



American Payroll Association

Government Relations • Washington, DC

February 13, 2017

The Honorable Michael Merrifield
Colorado Senate District 11
200 E Colfax, RM 346
Denver, CO 80203
Michael.merrifield.senate@state.co.us

Re: Colorado Senate Bill 17-080 Reduce Amount of Wages Subject to Garnishment

Dear Senator Merrifield:

The American Payroll Association (APA) appreciates the opportunity to comment on Senate Bill 17-080, concerning a reduction in the amount of earnings subject to garnishment. APA respectfully requests that you reconsider the method of calculation for the wage garnishment limitations. APA supports fairness in the wage garnishment process that emphasizes a reasonable approach for employees without unduly increasing the administrative burden on employers. While the bill's intent is to offer greater protections for employees, tying the garnishment amounts to the federal poverty level with additional adjustments based on an employee's circumstances (e.g., family size) is problematic.

About the APA

Established in 1982, the APA is a nonprofit professional association serving the interests of more than 20,000 payroll professionals and their employers in the United States. The APA's primary mission is to educate members and the payroll industry about the best practices associated with paying America's workers while complying with all applicable federal, state, and local laws. The APA's Government Relations Task Force (GRTF) works with legislative and executive branches at the federal and state levels to help employers understand their legal obligations with significant emphasis on minimizing the administrative burden on government, employers, and individual workers.

The Concern

Section 1 [Colorado Revised Statutes § 13-54-104(2)(a)(I)(B)] states: "If the individual's gross earnings are less than two hundred fifty percent of the federal poverty level for the individual, taking into account the size of the individual's family, ten percent of the individual's gross earnings...." The federal poverty level is the minimum amount of gross income that a family needs for food, clothing, transportation, shelter, and other necessities and is typically issued by the U.S. Department of Health and Human Services every February for the corresponding year and is adjusted for family size. These amounts are used for determining a variety of healthcare and welfare benefits (e.g., Medicare, Medicaid, Head Start, and Supplemental Nutrition Assistance Program) and may be used as a baseline for states to determine appropriate

minimum wage levels, but they are not part of payroll management systems, and the bill does not establish a process for adjusting wage garnishments each year an order is in effect. (For example, would employers be required to track the federal poverty level and make annual adjustments? Would this be the responsibility of creditors of Colorado's courts?).

To accommodate the poverty-level calculation into a payroll system would require complex coding, technical development efforts, and extensive testing at significant cost. This effort is further complicated when it would only apply to Colorado, which means that for employers operating in more than one state, multiple wage garnishment systems and processes would be necessary. We note that the more complicated the process for wage garnishments, the more likely errors will occur. Because employers serve as faultless third parties between creditors and employees, requiring employers to undertake this level of effort and expenditure is inappropriate, especially when other options are available.

If the goal is to protect more of an employee's wages, this can be accomplished in a streamlined method following existing federal Consumer Credit Protection Act (CCPA) restrictions. The method of calculating the withholding limits under the CCPA, is the lesser of:

1. 25% of disposable earnings for the workweek, or
2. the amount by which disposable earnings for the workweek exceed 30 times the federal minimum wage.

If Colorado wishes to provide greater restrictions on withholding than those provided by the CCPA, APA recommends that states do so by adjusting the percentage of weekly disposable earnings and/or the multiple of the federal minimum wage.

APA would also like to draw your attention to another piece of legislation that has been introduced in the Colorado legislature. Senate Bill 17-131, the Uniform Wage Garnishment Act (UWGA), introduced by Senator Bob Gardner, seeks to establish a reasonable balance between the needs of debtors, creditors, and the garnishees. APA endorses the UWGA and hopes to see it enacted in every state. APA believes that the UWGA is structured in such a way that the additional protections you seek to provide Colorado residents could be realized without causing undue difficulties on the employers responsible for calculating the amount that may be withheld from their employees' wages.

Thank you for your consideration. If you have any questions, or if APA may be of further service, please contact Corri Flores (909-971-5858) or Bill Dunn (202-232-6889).

Sincerely,



Corri Flores
Chair, GRTF Child Support and Other Garnishments Subcommittee
American Payroll Association



William Dunn, CPP
Director, Government Relations
American Payroll Association

cc: Senator Jack Tate, Senator Tim Neville, Senator Cheri Jahn, Senator Andy Kerr, Senator Kevin Priola, Senator Jim Smallwood, Senator Angela Williams