SENATE THIRD READING
SB 1477 (Wieckowski)
As Amended August 25, 2022
Majority vote

SUMMARY

Alters statutory formulas so as to protect a greater percentage of judgment debtors' earnings from wage garnishment.

Major Provisions

1) Alters the statutory formula for wage garnishment so that the amount of disposable earnings subject to garnishment under an earnings withholding order—if the judgment debtor is paid on a weekly basis – is the lesser of:

    a) 20% of the worker's disposable earnings for the week; or

    b) 40% of the amount by which the worker's disposable earnings exceed 48 times the state minimum wage.

2) Makes equivalent changes to the formulas for wage garnishment for workers who are paid biweekly, semimonthly, or monthly.

3) Further provides that, if a judgment debtor works in a locality in which the local minimum wage is higher than the state minimum hourly wage, the local minimum hourly wage is to be used for the calculation.

4) Provides that the foregoing formulas shall take effect on September 1, 2023.

COMMENTS

A wage garnishment is a seizure of a percentage of a debtor's paycheck in order to repay a creditor. Garnishment continues, paycheck after paycheck, either until the debt is repaid, or the debtor quits or is fired. This bill would alter California's existing wage garnishment statute by protecting from garnishment the lesser of 1) 20% of the worker's disposable earnings or 2) 40% of the amount by which the worker's disposable earnings exceed 48 times the minimum wage. The minimum wage to be used is the higher of the state or local minimum wage. The bill also adjusts the wage garnishment formulas for workers who are paid biweekly, semimonthly, or monthly so that an equivalent amount is withheld from their paychecks as for workers who are paid weekly.

This change would safeguard a greater percentage of individuals' paychecks, allowing debts to be repaid at a more gradual rate. Nothing in this bill would eliminate a debtor's legal obligation to repay debts.

How would this bill change existing garnishment levels? The following example compares the existing wage garnishment system with this bill's system, at three income levels. For simplicity's sake, it is assumed that each debtor has 20% of their earnings withheld for payroll taxes, yielding their disposable earnings subject to garnishment.

A low-income debtor earning $31,200/year. In other words, a full-time worker earning $15/hour, the current state minimum wage required to be paid by large employers.

Earnings:	$600.00/week
Disposable earnings:	$480.00/week
Post-garnishment earnings (current):	$480.00/week ($0 garnished)
Post-garnishment earnings (SB 1477):	$480.00/week ($0 garnished)

A middle-income debtor supporting two children, earning $82,000/year, the 2021 median income for a household of three in Sacramento County.

Earnings:	$1576.92/week
Disposable earnings:	$1261.54/week
Post-garnishment earnings (current):	$930.77/week ($315.38 garnished)
Post-garnishment earnings (SB 1477):	$1044.92/week ($216.62 garnished)

A high-income debtor earning $127,500/year, double the 2021 median income for an individual in Sacramento County.

Earnings:	$2416.35/week
Disposable earnings:	$1961.54/week
Post-garnishment earnings (current):	$1471.15/week ($490.38 garnished)
Post-garnishment earnings (SB 1477):	$1569.23/week ($392.31 garnished)

As can be seen, minimum-wage workers would remain garnishment-proof under this bill, maintaining an anti-poverty policy that originated a decade ago with the author's AB 1775 (Wieckowski), Chapter 474, Statutes of 2012.

The bill's largest beneficiaries are middle-income debtors, who would still pay small amounts towards their debts, while retaining significantly more of their paychecks. The policy choice here is to maintain income stability for middle-class earners despite their debts.

High-income debtors would also retain more of their paychecks, while still paying a substantial portion of their incomes to their creditors.

Debtors, despite the ability to safeguard more of their earnings under this bill, will continue to suffer significant adverse consequences from having outstanding unpaid debts. These ongoing consequences include lower credit scores and resulting higher interest rates for loans. These consequences incentivize debtors to repay debts when they are financially able to, as appears to have occurred during the pandemic. According to the National Bureau of Economic Research, "Survey data on household behavior suggest that nearly 60% of the [initial round of] stimulus spending went to pay off debt or was saved." (*See* https://www.nber.org/digest/oct20/most-stimulus-payments-were-saved-or-applied-debt.) This demonstration—that debtors will repay their debts when they have adequate financial resources - suggests that it makes sense to reduce involuntary seizures which, in turn, increase already-existing financial hardship.

