

SENATE BILL REPORT

HB 1076

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 23, 1993

Brief Description: Allowing a personal representative with nonintervention powers to determine time and manner of distributing income.

SPONSORS: Representatives Ludwig, Padden, Appelwick, Orr and Johanson

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Rinehart, Roach, and Spanel.

Staff: Alan Caplan (786-7465)

Hearing Dates: March 19, 1993; March 23, 1993

BACKGROUND:

Certain beneficiaries of a will are entitled to income earned on their bequests during the administration of the estate. These include beneficiaries who are bequeathed specific gifts, beneficiaries who are bequeathed the residue of an estate after specific gifts are distributed, and persons entitled to receive income under a testamentary trust. Washington statutes, however, do not specify when personal representatives may distribute income to residuary and trust beneficiaries.

Under Washington law, personal representatives of solvent estates in most cases are entitled to manage and settle those estates without court approval or intervention. It has been reported that such personal representatives often use their broad "nonintervention powers" to distribute estate income to residuary and trust beneficiaries.

Concerns have been raised that income distributions are not within the nonintervention powers of personal representatives, and that the Internal Revenue Service therefore may not respect the representatives' reporting of such distributions as deductible by the estate. If the Internal Revenue Service does not acknowledge the legitimacy of an income distribution, the estate may be taxed on the income (instead of the beneficiary). A recent federal case suggested that the Internal Revenue Service could disallow estate income tax deductions that are not clearly authorized by state law.

The Washington State Bar Association has recommended that state law be amended to clarify the power of the personal representatives.

SUMMARY:

A personal representative who has been granted nonintervention powers may determine the time and manner of distributing the income to a beneficiary entitled to receive the income including: (1) a residuary beneficiary; (2) a testamentary trust beneficiary to whom trust income must be distributed; and (3) a testamentary trust beneficiary to whom trust income may be distributed if the trustee named in the will approves or ratifies the distribution.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

This bill will allow income to be distributed to beneficiaries without exposing the estate to federal tax liability.

TESTIMONY AGAINST: None

TESTIFIED: Representative Ludwig, prime sponsor; Noreen Nearn, Washington State Bar Association (pro)