

Pension Garnishment

Background

Pensions are exempt from garnishment, except in the following cases:

- ❖ Divorce decrees.
- ❖ Child support enforcement.
- ❖ Federal court orders.

In a recent case involving a wrongful death claim, the state Supreme Court ruled that pensions are not exempt from garnishment once the funds are paid to the retiree.

In 2012, the Legislature amended an existing bill regarding garnishment procedures to add a change to pension statutes regarding the exemption from garnishment. Specifically, the bill states that pensions are exempt from garnishment whether the funds are in possession of the retiree or have been deposited or loaned.

The Governor [wrote to the SCPP](#), asking the committee to study the issue of pension garnishment. Specifically, the Governor requested the SCPP study whether pensions should be eligible for garnishment under certain scenarios, for example, where the retiree caused serious bodily injury or death.

The chair of the SCPP requested an initial briefing on the topic.

Next Steps

- ❖ Staff will brief the SCPP at the May meeting.
- ❖ Executive Committee to decide if study of pension garnishment should be added to interim work plan.

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CHRISTINE O. GREGOIRE
Governor



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March 29, 2012

The Honorable Barbara Bailey
Chair, Select Committee on Pension Policy
Post Office Box 40600
Olympia, WA 98504-0600

Dear Representative Bailey:

I am writing to ask the Select Committee on Pension Policy to review and to make recommendations to the Legislature as to whether additional exceptions to the general exemption of pensions from garnishment would be appropriate, and if so, what level of garnishment would be appropriate.

Today I signed into law SHB 1552, an act concerning garnishment. The initial purpose of the bill was to streamline the garnishment procedures and allow garnishees to retain a larger portion of their wages. In the legislative process, the bill was expanded to also amend several pension statutes in response to the ruling in the recent State Supreme Court case *Anthis v. Copland*, 270 P.3d 574 (2012). These amendments restore state pension policy to the pre-*Anthis* state policy that pensions are generally exempt from garnishment. Restoration of long-standing pension policy does, however, limit avenues available to victims of serious crimes for collecting on civil judgment awards.

The *Anthis* case involves the garnishment of a LEOFF 1 pension following a successful wrongful death lawsuit against the beneficiary. The Court held that although the LEOFF garnishment exemption language protects the funds while in the control of the trust, once the funds are disbursed to the beneficiary, they are subject to potential garnishment. Prior to *Anthis*, the legal practice was that state law exempted pensions from garnishment, even after deposit in a bank account. The Court used a statutory construction analysis, and invited the Legislature to clarify the language if necessary, which the Legislature did by amending 12 public employee pension exemption statutes in SHB 1552 to exempt pensions from garnishment after deposit reflecting the long standing policy and practice.

While there are public policy reasons to support the general exemption of pensions from garnishment, I recognize the concern about exemptions in situations such as presented in *Anthis*. State law already allows for garnishment of pensions in limited circumstances such as divorce decrees, child support enforcement orders, and federal court orders. It may also be appropriate to allow for garnishment in instances in which a beneficiary causes serious injury to or the death of another person, leaving individuals without means of basic support. If, however, garnishment were to be extended in these types of circumstances, it would be important to determine to what extent the pension could be garnished.



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The Select Committee on Pension Policy is uniquely qualified to study these issues and to make recommendations to the Legislature. I have spoken with the proponents of SHB 1552 and they share my concerns that the issue of garnishment to collect on judgments where the beneficiary has caused the death of another person or other serious circumstances must be addressed.

I hope that the Select Committee on Pension Policy will take up consideration of these important pension policy matters.

Sincerely,

A handwritten signature in blue ink that reads "Christine".

Christine O. Gregoire
Governor

cc: Representative Roger Goodman
Other members of the Select Committee