

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961



ENROLLED

HOUSE BILL No. 257

(By Mr. Davis)



PASSED March 3rd, 1961

In Effect thirty days from Passage



Filed in Office of the Secretary of State

of West Virginia March 16, 1961

JOE F. BURDETT
SECRETARY OF STATE

202

ENROLLED

House Bill No. 252

(By MR. DAVIS, of Kanawha)

[Passed March 3, 1961; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article five-a, chapter thirty-eight, and sections two and three, article five-b, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to suggestions of salary and wages of private and public employees, and providing for an increase in the amount of salary and wages exempted from such suggestions.

Be it enacted by the Legislature of West Virginia:

That section three, article five-a, chapter thirty-eight, and sections two and three, article five-b, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended so as to read as follows:

Article 5-a. Suggestions of Salary and Wages of Persons Engaged in Private Employment.

Section 3. *General Provisions.*—Upon the return of an

2 execution wholly or partly unsatisfied a judgment creditor
3 may apply to the court in which the judgment was re-
4 covered or a court having jurisdiction of the same, with-
5 out notice to the judgment debtor, for a suggestee execu-
6 tion against any money due or to become due within one
7 year after the issuance of such execution to the judgment
8 debtor as salary or wages arising out of any private em-
9 ployment. If satisfactory proof shall be made, by affidavit
10 or otherwise, of such facts and the fact that the amount
11 due or to become due as salary or wages exceeds twenty
12 dollars per week the court, if not a court of record, or if
13 a court of record, the clerk thereof, shall issue a suggestee
14 execution against the salary or wages of the judgment
15 debtor and upon presentation of such execution by the
16 officer to whom delivered for collection to the person or
17 persons from which such salary or wages are due and
18 owing or thereafter may become due and owing to the
19 judgment debtor, the execution and the expenses thereof
20 shall become a lien and continuing levy upon the salary
21 or wages due or to become due to the judgment debtor
22 within one year after the issuance of the same, unless

23 sooner vacated or modified as hereinafter provided, to
24 an amount equal to twenty per centum thereof and no
25 more, but in no event shall the payments in satisfaction
26 of such an execution reduce the amount payable to the
27 judgment debtor to less than twenty dollars per week.
28 Only one such execution shall be satisfied, at one time,
29 except that in the event two or more such executions have
30 been served and satisfaction of the one having priority is
31 completed without exhausting the amount or the salary
32 or wages then due and payable that is subject to sug-
33 gestion under this article the balance of such amount
34 shall be paid in satisfaction, in the order of their priority,
35 of junior suggestee executions against such salary or
36 wages theretofore served.

Article 5-b. Suggestion of the State and Political Subdivisions;

Garnishment and Suggestion of Public Officers.

Section 2. *General Provisions.*—Upon the return of an
2 execution wholly or partly unsatisfied a judgment creditor
3 may apply to the court in which the judgment was re-
4 covered or a court having jurisdiction of the same, with-
5 out notice to the judgment debtor, for a suggestee execu-

6 tion against any money due or to become due within one
7 year after the issuance of the same to the judgment
8 debtor from the state, a state agency, or any political
9 subdivision of the state. If satisfactory proof shall be
10 made, by affidavit or otherwise, of such facts, and, where
11 the execution is sought against salary or wages, of the
12 fact that the amount due or to become due as salary or
13 wages exceeds twenty dollars per week, the court, if not
14 a court of record, or if a court of record, the clerk thereof,
15 shall issue a suggestee execution against such money
16 due or to become due to the judgment debtor, and there
17 shall be entered on the face thereof the day and hour of
18 issuance.

19 Such execution and the expenses thereof shall, when
20 served by the officer to whom delivered for collection in
21 the manner hereinafter provided, upon the state, a state
22 agency, or political subdivision from which such money
23 is due or may thereafter become due to the judgment
24 debtor, become a lien and continuing levy upon the sums
25 due or to become due to the judgment debtor within one
26 year after the issuance of the same (but not to exceed

27 the specified amount of salary or wages as hereinafter
28 provided) unless sooner satisfied and paid, vacated or
29 modified as hereinafter provided.

30 Where more than one suggestee execution shall have
31 been issued pursuant to the provisions of this section
32 against the same judgment debtor, they shall be satisfied
33 in the order of priority in which they are served upon
34 the state, state agency, or political subdivision from which
35 such money is due or shall become due. For purposes of
36 determining such priority the time that an execution
37 served by mail, as hereinafter provided, shall be received,
38 and not the time of admission of service, shall control.
39 In the case of two or more executions received in the
40 same mail delivery priority shall be accorded the one
41 first issued.

Sec. 3. *Suggestion of Salary or Wages.*—A suggestee
2 execution issued under this article against salary or wages
3 shall become a lien and continuing levy upon sums due
4 or to become due to the judgment debtor as salary or
5 wages to an amount equal to twenty per centum thereof
6 and no more, but in no event shall the payments in satis-

7 faction of such an execution reduce the amount payable
8 to the judgment debtor to less than twenty dollars per
9 week. A suggestee execution against salary or wages
10 shall contain the name of the judgment debtor and the
11 bureau, office, department, institution or subdivision
12 thereof of the state or political subdivision of the state,
13 as the case may be, of which he is an officer or employee.
14 If a person so employed shall resign or be dismissed while
15 an execution issued hereunder against his salary or wages
16 is wholly or partly unsatisfied, and he shall thereafter be
17 reinstated or reemployed, the execution shall lapse and
18 no further deduction shall be made with respect thereto
19 from his salary or wages unless such reinstatement or
20 re-employment shall occur within ninety days after such
21 resignation or dismissal. A suggestee execution shall not
22 be affected by the transfer of the officer or employee who
23 is the judgment debtor from one bureau, office, depart-
24 ment, institution or subdivision thereof of the state or
25 a political subdivision to another if the officer upon whom
26 service of the execution was made would be the proper
27 officer for service of a suggestee execution against salary

28 or wages due or to become due to the judgment debtor
29 in the new employment.

30 Such an execution shall not become a lien against
31 salary or wages payable by the state or a state agency
32 within ten days after the service thereof or payable by a
33 political subdivision within five days after the service
34 thereof but shall become a lien and continuing levy upon
35 the salary or wages which shall become due or owing
36 to the judgment debtor thereafter during the life of the
37 execution.

38 Only one suggestee execution against the salary or
39 wages of a judgment debtor shall be satisfied at one time,
40 except that in the event two or more such executions
41 have been served and satisfaction of the one having
42 priority is completed without exhausting the amount of
43 the salary or wages then due and payable that is subject
44 to suggestion under this article the balance of such
45 amount shall be paid in satisfaction, in the order of their
46 priority, of junior suggestee executions against such salary
47 or wages theretofore served.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James Davis, Jr.
Chairman Senate Committee

Mrs. M. M. Withrow
Chairman House Committee

Originated in the House.

Takes effect *ninety days from* passage.

Howard Nease
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Howard Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within *approved* this the *16th* day of *March*, 1961.

W. W. Barron
Governor

