

# HOUSE BILL REPORT

## SSB 5804

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**As Reported By House Committee On:**  
Law & Justice

**Title:** An act relating to release of power of appointment.

**Brief Description:** Clarifying procedures for release of a power of appointment.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Johnson and Long; by request of Secretary of State).

**Brief History:**

**Committee Activity:**

Law & Justice: 3/31/95 [DP].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass. Signed by 16 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Smith; Thibaudeau and Veloria.

**Staff:** Bill Perry (786-7123).

**Background:** A "power of appointment" is the authority given to one person over the disposition of property of another person. A power of appointment may be created by a deed or will. The state's probate code provides a method for the recipient of such a power of appointment to "release" the power. That is, the person holding the power may decline to exercise the authority and may release the power of appointment.

Release of a power is accomplished by a written instrument signed by the holder of the power. The written release must be delivered to any trustee of the property that is subject to the power and also delivered to the person holding the property.

In addition to making this mandatory notice that is required for a release, the holder of a power of appointment may send a copy of the release to the Secretary of State. There is a \$1 filing fee required. If sent, this notice to the Secretary of State

constitutes notice to all other persons of the release. Upon receipt of a notice of release, the Secretary of State is required to index and file it.

The Secretary of State's office reports that this provision for filing releases is seldom used. Only about 100 filings were made in 1994. These filings may be serving no purpose since the Secretary of State's office apparently never receives requests for the filings.

**Summary of Bill:** The optional filing of a release of a power of appointment with the Secretary of State is eliminated. An optional publication of notice of a release is provided. A notice of release may be published in a legal newspaper in the county where all or most of the property in question is located. The notice is to be published at least once within 30 days of the mandatory notice to the holder of the property and to any trustees of the property.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** The bill removes a completely ineffective method of publishing notice and eliminates unnecessary government work.

**Testimony Against:** None.

**Testified:** Don Whiting, Office of the Secretary of State (pro).