

## First Supplement to Memorandum 72-2

Subject: Study 39.30 - Attachment, Garnishment, Execution (Employees' Earnings Protection Law)

This memorandum deals with the revisions, if any, that should be made in Section 723.050 which restricts the amount of earnings that may be withheld pursuant to an earnings withholding order.

The staff has prepared a revised Withholding Comparison Table using the new withholding tables for state income taxes. The new table is set out on page 9 of the revised recommendation (attached to Memorandum 72-2). The new table is substantially the same as the previous one; only minor changes in amounts previously computed were necessary.

Please refer to the table on page 9 of the revised recommendation. The representatives of creditors have expressed concern about the amounts withheld under the proposed legislation in the range from approximately \$80 to \$200 per week. It would be possible, if the Commission were so inclined, to increase the amounts withheld under the proposed statute by applying a greater percentage than 25 percent on a portion of nonexempt earnings. For example, the following formula might be used:

Except as otherwise provided in Sections 623.030, 723.031, and 723.106, the maximum amount of the earnings of a judgment debtor in any workweek that can be withheld pursuant to this chapter is:

- (1) 25 percent of the first \$20 of nonexempt earnings.
- (2) 50 percent of the next \$20 of nonexempt earnings.
- (3) 25 percent of the remainder of nonexempt earnings.

This would make the following changes in the revised table set out on page 9 of the revised recommendation.

Gross Earnings	Disposable Earnings (Married and 2 children)	PROPOSED STATUTE			
		As drafted		As revised above	
		withheld	net	withheld	net
\$60	\$56.28	-0-	\$56.28	-0-	\$56.28
\$70	65.56	-0-	65.56	-0-	65.56
\$80	73.54	\$5	68.54	\$5	68.54
\$90	81.52	\$6	75.52	\$8	73.52
\$100	89.00	\$8	81.00	\$12	77.00
\$110	96.68	\$10	86.68	\$15	81.68
\$120	104.36	\$12	92.36	\$17	87.36
Amounts above \$120		no change		add \$5 to amount set out in table for proposed statute set out on page 9 of recommendation	

When the staff examines the disposable earnings for various brackets and the amounts withheld under the statute as drafted and takes into account the expenses of maintaining housing and raising two children, the conclusion reached by the staff is that the amounts set out in the statute as drafted column are reasonable and that the amounts set out in the column for the revised statute are excessive. The amount remaining for the support of four persons, even under the statute as drafted, is hardly enough to maintain the family at a poverty level. Also, if the formula for the revised statute were adopted, the statute could require withholding in excess of federal requirements when the \$600 for week class was reached if the employee is under a public retirement system. It also should be recognized that the actual net pay for the various income categories set out above often will be less than shown because there will be additional deductions for such items as union dues, union initiation fees, deductions for health and welfare premiums (including company retirement programs), and the like.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary