

5052-S

Sponsor(s): Senate Committee on Law & Justice (originally sponsored by Senators Moore, Nelson and Thorsness)

Brief Description: Concerning collection of public debts.

**SB 5052-S - DIGEST**

(DIGEST AS PASSED LEGISLATURE)

Provides that the terms "claim" and "debt" for the purposes of RCW 19.16.100 and 19.16.500 shall include restitution and legal financial obligations ordered pursuant to chapter 9.94A RCW.

VETO MESSAGE ON SB 5052-S

May 20, 1991

To the Honorable, the Senate  
of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5052, entitled:

"AN ACT Relating to collection of public debts."

This bill amends the definition of "claim" in the law regulating debt collection practices by expanding that definition to include court-ordered or contractual restitution and any legal financial obligations imposed under the Sentencing Reform Act. It also stipulates that the state and its political subdivisions may "assign" public debts only to licensed collection agencies. In addition, it may limit the authority of public agencies to contract with debt collection agencies by eliminating their power to "retain" these agencies to collect public debts.

It is difficult to argue with the apparent purpose of this legislation -- to expand protection of the public against illegal debt collection practices and ensure that disreputable companies are not allowed to engage in collection activities, when such activities are associated with state and local government agencies. The bill attempts to achieve these goals by requiring public agencies to use licensed collection agencies to collect legal financial obligations.

While the purpose of the legislation is laudable, its application would have negative effects on two pre-trial diversion or deferred prosecution programs in Whatcom and Pierce Counties. Prosecutors in those counties have contracted with a private organization to act on their behalf to manage a program that requires training and payment of restitution, in lieu of prosecution, for people who write bad checks. An effort to require the offender to pay the victim for the amount lost on the bad check is an important part of the program. The counties contract for this program because they do not have the personnel and resources to run the program internally. It provides a valuable law enforcement service to businesses that are plagued by bad checks.

The bill would eliminate the authority of the two counties to contract for this kind of program with someone other than a

licensed collection agency. That would make it difficult, if not impossible, to carry out the program in its current form. Licensed collection agencies are prohibited by statute from threatening prosecution and using any official connection with a public agency while engaged in collection agency business. The organization that manages the deferred prosecution program for the Pierce and Whatcom County Prosecutors uses both of these techniques as integral parts of the program.

In addition, I understand the issue of the bill's impact on these kinds of deferred prosecution programs was not considered by the Legislature. The Pierce and Whatcom County Prosecutors were not made aware of the bill. If there is a concern about public agencies contracting out for these services, that issue should have been part of the legislative debate on this bill.

Finally, this bill eliminates current discretionary authority of public agencies to retain licensed collection agencies to collect public debts. I question the wisdom of reducing the flexibility of state and local government to enforce public obligations in this manner.

For these reasons, I have vetoed Substitute Senate Bill No. 5052 in its entirety.

Respectfully submitted,  
Booth Gardner  
Governor