

#39.32

4/1/77

First Supplement to Memorandum 77-22

Subject: Study 39.32 - Wage Garnishment (AB 393)

Attached to this memorandum as Exhibits 1 and 2 are two letters concerning the provision of AB 393 (Section 723.024) that authorizes (but does not require) the employer to make a one dollar service charge each time the employer withholds from the employee's earnings pursuant to an earnings withholding order.

Exhibit 1 is a letter from the Western Center on Law and Poverty suggesting that the section be deleted entirely, thus eliminating any compensation to the employer for the employer's services in complying with the withholding order. This letter takes the same position as the State Bar Committee, which objected not so much to the one dollar charge as it did to the very real possibility that the one dollar charge would be increased at future sessions. In addition, you will note that the letter from the California Association of Collectors (Exhibit 2 of Memorandum 77-22) in effect objected to this provision of AB 393 on the ground that it increased the cost of a wage garnishment.

By way of contrast, the legislative representative of the City of Los Angeles, indicates in Exhibit 2 (attached) that the support of the City of Los Angeles could be obtained for the enactment of AB 393 if the bill were amended to permit the city to make a \$2.50 charge for each withholding. This could be construed to permit one charge per month of \$2.50 since most public employees are paid monthly. In addition, the city suggests that the employer be paid \$2.50 at the time the withholding order is served as an additional service charge for complying with the order (return by employer, and the like).

Although at past sessions, some employers indicated concern about wage garnishments and the Commission's recommended legislation, I am not aware of any opposition to AB 393 from employer groups. Several public entities have indicated that they like the one dollar service charge but that it is too low when employees are paid monthly. The attached letter from Los Angeles is the first written communication received on the matter.

The letter attached as Exhibit 1 makes a good case for deleting the provision for the one dollar service charge. On the other hand, we need all the support for the bill we can obtain when it is heard by the Senate Judiciary Committee, and it would be exceedingly helpful if the City of Los Angeles were in support of the bill. A compromise position might be to limit the service charge that may be imposed during any 30-day period to \$2.50, with a provision that a single deduction of \$2.50 may be made each month if the employee is paid monthly. In this connection, it should be noted, however, that Section 4701 of the Civil Code (wage assignments for support) provides: "The employer may deduct the sum of one dollar (\$1) for each payment made pursuant to such order." AB 393 as presently drafted is generally consistent with Section 4701.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

WESTERN CENTER ON LAW AND POVERTY, INC.
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 Telephone (916) 442-0753

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 CALIFORNIA, IN COOPERATION WITH

PETER F. SCHILLA
 Consulting Attorney

LEGAL AID FOUNDATION OF LOS ANGELES
 1820 W. Eighth Street
 Los Angeles, California 90017

March 29, 1977

TERENCE S. TERALSON
 Staff Attorney

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 SAN GABRIEL, & POMONA VALLEYS
 18 No. Marengo, Room 103
 Pasadena, California 91101

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 4700 S. Pacific Coast Highway
 Long Beach, California 90804

LEGAL AID SOCIETY OF ORANGE COUNTY
 1972 West 17th Street
 Santa Ana, California 92705

Honorable Ailister McAlister
 Member of the Assembly
 State Capitol, Room 3117
 Sacramento, California 95834

Re: Amendments to AB 393 (McAlister) -- Wage
 Garnishment

COMMUNITY LEGAL SERVICES
 OF RIVERSIDE COUNTY
 3615 Main Street
 Riverside, California 92501

Dear Assemblyman McAlister:

LEGAL AID SOCIETY OF SAN DIEGO
 264 Fifth Avenue
 Room 430
 San Diego, California 92101

TULARE COUNTY LEGAL SERVICES
 900 West Oak Street
 Visalia, California 93277

LEGAL AID ASSOCIATION
 OF VENTURA COUNTY
 831 Cooper Road
 West Office Box 250 or 1226
 Orland, California 93836

GREATER BAKERSFIELD LEGAL
 ASSISTANCE, INC.
 703 Sumner Street
 Bakersfield, California 93305

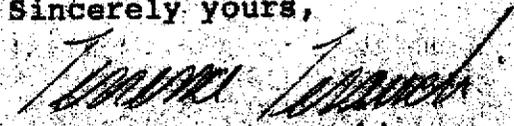
The Western Center on Law and Poverty would like to submit an amendment to AB 393 which we think would be essential for our clients before we would be able to fully support your bill when it appears before the Senate. John Demouilly has agreed to sit down and work out some of the problems that we and CRLA see with the current draft of AB 393. We certainly would want to clear up these differences before the bill appears before the Senate Judiciary Committee in order to give your bill the broadest support possible.

