

HOUSE BILL REPORT

SSB 6441

As Passed House:
February 28, 2006

Title: An act relating to judicial orders concerning distraint of personal property.

Brief Description: Changing the law related to judicial orders concerning distraint of personal property.

Sponsors: By Senate Committee on Judiciary (originally sponsored by Senators Johnson and Kline).

Brief History:

Committee Activity:

Judiciary: 2/15/06 [DP].

Floor Activity:

Passed House: 2/28/06, 96-1.

Brief Summary of Substitute Bill

- Provides authority to superior and district courts to issue warrants for the search and seizure of personal property subject to seizure for payment of delinquent personal property taxes.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Kirby, Serben, Springer and Wood.

Staff: Edie Adams (786-7180).

Background:

Property taxes apply to both real property and personal property. Unless specifically exempt, all tangible personal property is subject to property tax. Most personal property owned by individuals is exempt from property tax (e.g., household goods and personal effects are not subject to property tax). However, personal property owned by businesses is subject to the property tax. Examples of taxable personal property are office furniture and fixtures, computer software, manufacturing machinery and equipment, construction equipment, and commercial fishing equipment.

The county assessor is responsible for the assessment of personal property and the calculation of taxes. Personal property is taxed at the same levy rate as real property. The county treasurer is responsible for the billing and collection of the taxes based on the "tax roll" received from the county assessor.

The county treasurer is charged with the duty to collect delinquent personal property taxes. One method a county treasurer may use to collect delinquent taxes is through a process of "distrain," which is a process of seizing and detaining personal property. The treasurer prepares "papers in distraint," which must describe the personal property, the amount of taxes and accrued interest due, and the name of the owner of the personal property. The treasurer must distraint sufficient goods and chattel of the property owner to satisfy the obligation and must advertise the distraint by posting notice of the distraint and date and place of sale of the property. The sale of the property may not occur until the tenth day after the property is seized.

The Washington Supreme Court has held that there is no general common law authority for a court to issue a search warrant. Rather, a judge is authorized to issue a search warrant only if there is specific statutory or court rule authority to do so. The chapter governing collection of delinquent personal property taxes through a distraint and sale process does not provide specific authorization for a court to issue a warrant for the seizure of personal property to satisfy a delinquent tax debt.

Summary of Bill:

A judge of the superior court or a district court is given authority to issue a warrant directed to the county treasurer for the search and seizure of property within the county that is subject to distraint for satisfaction of delinquent personal property taxes. The warrant must describe the property to be seized and the place or places where the seizure will occur. The criminal rules of superior court and district court govern the procedure for the issuance and execution and return of the warrant and for the return of any property seized.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The bill is needed because of case law that says that there is no general common law authority for a judge to issue a warrant, and that a warrant may be issued only if specifically authorized by statute. The bill provides the specific statutory authority for judges to issue warrants so that county treasurers are able to perform their obligations in collecting delinquent taxes.

Testimony Against: None.

Persons Testifying: Michael Shaw, Pierce County.

Persons Signed In To Testify But Not Testifying: None.