasons why there is uncertainty about your answer, if deemed necessary; (2) List all of the personal property or effects of defendant in the garnishee's possession or control when the writ was served. An attorney may answer for the garnishee.

Under penalty of perjury, I affirm that I have examined this answer, including accompanying schedules, and to the best of my knowledge and belief it is true, correct, and complete.

.....
Signature of Garnishee Date

.....
Signature of person answering Connection with garnishee
for garnishee

NEW SECTION. Sec. 16. No employer shall discharge an employee for the reason that a creditor of the employee has subjected or attempted to subject unpaid earnings of the employee to a writ of wage garnishment directed to the employer: PROVIDED, HOWEVER, That this provision shall not apply if garnishments on three or more

separate indebtednesses are served upon the employer within any period of twelve consecutive months.

NEW SECTION. Sec. 17. If the defendant in the principal action causes a bond to be executed to the plaintiff with sufficient sureties, to be approved by the officer having the writ of garnishment, or after the return of said writ, by the clerk of the court out of which said writ was issued, to the effect that he will perform the judgment of the court, the writ of garnishment shall, upon the filing of said bond with the clerk, be immediately discharged, and all proceedings had thereunder shall be vacated: PROVIDED, That the garnishee shall not be thereby deprived from recovering any costs in said proceeding, to which he would otherwise be entitled under sections 1 through 5 and 9 through 34 of this act.

NEW SECTION. Sec. 18. Should it appear from the answer of the garnishee that he was not indebted to the defendant when the writ of garnishment was served on him, and that he had not in his possession or under his control any personal property or effects of the defendant, and should the answer of the garnishee not be controverted within twenty days, as hereinafter provided, the garnishee shall stand discharged without further action by court or garnishee and shall have no further liability.

NEW SECTION. Sec. 19. Should the garnishee fail to make answer to the writ within the time prescribed therein, it shall be lawful for the court, on or after the time to answer such writ has expired, to render judgment by default against such garnishee for the full amount claimed by plaintiff against the defendant, or in case plaintiff has a judgment against defendant, for the full amount of such judgment with all accruing interest and costs: PROVIDED, That upon motion by the garnishee at any time prior to execution, such judgment against garnishee shall be reduced to the amount of any non-exempt funds or property which was actually in the possession of garnishee at the time the writ was served, or the sum of one hundred dollars, whichever is more, but in no event to exceed the amount of

the judgment against defendant plus all accruing costs, and in addition plaintiff shall be entitled to a reasonable attorney's fee for plaintiff's response to garnishee's motion to reduce said judgment under this proviso.

NEW SECTION. Sec. 20. Should it appear from the answer of the garnishee or should it be otherwise made to appear, as hereinafter provided, that the garnishee was indebted to the defendant in any amount when the writ of garnishment was served, the court shall render judgment for the plaintiff against such garnishee for the amount so admitted or found to be due to the defendant from the garnishee, unless such amount shall exceed the amount of plaintiff's claim or demand against the defendant with interest and costs, in which case it shall be for the amount of such claim or demand, with interest and costs: PROVIDED, HOWEVER, If it shall appear from the answer of the garnishee and the same is not controverted, or if it shall appear from the trial hereinafter provided for, that the garnishee is indebted to the principal defendant in any sum, but that such indebtedness is not matured and is not due and payable, the court shall make an order requiring the garnishee to pay such sum into court when the same becomes due, the date when such payment is to be made to be specified in said order, and in default thereof that judgment shall be entered against the garnishee for the amount of such indebtedness so admitted or found due. In case the garnishee shall pay said sum at the time specified in said order, said payment shall operate as a discharge, otherwise judgment shall be entered against him for the amount of such indebtedness, which judgment shall have the same force and effect, and be enforced in like manner as other judgments provided for in sections 1 through 5, and 9 through 34 of this act: PROVIDED FURTHER, That if judgment shall be rendered in favor of the principal defendant, or if any judgment rendered against him be satisfied prior to the date of payment specified in said order, the garnishee shall not be required to make the payment hereinafter provided for, nor shall any judgment in such case be entered

against him.