In addition to the amendments proposed by Robert Leidigh of CRLA, we would like to see proposed section 723.624, which would allow an employer to deduct \$1.00 per withholding not to exceed \$5.00 per month, deleted from the bill. This is an unnecessary provision and only serves to increase the cost of garnishment to the debtor and provides little in the way of real compensation to the employers. I understand that it is a provision which employers have not requested and is simply a gratuitous gesture on the part of the Commission to include such a provision. Five dollars per month is insignificant to an employer,

however, it would mean a tremendous amount to a debtor whose wages are being garnished. By weighing the comparative interests we feel that this proposed section should be deleted from AB 393.

I look forward to discussing this matter with you further. I plan to attend the California Law Revision Commission meeting on April 7-8 in Los Angeles to pursue our proposed amendment further.

Sincerely yours,



Terrence S. Terauchi

TST/aa

cc: John DeMouilly
Bob Leidigh



1st Supp Memo 77-22 EXHIBIT 2

CITY OF LOS ANGELES
OFFICE OF THE CHIEF LEGISLATIVE ANALYST
CITY COUNCIL

Copy to J. DeLoach

KEN SPIKER
CHIEF LEGISLATIVE ANALYST

March 24, 1977

Assemblyman Alister McAlister
Room 3112 State Capitol
Sacramento, Ca. 95814

Dear Assemblyman McAlister:

We have noted with interest your Assembly Bill 393 relating to wage garnishment. The Los Angeles City Controller has indicated that he would recommend that the City support your measure, if amended to increase the amount withheld by the employer as a service charge each time he is required to withhold wages. As you know, your bill allows the withholding of \$1.00 for the employer services in connection with the wage garnishment case. It has been the practice in the City of Los Angeles prior to January 1, 1977, to charge a fee of \$2.50 for such services. This amount covers most of the administrative costs.

We would, therefore, respectfully request that you consider amending AB 393 to reflect this charge. Our City Attorney recommends that Section 723.024 be amended to reflect the \$2.50 charge and that a phrase be added to Section 26750 (a) as follows: "except that where the levy is on the earnings of a public officer or public employee, the fee shall be eleven dollars (\$11.00), two dollars and fifty cents (\$2.50) thereof to be paid to the public employer."

We hope that you will favorably view these amendments and with such amendments we would pledge the support of the City of Los Angeles for the enactment of AB 393.

Yours very truly,

Norman D. Boyer
Norman D. Boyer
Legislative Representative

NDB/lv

cc: Assemblyman Daniel Boatwright, Chairman
Assembly Ways and Means Committee
All Members of the Assembly Ways and Means Committee

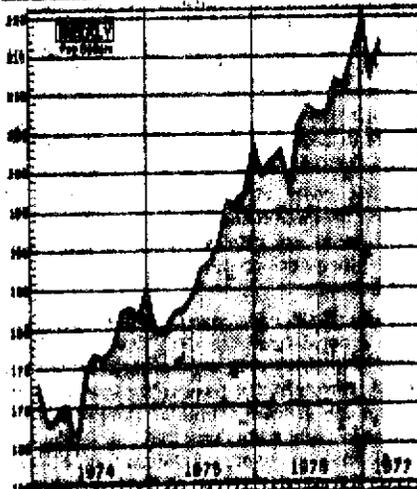
EXHIBIT 3

AB 393

723.024. Each time an employer makes a deduction from an employee's earnings pursuant to an earnings withholding order, the employer may make an additional deduction of one dollar (\$1) and retain it as a charge for the employer's services in complying with the earnings withholding order. The aggregate of such charges withheld from the wages of the employee shall not exceed five dollars (\$5) per month.

WEDNESDAY, MARCH 30, 1977

Weekly Earnings



AVERAGE WEEKLY PAY of factory workers in February rose to \$217.34 from a revised \$212.04 in January, the Labor Department reports.