

GARNISHMENT FEES

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Steven R. Mascaro

LONG TITLE

General Description:

This bill increases the allowable fees an employer may receive for processing garnishments for employees.

Highlighted Provisions:

This bill:

- ▶ increases the fee for a single garnishment from \$10 to \$25;
- ▶ increases the initial fee for a continuing garnishment from \$25 to \$35;
- ▶ allows the employer to charge the employee a processing fee each time an amount must be deducted from the employee's wages; and
- ▶ exempts income withholding for the collection of child support.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78-7-44, as renumbered and amended by Chapter 46, Laws of Utah 2001

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-7-44** is amended to read:

78-7-44. Fees for writ of garnishment -- Single or continuing.



28 (1) Any creditor who serves or causes to be served a writ of garnishment upon the
29 garnishee shall pay to the garnishee:

30 (a) [~~\$10~~] \$25 for a single garnishment; [~~and~~]

31 (b) [~~\$25~~] \$35 for a continuing garnishment.

32 (2) The creditor shall pay the fee directly to the garnishee.

33 (3) An employer may deduct a processing fee of up to \$10 from an employee each time
34 a payment is made to a creditor pursuant to a continuing garnishment ~~H~~→ [∴] **not to exceed \$20.00**
34a **per month. This processing fee shall be included in the non-exempt amount subject to**
34b **garnishment.** ←~~H~~

35 (4) Subsection (3) does not apply to income withholding for the collection of child
36 support pursuant to Title 62A, Chapter 11, Parts 4 and 5.

Legislative Review Note

as of 11-27-04 2:28 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

There would be no state or local government fiscal impact if the debtor always had the ability to pay the collection costs. However, when the state or local government is in a creditor position, the fee is paid whether it is collected or not. Based on prior experience with uncollected debt, it is estimated that the Tax Commission, the Department of Workforce Services and the Office of Debt Collection would require \$27,500 to cover the fee increases as provided in this bill. Local governments could also see increased costs.

Revenue could be generated, if an organization, including state or local governments, chooses to implement the \$10 processing fee. For the state, the funds would go to the Division of Finance to offset the processing and administrative costs.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$26,400	\$26,400	\$0	\$0
Fixed Collections	\$1,100	\$1,600	\$0	\$0
TOTAL	\$27,500	\$28,000	\$0	\$0

Individual and Business Impact

This bill has two separate fiscal impacts. The individual who has his or her wages garnished will have to pay additional garnishment fees of \$15 more for a single garnishment or \$10 more for a continuing garnishment. If their employer implements the processing fee, they could pay an additional \$10 each pay period for processing.

The employer may be able to recover more of their garnishment processing fees. The amount will depend on the number of employees having their wages garnished and if they choose to implement the ongoing \$10 processing fee.