NEW SECTION. Sec. 21. Execution may be issued on the judgment against the garnishee herein provided for in like manner as upon any other judgment. The amount made upon any such execution shall be paid by the officer executing the same to the clerk of the superior court from which such execution was issued; and in cases where judgment has been rendered against the defendant the amount made on the execution shall be applied to the satisfaction of the judgment, interest and costs against the defendant. In case judgment has not been rendered against the defendant at the time execution issued against the garnishee is returned, any amount made on said execution shall be paid to the clerk of the court from which such execution issued who shall retain the same until judgment be rendered in the action between the plaintiff and defendant. In case judgment be rendered therein in favor of the plaintiff, the amount made on the execution against the garnishee shall be applied to the satisfaction of such judgment and the surplus, if any there be, shall be paid to the defendant. In case judgment be rendered in such action in favor of the defendant, the amount made on said execution against the garnishee shall be paid to the defendant.

NEW SECTION. Sec. 22. Should it appear from the garnishee's answer or otherwise that the garnishee had in his possession or under his control when the writ was served any personal property or effects of the defendant liable to execution, the court shall render a decree requiring the garnishee to deliver up to the sheriff on demand such personal property or effects or so much of them as may be necessary to satisfy the plaintiff's claim. In cases where a judgment has been rendered in favor of the plaintiff against the defendant, such personal property or effects may be sold in like manner as any other property is sold upon an execution issued on said judgment. In cases where judgment has not been rendered in the principal action, the sheriff shall retain said personal property or effects in his posses-

sion until the rendition of judgment therein, and in case judgment is rendered in said principal action in favor of the plaintiff, said goods or effects, or sufficient of them to satisfy such judgment, may be sold in like manner as other property is sold on execution, by virtue of an execution issuing on said judgment. In case judgment shall be rendered in said action against the plaintiff and in favor of the defendant, such effects and personal property shall be by the sheriff returned to the defendant: PROVIDED, HOWEVER, That in cases where such effects or personal property are of a perishable nature, or the interests of the parties will be subserved by making a sale thereof before judgment, the court may order a sale thereof by the sheriff in like manner as sales upon execution are made, and the proceeds of such sale shall be paid to the clerk of the superior court, and like disposition shall be made of such proceeds at the termination of the action as would have been made of such personal property or effects under the provisions of this section in case such sale had not been made.

NEW SECTION. Sec. 23. Should the garnishee adjudged to have effects or personal property of the defendant in his possession or under his control as provided in section 22 of this act, fail or refuse to deliver them to the sheriff on such demand, the officer shall immediately make return of such failure or refusal, whereupon, on motion of the plaintiff, the garnishee shall be cited to show cause why he should not be attached for contempt of court for such failure or refusal, and should the garnishee fail to show some good and sufficient excuse for such failure and refusal, he shall be fined for such contempt and imprisoned until he shall deliver such personal property or effects.

NEW SECTION. Sec. 24. If the plaintiff should not be satisfied with the answer of the garnishee he may controvert within twenty days by affidavit in writing signed by him, stating that he has good reason to believe and does believe that the answer of the garnishee is incorrect, stating in what particulars he believes the same is in-

correct.

NEW SECTION. Sec. 25. The defendant may also in like manner controvert the answer of the garnishee.

NEW SECTION. Sec. 26. If the answer of the garnishee is controverted, as provided in sections 24 and 25 of this act, an issue shall be formed, under the direction of the court, and tried as other cases: PROVIDED, HOWEVER, No pleadings shall be necessary on such issue other than the affidavit of the plaintiff, the answer of the garnishee and the reply of the plaintiff or defendant controverting such answer, unless otherwise ordered by the court.

NEW SECTION. Sec. 27. In all cases where it shall appear from the answer of the garnishee that he was indebted to the defendant when the writ of garnishment was served and there has been no discharge or judgment and one year shall have passed since the answer of the garnishee, the court, after ten days notice in writing to the plaintiff, shall enter an order dismissing the writ of garnishment and discharging the garnishee: PROVIDED, That this provision shall have no effect when the cause of action between plaintiff and defendant shall be pending on the trial calendar, or upon the filing of an affidavit by any party that the action is still pending.

NEW SECTION. Sec. 28. The greater of: (1) Forty times the state hourly minimum wage or (2) seventy-five percent of the disposable earnings of the defendant shall be exempt from garnishment, whether such earnings are paid, or to be paid, weekly, monthly, or at other regular intervals, and whether there be due the defendant earnings for one week or for a longer period. The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld: PROVIDED, That amount deducted from an employee's compensation as contributions toward a participating pension or retirement program established pursuant to a collective bargaining agreement shall not be considered a part of disposable earnings. Unless directed otherwise by the court, the garnishee shall determine

and deduct the amount exempt under this section and shall pay this amount to the defendant.

