



**Colorado  
Legislative  
Council  
Staff**

**SB17-131**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0192  
**Prime Sponsor(s):** Sen. Gardner

**Date:** February 8, 2017  
**Bill Status:** Senate Business  
**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** UNIFORM WAGE GARNISHMENT ACT

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>	<b><u>\$90,000</u></b>	<b><u>\$180,000</u></b>
General Fund	18,000	36,000
Cash Funds	72,000	144,000
<b>State Expenditures</b>	<b><u>\$108,175</u></b>	<b><u>\$211,977</u></b>
General Fund	30,079	54,622
Cash Funds	75,600	151,200
Centrally Appropriated Costs	2,496	6,155
<b>TABOR Impact</b>	\$90,000	\$180,000
<b>FTE Position Change</b>	0.2 FTE	0.5 FTE
<b>Appropriation Required:</b> \$105,679 - Department of Personnel and Administration (FY 2017-18).		
<b>Future Year Impacts:</b> Ongoing increase in state revenue and expenditures.		

**Summary of Legislation**

This bill, *as recommended by the Colorado Commission on Uniform State Laws*, adopts the Uniform Wage Garnishment Act. It outlines the procedures for requesting a writ of garnishment, required documentation and notices, limits on amounts to be garnished, and processes for hearings related to garnishments.

**Background**

In a garnishment action, the party attempting to recover a debt (creditor) typically sends a garnishment order to the employer (garnishee) of the debtor. The garnishee then withholds a specified amount from the debtor's paycheck and sends that money to the creditor until the debt has been paid.

**Garnishments by the state.** Currently, the Central Payroll Unit within the Department of Personnel and Administration (DPA) receives writs of garnishment from creditors for state employees and acts as garnishee in these actions. DPA establishes approximately 200 new garnishments of state employees' wages per month, or 2,400 per year. In addition, the Central Collections Services (CCS) within DPA acts as creditor on behalf of state agencies seeking to recover debts from individuals. In this capacity, DPA sends writs of garnishment to the employers of the debtors. DPA initiates approximately 800 garnishments per month, or 9,600 garnishments per year.

**Colorado Commission on Uniform State Laws.** The Colorado Commission on Uniform State Laws works with the national Uniform Law Commission (ULC) to promote uniformity in state laws. The ULC proposes uniform legislation that can be adopted by the various state legislatures. Colorado's commissioners are required to be attorneys admitted to practice law in Colorado. Members include six attorneys appointed or reappointed by the General Assembly; any Colorado citizen who is elected as a life member of the ULC (after twenty years of membership); and the Director of the Office of Legislative Legal Services (OLLS), or the Director's designee. The OLLS provides assistance to the Colorado Commission in their efforts to enact uniform acts.

## **State Revenue**

This bill increases state General Fund and cash fund revenue by \$90,000 in FY 2017-18 and by \$180,000 in FY 2018-19 to DPA.

**Department of Personnel and Administration.** There are two ways in which the bill affects revenue. First, any creditor that sends an employer (garnishee) a writ of garnishment must include a payment of \$15. In the approximately 2,400 cases where DPA acts as garnishee through the Central Payroll Unit, it will collect this \$15 fee. The Central Payroll Unit does not have a cash fund, so the revenue will be classified as miscellaneous and will revert to the General Fund at the end of the year. Second, in the cases where CCS in DPA acts as creditor, it must pay the \$15 fee to garnishees and will pass this cost along to the debtor by increasing the administrative fee debtors pay in addition to their debt. Fee revenue collected by CCS is credited to the Central Collections Cash Fund. The bill also imposes a daily fine on garnishees that fail to provide required documentation to creditors within the specified time frame. The fiscal note assumes garnishees will comply with the provisions of the bill and that DPA will not collect fine revenue. The revenue amounts shown in Table 1 below assume a full year of garnishment actions; revenue in FY 2017-18 has been prorated by half to account for the bill's January 1, 2018, effective date.

**Fee impact on creditors and debtors.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fee revenue will depend on the number of creditors who send writs of garnishment to DPA and the number of garnishments initiated by CCS. The table below identifies the fee impact of this bill.

