

HOUSE BILL REPORT

HB 2429

*As Reported By House Committee on:
Judiciary*

Title: An act relating to distribution of proceeds from forfeiture of property seized under the uniform controlled substances act.

Brief Description: Adjusting the distribution of proceeds from property forfeitures.

Sponsor(s): Representatives Riley, Padden, Appelwick, Ludwig, Scott, Mielke, D. Sommers, Paris, Bowman, Ferguson, Orr, Brough, Broback and Hochstatter.

Brief History:

Reported by House Committee on:
Judiciary, January 24, 1992, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Wineberry.

Minority Report: *Without recommendation.* Signed by 1 member: Representative Paris, Assistant Ranking Minority Member.

Staff: Bill Perry (786-7123).

Background: Under a variety of state and federal laws, property used in connection with the commission of some crimes may be seized by administrative or law enforcement agencies. Such seized property is subject to forfeiture in civil proceedings that may or may not accompany criminal prosecution. Forfeiture vests the ownership of the property in the seizing agency.

The state's Uniform Controlled Substances Act allows the seizure and forfeiture of both personal and real property. When property is forfeited under this statute, it may be disposed of by the seizing agency in one of three ways,

depending on circumstances set out in the law. The property may be kept by the agency, destroyed or sold. If the property is sold or if the property seized is itself money, the proceeds of the sale or the money seized, is subject to a fairly complex set of rules regarding its distribution.

If a single forfeiture involves less than \$5,000, the seizing agency may keep the entire amount. If the amount is more than that, the money is split between the state and the seizing agency. However, the amount to be split is the net of all of the seizing agency's expenses in investigation, seizure and forfeiture.

Currently, net proceeds from real property forfeitures are to be divided as follows: 25 percent to the seizing agency; 25 percent to the state's public safety and education account; and 50 percent to the state's drug enforcement and education account. After July 1, 1995, the 50 percent going to the state's drug account will go to the seizing agency.

Net proceeds from personal property forfeitures are to be divided as follows: 75 percent to the seizing agency; and 25 percent to the state's public safety and education account.

Funds to be sent to the state are to be deposited within 90 days after forfeiture proceedings are concluded.

Summary of Substitute Bill: The method of dividing the proceeds from property forfeitures in drug cases is changed. Ten percent of the gross value of all retained or sold personal and real property goes to the state. Until July 1, 1995, that money will be deposited in the drug enforcement and education account. After that date, the money will go to the public safety and education account. The remaining 90 percent of the proceeds are retained by the seizing agency.

The value of property retained by the seizing agency must be determined by an independent appraisal. The value of sold property is the sale price minus outstanding liens and innocent ownership interests.

Substitute Bill Compared to Original Bill: The substitute bill makes three changes to the original bill. First, it restores provisions that require proceeds to be used for law enforcement purposes. Second, it allows deduction of liens and innocent ownership interests from the sale price when determining the value of property. Third, it postpones the requirement for forwarding proceeds to the general fund in cases in which property is needed as evidence.

Fiscal Note: January 13, 1992.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will greatly simplify the process of dividing the proceeds of property seizures. The current system has produced much less money than had been anticipated.

Testimony Against: The current law is fine. Its implementation at the local level should be examined.

Witnesses: Randy Hamilton, Washington Association of Sheriffs and Police Chiefs (generally in favor); Mark Stockdale (objected to provisions in the original bill that were changed in the substitute); and Steve Tucker (opposed).