

SENATE BILL REPORT

SHB 1062

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 13, 1991

Brief Description: Broadening the power of fiduciaries to divide trusts.

SPONSORS: House Committee on Judiciary (originally sponsored by Representatives Ludwig, Padden, R. Meyers and Orr).

HOUSE JUDICIARY COMMITTEE

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

Staff: Dick Armstrong (786-7460)

Hearing Dates: March 13, 1991

BACKGROUND:

Federal estate tax laws provide various mechanisms to defer the payment of estate taxes. One method is for a spouse (wife) to place property in a qualified trust for the benefit of the other spouse (husband). In this instance, estate taxes are deferred upon the death of the wife, and taxes are then generally paid upon the death of the husband.

Under existing law, fiduciaries of various types of enumerated trusts are allowed to make estate tax elections for the benefit of spouses by dividing a trust into separate trusts.

It is suggested that fiduciaries of generation-skipping trusts (property transferred from a grandparent to grandchildren) be granted the same powers to make tax elections as exists for fiduciaries of trusts that benefit spouses.

SUMMARY:

Fiduciaries of generation-skipping trusts (property transferred from a grandparent to grandchildren) are held to the same standards and are given the same powers to make federal estate tax elections as exists for fiduciaries of trusts that benefit spouses. Unless the trust instrument itself provides otherwise, fiduciaries of generation-skipping trusts may benefit personally from any estate tax election and fiduciaries of all trusts may divide a trust into two or more separate trusts if the terms of the separate trusts are substantially identical to the terms of the trust before division.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

The bill will allow fiduciaries of generation-skipping trusts to take advantage of federal estate tax laws. Federal estate tax laws are complex and constantly changing, so fiduciaries of trusts should be given considerable flexibility to make tax elections to benefit the beneficiaries of trusts.

TESTIMONY AGAINST: None

TESTIFIED: Mike Carrico, Washington State Bar Association (pro)