<b>Table 1. Fee Impact on Creditors and Debtors under SB17-131</b>					
<b>Type of Fee</b>	<b>Current Fee</b>	<b>Proposed Fee</b>	<b>Fee Change</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
Fee paid by creditors where DPA acts as garnishee (General Fund)	no fee	\$15	\$15	2,400 per year	\$36,000
Fee paid by debtors where DPA acts as creditor (Cash funds)	18 percent of total debt	18 percent plus \$15	15	9,600 per year	144,000
<b>TOTAL</b>					<b>\$180,000</b>

**TABOR Impact**

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. In years when the state collects revenue above the TABOR limit, the increase in General Fund revenue has no net impact on the amount of money available in the General Fund for the budget, as both revenue to the General Fund and the refund obligation increase by equal amounts. However, the increase in cash fund revenue increases the TABOR refund obligation, decreasing the amount of money available in the General Fund for the budget on a dollar-for-dollar basis. In future years when the state does not collect revenue above the TABOR limit, the bill's impact on General Fund revenue will reduce money available for the General Fund budget.

**State Expenditures**

This bill increases state expenditures in DPA by \$108,175 and 0.2 FTE in FY 2017-18 and \$211,977 and 0.5 FTE in FY 2018-19. It also minimally increases workload in the Judicial Department. These costs are shown in Table 2 and discussed below.

<b>Table 2. Expenditures under SB17-131</b>		
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Personal Services	\$9,442	\$22,659
FTE	0.2 FTE	0.5 FTE
Operating Expenses and Capital Outlay Costs	4,893	475
Mailings	15,744	31,488
Creditor Fees and Check Printing	75,600	151,200
Centrally Appropriated Costs*	2,496	6,155
<b>TOTAL</b>	<b>\$108,175</b>	<b>\$211,977</b>

\*Centrally appropriated costs are not included in the bill's appropriation.

**Assumptions.** Current law requires a garnishee to provide to each debtor employee a calculation worksheet and a copy of the notice of garnishment. The bill shortens the time frame within which this notice must be sent to the employee from 42 days to 21 days following the service of the garnishment order. It also requires the garnishee to send documentation to the creditor within a shortened time frame. The bill imposes a daily fine if the garnishee fails to comply with these requirements on time. The fiscal note assumes that in order to ensure on-time receipt of the required documentation, and because many of the debtor employees do not have email addresses, DPA will have to send the required documents by certified mail.

**Personal services.** As discussed above, for garnishment actions where the department acts as garnishee, DPA requires \$22,659 and 0.5 FTE General Fund to prepare 4,800 mailings per year. This includes mailing of the notice and calculation worksheet to 2,400 employees subject to garnishment and one mailing to each of the 2,400 creditors. First year costs have been prorated to \$9,442 and 0.2 FTE to account for the January 1, 2018, effective date and General Fund pay date shift. Standard operating and capital outlay expenses have been included.

**Mailings.** At a cost of \$6.56 each, the 4,800 mailings require \$31,488 per year in General Fund appropriations to the Central Payroll Unit in DPA. First year costs have been prorated by half to account for the bill's effective date.

**Creditor fees and check printing.** For the approximately 9,600 garnishment actions initiated by CCS, where the department acts as creditor, DPA requires \$151,200 annually in cash fund appropriations to the Central Collection Cash Fund (prorated by half in the first year). These expenses include the \$15 fee that creditors must pay to garnishees and \$0.75 per check in printing costs. Because the 9,600 garnishments reflect the department's current workload, the increased time to include a check in mailings to garnishees can be accomplished within existing appropriations.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

<b>Table 3. Centrally Appropriated Costs under SB17-131</b>		
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$1,650	\$4,125
Supplemental Employee Retirement Payments	846	2,030
<b>TOTAL</b>	<b>\$2,496</b>	<b>\$6,155</b>

**Judicial Department.** Given the change in rules surrounding garnishments, the bill may drive a small increase in the number of motions filed in trial courts. The Judicial Department reports that very few garnishment actions are challenged. Any change in workload for trial courts is assumed to be minimal and requires no change in appropriations for the Judicial Department.

**Local Government Impact**

To the extent that local governments act as creditors or garnishees, revenue, expenditures, and workload may increase. As it is unknown how often local governments send or receive garnishment orders, the precise impact to local governments has not been estimated.

**Effective Date**

The bill takes effect January 1, 2018, if no referendum petition is filed.

**State Appropriations**

In FY 2017-18, the bill requires a General Fund appropriation of \$30,079 and an allocation of 0.2 FTE to the Department of Personnel and Administration and a cash fund appropriation of \$75,600 to the Central Collections Cash Fund in the Department of Personnel and Administration.

**State and Local Government Contacts**

Counties	Information Technology	Judicial
Municipalities	Personnel	