Why should more earnings be protected from garnishment? The reason for protecting more earnings from garnishment is that California is among the most expensive states in the country in which to live. As is now well-understood, when accounting for the cost of living, California has the highest poverty rate in the nation. (Fox and Burns, *The Supplemental Poverty Measure:*

2020, United States (U.S.) Census Bureau (September 2021), *available at* https://www.census.gov/content/dam/Census/library/publications/2021/demo/p60-275.pdf.)

According to the Massachusetts Institute of Technology's Living Wage Calculator, a living wage in California for an adult with two children stands at $54.95/hour or $2198/week. (*See* https://livingwage.mit.edu/states/06.) Compare this amount to the earnings of the middle-income debtor with two kids in the example above. Allowing garnishments to persist at present levels pushes this debtors post-garnishment earnings to less than half the recommended living wage. Even the high-income individual would be deemed to be below the recommended living wage if that person was supporting two children while experiencing a wage garnishment.

The Legislature last adjusted garnishment thresholds in 2015. (*See* SB 501 (Wieckowski), Chapter 800, Statutes of 2015.) Between July 1, 2016, when those thresholds took effect, and February 1, 2022, the last date on which state-specific data is available, California's Consumer Price Index rose by 21.7%. (*See* https://www.dir.ca.gov/OPRL/CPI/CPICalculator/CpiCalculator.aspx.) Over the same period, the average price of gasoline in the state increased from $3.81/gallon to $4.66/gallon—a nearly 19% increase. (*See* https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=emm_epm0_pte_sca_dpg&f=m.) In the last three months, it has increased to $5.87/gallon, a further 26% increase. (*Ibid.*) Arguably, given its necessity, cost, and scarcity, the most devastating change has been in the price of housing. The average fair market rent for a two-bedroom apartment in California increased from $1,182/month in 2016 to $1,526 in 2021, a 23% increase. (*See* https://www.rentdata.org/states/california/2016; https://www.rentdata.org/states/california/2021.) Given the number of Californians who owe debts, and in the face of these enormously-increased costs, to maintain the present statutory garnishment formulas is to force a substantial portion of the workforce into increased poverty, and likely, further into debt simply to survive.

According to the Author
Family finances have been strained [by the pandemic], making them more vulnerable to having debts in collection that can further destabilize their economic security. At the end of 2020, nearly one-third (28%) of Californians in communities of color and 17% of Californians in white communities had a debt in collection. Wage garnishment, where creditors with a court order force an employer to send them a big chunk of a consumer's paycheck before they ever see it, is particularly harmful to low-income people as there is little or no leeway in their budgets. This means that a garnishment likely results in forgoing necessities like food, medicine, or rent. Increasing the amount of wages protected to a living wage…will help keep the most vulnerable California families above water.

Arguments in Support
A coalition of two dozen nonprofit organizations demonstrates the dramatic difference this bill would make for many working California families:

> For 2022, the U.S. Department of Housing and Urban Development considers $80,650 in pre-tax income to be low income for a family of four. That would roughly translate to $63,856 in net wages for a married earner claiming three allowances. Under current law, this earner could have just under $16,000 in wages seized over the course of the year. SB 1477 would allow approximately $145 a year to be garnished. As income increases to higher

levels, garnishment increases as well. [Note: this letter reflects an earlier version of the bill. As amended, SB 1477 would allow approximately $10,566 a year to be garnished.]

Arguments in Opposition
California Apartment Association contends the bill would interfere with collection of unpaid rent:

> SB 1477 will dramatically interfere with a rental property owner's ability to collect past due rent, especially after owners have waited over two years with no income. SB 1477 will prohibit owners from collecting from tenants who have not cooperated with a state rental repayment program. The small claims court process and potentially wage garnishment is one of the only ways an owner can hope to collect unpaid rental debt.

FISCAL COMMENTS

None

VOTES

SENATE FLOOR: 27-9-4
YES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
ABS, ABST OR NV: Archuleta, Caballero, Hertzberg, Hueso

ASM JUDICIARY: 8-2-1
YES: Stone, Bloom, Haney, Kalra, Maienschein, Reyes, Robert Rivas, Wilson
NO: Cunningham, Davies
ABS, ABST OR NV: Kiley

ASSEMBLY FLOOR: 42-3-35
YES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Haney, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Rendon
NO: Cunningham, Smith, Waldron
ABS, ABST OR NV: Arambula, Bigelow, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Fong, Gallagher, Gipson, Gray, Grayson, Holden, Irwin, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Salas, Seyarto, Valladares, Villapudua, Voepel, Wood

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