No money due or earned as earnings as defined in section 1 (3) of this act shall be exempt from garnishment under the provisions of RCW 6.16.020, as now or hereafter amended.

NEW SECTION. Sec. 29. Where the answer is controverted the costs of the proceeding, including a reasonable compensation for attorney's fees, shall abide the issue of such contest: PROVIDED, That no costs or attorney's fees in such contest shall be taxable to defendant in the event of a controversion on the part of plaintiff.

NEW SECTION. Sec. 30. It shall be a sufficient answer to any claim of the defendant against the garnishee founded on any indebtedness of such garnishee or on the possession by him of any personal property or effects, for the garnishee to show that such indebtedness was paid or such effects delivered, or such shares of stock or other interest in such corporation were sold under the judgment of the court in accordance with the provisions of sections 1 through 5, and 9 through 34 of this act.

NEW SECTION. Sec. 31. In any case where garnishee has answered that it is holding funds or property belonging to defendant and plaintiff shall obtain satisfaction of his judgment from a source other than the garnishment, upon written demand of the defendant or the garnishee, it shall be the duty of plaintiff to obtain an order dismissing the garnishment and to serve it upon the garnishee within twenty days after demand or satisfaction of judgment, whichever shall be later. In the event of the failure of plaintiff to obtain and serve such an order, if garnishee continues to hold such funds or property, defendant shall be entitled to move for dismissal of the garnishment and shall further be entitled to a judgment against plaintiff of one hundred dollars plus defendant's costs and damages. Dismissal may be on ex parte motion of the plaintiff.

NEW SECTION. Sec. 32. In any case where a writ of garnishment has issued, the party at whose instance the writ was issued shall, on

or before the date of service of the writ on the garnishee, mail or may cause to be mailed, by certified mail, a copy of the writ and a copy of the judgment, if any, or the complaint, if brought before judgment, to the defendant or judgment debtor in said cause at his last known post office address; or, in the alternative, a copy of the writ shall be served upon the defendant or judgment debtor in the same manner as is required for personal service of summons upon a party to an action on or before the date of the service of said writ on the garnishee defendant or within two days thereafter. This requirement shall not be jurisdictional, but, if the copy is not mailed or served as herein provided, or any irregularity shall appear with respect to the mailing or service, the court, in its discretion on motion of the defendant or judgment debtor promptly made and supported by affidavit showing that he has suffered substantial injury in the failure to mail such copy, may set aside the said garnishment and award to said defendant or judgment debtor an amount equal to the damages suffered by plaintiff's failure.

NEW SECTION. Sec. 33. Where the garnishee in his answer states that he was indebted or had personal property or effects in his possession or under his control at the time of the service of the writ of garnishment upon him to a person of the same or similar name to the defendant, and stating the place of business or residence of said person, and that he does not know whether or not such person is the same person as the defendant, and prays the court to determine whether or not the person to whom he was indebted or whose personal property or effects he had in his possession is the same person as the defendant, the court, before rendering judgment against the garnishee defendant as hereinbefore provided, shall take proof as to the identity of said persons, and if he should find therefrom that they are not one and the same individual, the garnishee shall be discharged and shall have and recover his costs against the plaintiff; and if he should find that said persons are one and the same individuals, he shall make a similar judgment as to the payment of the money or the

delivery of personal property and effects and as to costs of the garnishee as is hereinbefore provided, where the garnishee is held upon his answer. Before any such hearing on the question of identity is had, the plaintiff shall cause the court to issue a citation directed to the person to whom the garnishee answers he was indebted or whose personal property or effects the garnishee has answered he had in his possession or under his control, commanding him to appear before the court from which it is issued within ten days after the service of the same upon him, and to answer on oath whether or not he is the same person as the defendant in said action. Said citation shall be dated and attested in like manner as a writ of garnishment and be delivered to the plaintiff or his attorney and shall be served in the same manner as a summons in an action is served. If upon the hearing in this section provided for, the court shall find that the defendant or judgment debtor is the same person as the person to whom the garnishee defendant was indebted, or whose personal property or effects said garnishee defendant had in his possession or under his control, it shall be sufficient answer to any claim of said person against the garnishee founded on any indebtedness of such garnishee or on the possession by him of any personal property or effects for the garnishee to show that such indebtedness was paid or such personal property or effects delivered under the judgment of the court in accordance with the provisions in this chapter.

