

HOUSE BILL 1228

State of Washington

52nd Legislature

1991 Regular Session

By Representatives Brumsickle, Wang, Holland and Paris; by request of Office of Financial Management.

Read first time January 23, 1991. Referred to Committee on Revenue.

1 AN ACT Relating to the management of state government receivables;
2 amending RCW 43.88.175; adding a new section to chapter 43.17 RCW; and
3 adding a new section to Title 43 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 43.88.175 and 1989 c 100 s 1 are each amended to read
6 as follows:

7 State agencies may report ((past due accounts)) receivables to
8 credit reporting agencies whenever the agency determines that such
9 reporting would be cost-effective and does not violate confidentiality
10 or other legal requirements. Within thirty-five days after
11 satisfaction of a debt reported to a credit reporting agency, the state
12 agency reporting the debt shall notify the credit reporting agency that
13 the debt has been satisfied.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.17 RCW
2 to read as follows:

3 Interest at the rate of one percent per month, or fraction thereof,
4 shall accrue on debts owed to the state, starting on the date the debts
5 become past due. This section does not apply to: (1) Any instance
6 where such interest rate would conflict with the provisions of a
7 contract or with the provisions of any other law; or (2) debts to be
8 paid by other governmental units. The office of financial management
9 may adopt rules specifying circumstances under which state agencies may
10 waive interest, such as when assessment or collection of interest would
11 not be cost-effective. This section does not affect any authority of
12 the state to charge or collect interest under any other law on a debt
13 owed to the state by a governmental unit. This section applies only to
14 debts which become due on or after the effective date of this act.

15 NEW SECTION. **Sec. 3.** A new section is added to Title 43 RCW to
16 read as follows:

17 (1) Upon termination, dissolution, or abandonment of a corporate
18 business, any officer or other person who has control or supervision of
19 state trust funds or who is charged with the responsibility for the
20 remittance of trust funds to a state agency shall be personally liable
21 to the agency for any unpaid trust funds, if such officer or other
22 person willfully fails to pay or to cause to be paid any trust funds
23 due from the corporation. If any other law specifies interest or
24 penalties for the nonpayment of the trust funds for which the officer
25 or other person is liable, then the officer or person also shall be
26 liable for the amount of the interest and penalties.

27 (2) For the purposes of this section: (a) "Trust funds" means all
28 moneys which (i) have been collected from another party on behalf of
29 the state, including but not limited to workers' compensation fund

1 contributions collected from employees and the state share of vehicle
2 emission testing fees collected from vehicle owners; and (ii) became
3 due during the period in which the officer or other person had the
4 control, supervision, responsibility, or duty to act for the
5 corporation with respect to the payment of the funds collected on
6 behalf of the state; and (b) "willfully fails to pay or to cause to be
7 paid" means that the failure was the result of an intentional,
8 conscious, and voluntary course of action and that the nonpayment was
9 not caused by reasons beyond the control of the officer or other
10 person.

11 For the purposes of this subsection, the employees' share of
12 workers' compensation contributions is considered to be "collected from
13 employees" whether or not the employer actually collected such
14 contributions from the employees.

15 (3) This section applies only in situations where the agency has
16 determined that there is no reasonable means of collecting the trust
17 funds directly from the corporation.

18 (4) This section does not relieve the corporation of other
19 liabilities or otherwise impair other remedies afforded by law.

20 (5) Amounts due to an agency under this section shall be collected
21 in conformance with any statute or administrative law dealing with the
22 collection of such amounts by that agency. In the absence of such a
23 statute or administrative law, the agency may bring legal action to
24 collect the amounts due or may use the collection authority and
25 procedures available to the department of revenue under RCW 82.32.210
26 and 82.32.220 through 82.32.245, as if it were the department of
27 revenue and the amounts due were tax payments due.

28 (6) This section does not apply to any debt for which any officer
29 or person is liable under RCW 82.32.145.

1 (7) This section applies only to trust funds that become due on or
2 after the effective date of this act.