

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6169

61st Legislature
2009 Regular Session

Passed by the Senate April 19, 2009
YEAS 44 NAYS 3

President of the Senate

Passed by the House April 23, 2009
YEAS 52 NAYS 43

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6169** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6169

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Ways & Means (originally sponsored by Senator Prentice)

READ FIRST TIME 04/19/09.

1 AN ACT Relating to enhancing tax collection tools for the
2 department of revenue in order to promote fairness and administrative
3 efficiency; amending RCW 82.32.235; and creating a new section.

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

5 **Sec. 1.** RCW 82.32.235 and 1987 c 208 s 1 are each amended to read
6 as follows:

7 (1) In addition to the remedies provided in this chapter the
8 department is ~~((hereby))~~ authorized to issue to any person~~((, or to any
9 political subdivision or department of the state))~~, a notice and order
10 to withhold and deliver property of any kind whatsoever when there is
11 reason to believe that there is in the possession of such person~~((,
12 political subdivision or department))~~, property which is or ~~((shall))~~
13 will become due, owing, or belonging to any taxpayer against whom a
14 warrant has been filed.

15 (2) The ~~((notice and order to withhold and deliver shall be served
16 by the))~~ sheriff of the county ~~((wherein))~~ where the service is made,
17 or ~~((by))~~ his or her deputy, or ~~((by))~~ any duly authorized
18 representative of the department~~((, provided that service by such
19 persons may also be made))~~ may personally serve the notice and order to

1 withhold and deliver upon the person to whom it is directed or may do
2 so by certified mail, with return receipt requested(, upon those
3 persons, or political subdivision or department, to whom the notice and
4 order to withhold and deliver is directed. Any person, or any
5 political subdivision or department upon whom service has been made is
6 hereby required to answer the notice within twenty days exclusive of
7 the day of service, under oath and in writing, and shall make true
8 answers to the matters inquired of in the notice)).

9 (3)(a) The department is authorized to issue a notice and order to
10 withhold and deliver to any financial institution in the form of a
11 listing of all or a portion of the unsatisfied tax warrants filed under
12 this chapter with the clerk of the superior court of a county of the
13 state, except tax warrants subject to a payment agreement, which is not
14 in default, between the department and the taxpayer.

15 (b) As an alternative to the methods of service in subsection (2)
16 of this section, the department may serve the notice and order to
17 withhold and deliver authorized under this subsection electronically.
18 The remedy in this subsection (3) is in addition to any other remedies
19 authorized by law.

20 (c) No more than one notice and order to withhold and deliver under
21 this subsection (3) may be served on the same financial institution in
22 a calendar month.

23 (d) Notice and order to withhold and deliver under this subsection
24 (3) must include the federal taxpayer identification number of each
25 taxpayer.

26 (e) For purposes of this subsection, "financial institution" means
27 a bank, trust company, mutual savings bank, savings and loan
28 association, or credit union authorized to do business and accept
29 deposits in this state under state or federal law.

30 (f) The department may provide a financial institution relief from
31 a notice and order to withhold and deliver in the form provided under
32 this subsection (3) upon the request of the financial institution. The
33 department must consider the size, customer base, and geographic
34 location of the financial institution when considering whether to
35 provide relief. The department must serve any financial institution so
36 relieved under subsection (1) of this section.

37 (4) Any person who has been served with a notice and order to
38 withhold and deliver under subsection (1) of this section must answer

1 the notice within twenty days, exclusive of the day of service. Any
2 person who has been served with a notice and order to withhold and
3 deliver under subsection (3) of this section must answer the notice
4 within thirty days, exclusive of the day of service. The answer must
5 be in writing, under oath if required by the department, and include
6 true answers to the matters inquired of in the notice. Any person
7 served under subsection (3) of this section may answer in aggregate
8 within thirty days, but must answer separately as to each taxpayer
9 listed and specify any property by taxpayer which is delivered. The
10 department must allow any person served electronically under subsection
11 (3) of this section to answer the notice and order to withhold and
12 deliver electronically in a format provided or approved by the
13 department.

14 (5) In the event there is in the possession of any (~~such~~) person
15 (~~or political subdivision or department~~) served with a notice and
16 order to withhold and deliver, any property which may be subject to the
17 claim of the department, such property (~~shall~~) must be delivered
18 (~~forthwith~~) immediately to the department of revenue or its duly
19 authorized representative upon demand (~~to be held in trust by~~). The
20 department must hold the property in trust for application on the
21 indebtedness involved or for return, without interest, in accordance
22 with final determination of liability or nonliability(~~, or in the~~
23 ~~alternative, there shall be furnished a good and sufficient~~). Instead
24 of delivering the property to the department or the department's duly
25 authorized representative, the person may furnish a bond satisfactory
26 to the department conditioned upon final determination of liability.

27 (6) Should any person (~~or political subdivision~~), having been
28 served with a notice and order to withhold and deliver, fail to
29 (~~make~~) answer (~~to an~~) the notice and order to withhold and deliver
30 within the time prescribed (~~herein, it shall be lawful for the court,~~
31 ~~after the time to answer such order has expired, to~~) in this section
32 or otherwise fail to comply with the duties imposed in this section,
33 the department may bring a proceeding, in the superior court of
34 Thurston county or of the county in which service of the notice was
35 made, to enforce the notice and order to withhold and deliver. The
36 court may render judgment by default against such person (~~or political~~
37 subdivision) for the full amount claimed by the department in the

1 notice and order to withhold and deliver or may grant such other relief
2 as the court deems just, together with costs.

3 (7) For purposes of this section, "person" has the same meaning as
4 in RCW 82.04.030 and also includes any agency, department, or
5 institution of the state.

6 NEW SECTION. Sec. 2. (1) The legislature finds that the state's
7 vital interest in collecting lawfully due taxes must be balanced
8 against the burden of complying with section 1(3) of this act,
9 particularly for small financial institutions.

10 (2)(a) Therefore, the legislature directs the department of revenue
11 to work with interested financial institutions to develop policies
12 regarding the frequency of service under section 1(3) of this act and
13 under what circumstances a notice and order to withhold and deliver
14 will contain only a partial list of unsatisfied tax warrants eligible
15 to be included in the notice. The policies should take into account
16 the size of a financial institution, location of a financial
17 institution, number of business accounts that a financial institution
18 has, and any other factors the department may choose to consider.

19 (b) The department is also directed to develop a policy regarding
20 the information to be contained in a notice and order to withhold and
21 deliver to ensure that financial institutions can accurately match
22 their records with the names of tax debtors.

23 (3) The department must report to the fiscal committees of the
24 legislature on the implementation of section 1(3) of this act by
25 January 1, 2012. The report should describe the policies developed by
26 the department as directed in subsection (2) of this section. The
27 report should also describe any difficulties the department encountered
28 in implementing section 1(3) of this act and any suggestions the
29 department may have to improve the effectiveness of section 1(3) of
30 this act, reduce the burden on financial institutions in complying with
31 section 1(3) of this act, or both.

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