

**HOUSE BILL 1228**

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**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.