

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 81

BY SENATOR SYPOLT

[Introduced February 8, 2017; referred
to the Committee on Government Organization; and then
to the Committee on the Judiciary]

1 A BILL to amend and reenact §38-5B-2 of the Code of West Virginia, 1931, as amended, relating
 2 to suggestions of salary and wages of persons engaged in public employment; increasing
 3 the amount of salary or wages of persons engaged in public employment that are
 4 protected from a suggestee execution from thirty times the federal minimum hourly wage
 5 then in effect to fifty times the federal minimum hourly wage then in effect; and making
 6 technical changes.

Be it enacted by the Legislature of West Virginia:

1 That §38-5B-2 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

**ARTICLE 5B. SUGGESTION OF THE STATE AND POLITICAL SUBDIVISIONS;
 GARNISHMENT AND SUGGESTION OF PUBLIC OFFICERS.**

**§38-5B-2. Application for suggestee execution against money from state, state agency or
 political subdivision; extent of lien and continuing levy; priority among suggestee
 executions.**

1 A judgment creditor may apply to the court in which the judgment was recovered or a court
 2 having jurisdiction of the same, without notice to the judgment debtor, for a suggestee execution
 3 against any money due or to become due within one year after the issuance of the same to the
 4 judgment debtor from the state, a state agency, or any political subdivision of the state. If
 5 satisfactory proof ~~shall be~~ is made, by affidavit or otherwise, of such facts, and, where the
 6 execution is sought against salary or wages, of the fact that the amount due or to become due as
 7 salary or wages after the deduction of state and federal taxes exceeds in any week ~~thirty~~ fifty
 8 times the federal minimum hourly wage then in effect, the court, if not a court of record, or if a
 9 court of record, the clerk thereof, shall issue a suggestee execution against such money due or
 10 to become due to the judgment debtor, and there shall be entered on the face thereof the day and
 11 hour of issuance.

12 ~~Such~~ The execution and the expenses thereof shall, when served by the officer to whom
13 delivered for collection in the manner hereinafter provided, upon the state, a state agency or
14 political subdivision from which such money is due or may thereafter become due to the judgment
15 debtor, become a lien and continuing levy upon the sums due or to become due to the judgment
16 debtor within one year after the issuance of the ~~same~~ execution (but not to exceed twenty per
17 centum of the salary or wages due to ~~such the~~ judgment debtor or reduce the amount received
18 by him or her per week to an amount less than ~~thirty~~ fifty times the federal minimum hourly wage
19 then in effect) unless sooner satisfied and paid, vacated or modified as hereinafter provided.

20 Where more than one suggestee execution ~~shall have~~ has been issued pursuant to ~~the~~
21 ~~provisions of~~ this section against the same judgment debtor, they shall be satisfied in the order of
22 priority in which they are served upon the state, state agency or political subdivision from which
23 ~~such the~~ money is due or ~~shall~~ becomes due. For purposes of determining ~~such the~~ priority the
24 time that an execution served by mail, as hereinafter provided ~~shall be~~ is received, and not the
25 time of admission of service shall control. In the case of two or more executions received in the
26 same mail delivery priority shall be accorded the one first issued.

NOTE: The purpose of this bill is to increase the salary or wages of a judgment debtor, that may be exempt from execution by a judgment creditor, who is an employee of state, a state agency, or any political subdivision of the state, from 30 to 50 times the federal minimum hourly wage (then in effect). This increased exemption was changed for private employees who are judgment debtors during the 2016 Regular Session but the counterpart statute for public employees was inadvertently omitted.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.