Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL:	**Sub. S.B. 170**	DATE:	**April 1, 1998**
STATUS:	**As Reported by Senate Judiciary**	SPONSOR:	**Sen. Cupp**
LOCAL IMPACT STATEMENT REQUIRED:	**Yes — Corrected based on information subsequent to initial review**		
CONTENTS:	**Revises procedures for implementing wage garnishments, permits an order allowing for continuous garnishments and eliminates the thirty day limitation upon successive wage garnishments**		

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Municipalities & Counties			
Revenues	Decrease of unknown amount	Potential statewide loss of $1 - 2 million *	Potential statewide loss of $1 to 2 million *
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

- The amount of revenue generated from filing fees paid to Municipal, County and Common Pleas Courts by creditors seeking to garnish wages from debtors could drop significantly. It is difficult to estimate the statewide loss of local revenue because the fees of the courts associated with garnishment affidavits are independently established and may vary from court to court.

- There potentially could be a minimal increase in expenditures for the Clerks of Municipal, County and Common Pleas Courts. The creation of continuous orders could increase the workload related to monitoring multiple garnishments. However, it is unlikely that additional full-time employees would need to be hired to manage such an increase.

* *While this bill has the potential to cause a significant downturn in the amount of revenues collected by the various courts, under current law the courts have the ability to change fees and court costs to make the situation revenue neutral. The loss of revenue from a decrease in the number of filings can be recouped by adding such costs to either the debtor or the garnishee (employer), or a combination of both parties. Increasing the amount of the filing fee paid by creditors could also offset the losses. The creation of a continuous order of wage garnishment eliminates the recurring burden that creditors currently face in having to repeatedly file potentially unsuccessful monthly affidavits for as long as the debt is outstanding.*

Detailed Fiscal Analysis

The bill attempts to simplify the process that creditors go through in order to garnish the wages of debtors. Currently, an action for the garnishment of a debtor's wages cannot begin before 30 days after the filing of the last successful wage garnishment action. This has created a system where a creditor who cannot be made whole with a single month's garnishment must start the filing process over again after the initial thirty-day period. The creditor files another affidavit with additional fees for the court and for the garnishee. However, the process is currently first come, first served for creditors seeking wage garnishments. Only one creditor can recover on a single garnishment order during the thirty-day period. This has created a system in which creditors are continually filing and paying fees to the appropriate Clerk of Courts without any guarantee of recovering any of the sought amount.

This bill would allow a creditor to file a single affidavit with fees that establishes a continuous garnishment that is effective until either the debt is paid off or another subsequent order is filed causing certain limitations to take effect. If the subsequent order is a higher priority order and can be satisfied within a period of 182 days of the filing of the previous order, then the original order may resume until either satisfaction of the debt or the end of the original 182-day period. If the subsequent higher priority order cannot be satisfied within the 182-day period, then the original order would need to be re-filed. The priority order could be re-filed if it is not satisfied within the 182-day period of its original filing.

If a subsequent order is filed that is not a higher priority than the previous order, then the original order remains in effect for a total of 182 days or until the debt is satisfied, whichever comes first. If an original order is not satisfied within 182 days and a subsequent, non-priority order has been filed the original order must be re-filed and takes a subordinate position to all currently filed orders. The subsequent order takes the lead position for 182 days or until it is satisfied, whichever comes first. If the second order isn't satisfied after that 182 days, then the next order that had been filed takes over the lead position and the second order needs to be re-filed and becomes subordinate to all other filed orders. The first order could retake the lead position if there are only two orders seeking to be satisfied. Orders that have a high-priority take precedence at anytime over other orders. This revolving wheel of garnishment orders may continue until all judgments are satisfied.

This should cut down on the total number of affidavits that will be filed by creditors. The reduction in filings will result in a decrease in revenues from related filing fees. It is difficult to estimate the amount of revenue lost statewide or to a specific court or locality. The court fees that accompany affidavits filed for the garnishment of wages vary from court to court. There is currently a separate fee of $1 that is for the garnishee(employer). The bill would increase this fee to $10. However, the number of fees paid to the garnishee will also decrease. It is not possible to estimate whether the increased dollar amount will, on average, offset loss from the decline in the number of garnishment orders filed. However, this fiscal effect has no direct impact upon state or local governments, just on employers.

The clerk of courts will face a shift in the workload that they currently shoulder. When there would be multiple creditors seeking a garnishment of wages from a single debtor, the clerk's office would face a greater workload than is currently handled at the time of filing. The amount of work to be done over time would appear to be less than the total amount that is

currently performed, with everything being equal. The simplification of the process may have the effect of increasing the use of wage garnishment as a means of recovering debts. The Ohio Creditors Attorney's Association has indicated that the workload of the courts should decrease as a reflection of the decrease in the number of repeat filings. However, managers and supervisors in the clerk's offices have insisted that their workload will increase over both the short and long term periods.

Court	Number of Affidavits Filed	Accompanying Fee
Akron Municipal Court	14,295	$16.00
Cleveland Municipal Court	26,045	$21.00
Cuyahoga Falls Municipal Court	2,586*	$20.00
Dayton Municipal Court	27,155	$10.00
Franklin County Municipal Court	48,495	$10.00
Hamilton County Municipal Court	32,750	$17.50
Parma Municipal Court	1,344	$25.00
Toledo Municipal Court	35,068*	$14.00

Denotes total garnishments filed, not just those against personal earnings (wages).

The preceding table illustrates the approximate number of filed garnishments of personal earnings (wages) and the local fee that accompanies the affidavit in eight of the state's nine largest municipal courts. This is the number of affidavits filed and not reflective of the number of successful garnishments. The number of garnishment actions in municipal and county courts is the overwhelming majority of those sought. There are very few garnishments of personal earnings filed with the courts of common pleas, though it does occasionally happen. Several employees of the major Clerks of Courts offices stated that the introduction of such a continuous garnishment order would cut more than half of the current number of filings. A rough projection with this assumption and the above figures projects a probable revenue loss totaling of $1.2 million. However, while this bill has the potential to cause a significant downturn in the amount of revenues collected by the various courts, the courts have the ability to change fees and court costs to make the situation revenue neutral. O.R.C. § 1901.26(A)(1) and § 1907.24(A)(1) respectively require each municipal and county court to establish by rule a schedule of fees and court costs for civil and criminal actions and proceedings. The courts may decide to increase the fee that accompanies the affidavits. This would increase the revenues from filings while maintaining the financial burden on the individual seeking the claim, the creditor. However, the courts could implement a court cost that is taken out of the debtor's garnished wages that essentially transfers the burden of recouping lost revenues through the debtor. In any event, the courts have the permissive ability to change their requirements to enable them to recover any potential loss.

❑ *LBO staff: Corey C. Schaal, Budget/Policy Analyst*

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