

HOUSE BILL REPORT

SSB 6004

As Reported By House Committee On:
Judiciary

Title: An act relating to limiting the powers of a trustee.

Brief Description: Changing limitations on trustee's powers.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senator A. Smith).

Brief History:

Reported by House Committee on:
Judiciary, February 8, 1994, DP.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 11 members:
Representatives Appelwick, Chair; Johanson, Vice Chair;
Padden, Ranking Minority Member; Ballasiotes, Assistant
Ranking Minority Member; Campbell; Chappell; Eide; Forner;
J. Kohl; Long and Morris.

Staff: Bill Perry (786-7123).

Background: In 1993 legislation was enacted at the request of the state bar association that was designed to prevent trust arrangements from producing unanticipated federal tax consequences. The legislation provided specific methods for designating the powers of a trustee or other person in order to avoid classification of those powers as "general powers of appointment." Characterization of powers of appointment as "general" can produce federal estate and gift tax liability where it would not otherwise exist.

The state bar association is recommending some technical amendments to that 1993 act.

Summary of Bill: An exception in the 1993 act for a "marital deduction" under federal law is removed since the exception erroneously refers to the "testator's" spouse instead of the "trustor's" spouse, and the exception is already provided for in another section of law.

An erroneous reference in the 1993 act to "legal support obligation" is changed to "legal obligation."

The 1993 act is explicitly made applicable to the powers of appointment of an attorney-in-fact.

Fiscal Note: Not requested.

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

Testimony For: The bill corrects ambiguities in the current law.

Testimony Against: None.

Witnesses: Noreen Nearn, Washington State Bar Association (pro).