NEW SECTION. Sec. 34. In all actions in which a writ of garnishment of wages has been issued by a court and served upon a garnishee, in the event judgment is not entered for the plaintiff on the claim sued upon by plaintiff, and the claim has not voluntarily been settled or otherwise satisfied, the defendant shall have an action for damages against the plaintiff. The defendant's action for damages may be brought by way of a counterclaim in the original action or in a separate action and in the action the trier of fact, in addition to other actual damages sustained by the defendant, may award him reasonable attorney's fees.

NEW SECTION. Sec. 35. There is added to chapter 50.20 RCW a new section to read as follows:

Subject to the provisions of section 16 of this act, an individual who is separated from his employment due to garnishment of his wages shall not be disqualified from receiving unemployment benefits because of such separation.

NEW SECTION. Sec. 36. The following acts or parts of acts are repealed:

- (1) Section 1, chapter 56, Laws of 1893 and RCW 7.32.010;
- (2) Section 2, chapter 56, Laws of 1893 and RCW 7.32.020;
- (3) Section 3, chapter 56, Laws of 1893, section 1, chapter 110, Laws of 1931, section 1, chapter 26, Laws of 1955, section 4, chapter 304, Laws of 1961, section 1, chapter 142, Laws of 1967, and RCW 7.32.030;
- (4) Section 4, chapter 56, Laws of 1893, section 2, chapter 142, Laws of 1967, and RCW 7.32.040;
- (5) Section 1, chapter 130, Laws of 1915, section 1, chapter 15, Laws of 1933, and RCW 7.32.060;
- (6) Section 2, chapter 130, Laws of 1915, section 2, chapter 15, Laws of 1933, and RCW 7.32.070;
- (7) Section 3, chapter 15, Laws of 1933, section 4, chapter 142, Laws of 1967, and RCW 7.32.080;
- (8) Section 4, chapter 15, Laws of 1933, section 5, chapter 142, Laws of 1967, and RCW 7.32.090;
- (9) Section 6, chapter 56, Laws of 1893, section 6, chapter 142, Laws of 1967, and RCW 7.32.100;
- (10) Section 7, chapter 56, Laws of 1893, section 1, chapter 68, Laws of 1903, section 7, chapter 142, Laws of 1967, and RCW 7.32-.110;
- (11) Section 8, chapter 56, Laws of 1893, section 2, chapter 68, Laws of 1903, section 1, chapter 44, Laws of 1933 ex. sess., section 1, chapter 267, Laws of 1959, section 8, chapter 142, Laws of 1967 and RCW 7.32.120;

(12) Section 9, chapter 56, Laws of 1893, section 2, chapter 44, Laws of 1933 ex. sess., section 9, chapter 142, Laws of 1967, and RCW 7.32.130;

(13) Section 9½, chapter 56, Laws of 1893, section 1, chapter 146, Laws of 1903, and RCW 7.32.140;

(14) Section 10, chapter 56, Laws of 1893, section 10, chapter 142, Laws of 1967, and RCW 7.32.150;

(15) Section 11, chapter 142, Laws of 1967 and RCW 7.32.155;

(16) Section 11, chapter 56, Laws of 1893, section 12, chapter 142, Laws of 1967, and RCW 7.32.160;

(17) Section 12, chapter 56, Laws of 1893 and RCW 7.32.170;

(18) Section 13, chapter 56, Laws of 1893, section 13, chapter 142, Laws of 1967, and RCW 7.32.180;

(19) Section 14, chapter 56, Laws of 1893 and RCW 7.32.190;

(20) Section 15, chapter 56, Laws of 1893, section 14, chapter 142, Laws of 1967, and RCW 7.32.200;

(21) Section 16, chapter 56, Laws of 1893 and RCW 7.32.210;

(22) Section 17, chapter 56, Laws of 1893, section 15, chapter 142, Laws of 1967, and RCW 7.32.220;

(23) Section 18, chapter 56, Laws of 1893 and RCW 7.32.230;

(24) Section 19, chapter 56, Laws of 1893, section 16, chapter 142, Laws of 1967, and RCW 7.32.240;

(25) Section 18, chapter 142, Laws of 1967 and RCW 7.32.245;

(26) Section 20, chapter 56, Laws of 1893 and RCW 7.32.250;

(27) Section 21, chapter 56, Laws of 1893 and RCW 7.32.260;

(28) Section 22, chapter 56, Laws of 1893 and RCW 7.32.270;

(29) Section 23, chapter 56, Laws of 1893, section 1, chapter 24, Laws of 1897, section 1, chapter 139, Laws of 1901, section 1, chapter 210, Laws of 1907, section 1, chapter 287, Laws of 1927, section 1, chapter 13, Laws of 1963, and RCW 7.32.280;

