

SENATE BILL REPORT

SB 6441

As Reported By Senate Committee On:
Judiciary, January 19, 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: Senators Johnson and Kline.

Brief History:

Committee Activity: Judiciary: 1/19/06 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6441 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: The county treasurer is the receiver and collector of all taxes extended upon the tax rolls of the county and taxes on real and personal property are due and payable to the treasurer on or before a date set out in statute. After a specified amount of time has succeeded the levy of taxes, the county treasurer must proceed to collect all personal property taxes. If the treasurer is unable to collect the taxes when due, he or she will prepare papers in distraint, containing a description of the personal property, the amount of taxes, the amount of accrued interest, and the name of the owner. Current law directs the treasurer to distraint, or seize, sufficient goods and chattels belonging to the person charged with the taxes to pay the taxes. Notice is required to be posted in three public places in the county, stating when and where the property will be sold. If, in the judgment of the assessor or county treasurer, personal property is being removed beyond state lines, dissipated, sold, or disposed of so as to jeopardize collection of taxes, the treasurer will immediately prepare papers in distraint and will distraint sufficient goods and chattels belonging to the person charged with the taxes.

When the property subject to distraint is on private property, the treasurer must obtain a warrant issued by a superior court judge. A 1994 Washington Supreme Court case, *Seattle v. McCready*, held that if a warrant is issued by a magistrate without the authority to do so, it has no more validity than a warrant signed by a private citizen and cannot serve as the authority of law.

Summary of Substitute Bill: If there is probable cause to believe there is property within the county subject to distraint, any superior or district court judge in the county may, upon the request of the sheriff, county treasurer, or agent of the county treasurer, issue a warrant

commanding the search for and seizure of the property described in the request for the warrant at the place described in the request for the warrant. The criminal rules of superior court and district court govern the procedure for issuance and execution and return of the warrant and for return of any property seized.

Substitute Bill Compared to Original Bill: When there is probable cause to believe there is property within the county subject to distraint, any superior or district court judge in the county may, upon the request of the county treasurer or their deputy issue a warrant directed to the county treasurer or their deputy commanding the search for and seizure of the property described in the request for warrant at the place or places described in the request for warrant. The sheriff and agent of the county treasurer are removed from the warrant process.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: The "fix" in this bill is based on a Washington Supreme Court case. Budget and finance have a duty to collect property in order to pay taxes. Treasurers need the legal authority to do what they have the duty to accomplish. The McCready case stated that the judge must have the statutory authority to issue the warrant so the treasurer can fulfill his duty.

Testimony Against: None.

Who Testified: PRO: Mike Shaw, Pierce County; Mark Von Wahlde, Deputy Prosecutor, Pierce County; Phil Sanders, King County Treasurer Operations.