

SR-168, As Adopted by Senate, September 23, 2014

Substitute for Senate Resolution No. 168.

A resolution to oppose the U.S. Environmental Protection Agency's proposal to garnish wages without a court order.

Whereas, The U.S. Environmental Protection Agency (EPA) issued a final direct rule on July 2, 2014, that would allow the agency to conduct administrative wage garnishment. Unless the EPA takes action to actively withdraw the rule, the EPA will be able to garnish the nonfederal wages of private citizens to collect unpaid fines without a court order effective September 2, 2014; and

Whereas, In the face of adverse comments, the EPA withdrew the final direct rule only two weeks later. However, despite the public outcry, the EPA continues to move forward--through the more traditional rule-making process--with a proposed rule that would accomplish the same thing as the final direct rule and allow the EPA to garnish wages without a court order; and

Whereas, The EPA has a long history of regulatory overreach and issuing substantial fines against ordinary citizens conducting activities, ultimately determined to be legal, on their own property. The EPA can administratively fine individuals hundreds of thousands of dollars per day, easily large enough to ruin a family. At the same time, disputes over EPA jurisdiction and enforcement are common and have been successfully challenged in case after case; and

Whereas, Administrative wage garnishment will compound the problems already faced by property owners attempting to fight questionable EPA actions. This process will allow EPA to dictate the procedures for challenging fines and wage garnishment and remove it from a neutral court setting. The EPA will be able to decide if an individual can present an oral defense, choose the hearing officer, and determine the site of the hearing. The burden of proof will be on the individual, not the agency. In short, administrative wage garnishment will allow an agency with institution-wide issues unbridled discretion to judge its own actions and further power to suppress challenges to its authority; now, therefore, be it

Resolved by the Senate, That we oppose the U.S. Environmental Protection Agency's proposal to garnish wages without a court order; and be it further

Resolved, That copies of this resolution be transmitted to the Administrator of the U.S. Environmental Protection Agency and the members of the Michigan congressional delegation.