(30) Section 24, chapter 56, Laws of 1893 and RCW 7.32.290;

(31) Section 25, chapter 56, Laws of 1893, section 17, chapter

142, Laws of 1967, and RCW 7.32.300;

(32) Section 26, chapter 56, Laws of 1893, section 3, chapter 142, Laws of 1967, and RCW 7.32.310;

(33) Section 20, chapter 142, Laws of 1967, and RCW 7.32.900;

(34) Section 1, chapter 160, Laws of 1909, section 1, chapter 126, Laws of 1911, section 1, chapter 143, Laws of 1967 and RCW 12.32-.010;

(35) Section 2, chapter 95, Laws of 1965, section 2, chapter 96, Laws of 1965, and RCW 12.32.015;

(36) Section 2, chapter 160, Laws of 1909, section 2, chapter 126, Laws of 1911, section 1, chapter 109, Laws of 1913, section 2, chapter 143, Laws of 1967, and RCW 12.32.020;

(37) Section 4, chapter 160, Laws of 1909, section 4, chapter 126, Laws of 1911, section 4, chapter 143, Laws of 1967 and RCW 12.32-.040;

(38) Section 3, chapter 160, Laws of 1909, section 3, chapter 126, Laws of 1911, section 3, chapter 143, Laws of 1967, and RCW 12-.32.030;

(39) Section 5, chapter 160, Laws of 1909, section 5, chapter 143, Laws of 1967, and RCW 12.32.050;

(40) Section 6, chapter 160, Laws of 1909, section 1, chapter 70, Laws of 1939, section 1, chapter 218, Laws of 1961, section 6, chapter 143, Laws of 1967, and RCW 12.32.060;

(41) Section 7, chapter 160, Laws of 1909, section 7, chapter 143, Laws of 1967, and RCW 12.32.070;

(42) Section 8, chapter 160, Laws of 1909, section 8, chapter 143, Laws of 1967, and RCW 12.32.080;

(43) Section 9, chapter 160, Laws of 1909 and RCW 12.32.090;

(44) Section 10, chapter 160, Laws of 1909, section 9, chapter 143, Laws of 1967, and RCW 12.32.100;

(45) Section 14, chapter 143, Laws of 1967 and RCW 12.32.105;

(46) Section 11, chapter 160, Laws of 1909, section 10, chapter 143, Laws of 1967, and RCW 12.32.110;

- (47) Section 12, chapter 160, Laws of 1909, section 5, chapter 126, Laws of 1911, and RCW 12.32.120;
- (48) Section 13, chapter 160, Laws of 1909 and RCW 12.32.130;
- (49) Section 14, chapter 160, Laws of 1909 and RCW 12.32.140;
- (50) Section 15, chapter 160, Laws of 1909 and RCW 12.32.150;
- (51) Section 16, chapter 160, Laws of 1909 and RCW 12.32.160;
- (52) Section 17, chapter 160, Laws of 1909, section 11, chapter 143, Laws of 1967, and RCW 12.32.170;
- (53) Section 18, chapter 160, Laws of 1909 and RCW 12.32.180;
- (54) Section 19, chapter 160, Laws of 1909 and RCW 12.32.190;
- (55) Section 13, chapter 143, Laws of 1967 and RCW 12.32.195;
- (56) Section 20, chapter 160, Laws of 1909 and RCW 12.32.200;
- (57) Section 21, chapter 160, Laws of 1909 and RCW 12.32.210;
- (58) Section 22, chapter 160, Laws of 1909, section 12, chapter 143, Laws of 1967, and RCW 12.32.220;
- (59) Section 23, chapter 160, Laws of 1909 and RCW 12.32.230;
- and
- (60) Section 24, chapter 160, Laws of 1909 and RCW 12.32.240.

Passed the Senate May 4, 1969

Passed the House April 12, 1969

Approved by the Governor May 23, 1969

Filed in office of Secretary of State May 23, 1969

CHAPTER 265
[Engrossed Senate Bill No. 244]
JOINT COMMITTEE ON HIGHER EDUCATION

AN ACT Relating to the legislature; creating a joint committee on higher education; prescribing its powers and duties; providing for citizen participation.

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

NEW SECTION. Section 1. As used in this act the following definitions shall apply:

(a) "Committee" means the joint committee on higher education of the legislature of the state of Washington.

(b) "Higher education" means all programs and/or courses, whether academic, occupational, professional, adult or special, spon-