

SENATE BILL REPORT

ESSB 5195

As Passed Senate, February 19, 1999

Title: An act relating to protecting employee benefits.

Brief Description: Protecting employee benefits.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Heavey, Johnson, Kline and Winsley).

Brief History:

Committee Activity: Judiciary: 1/29/99, 2/3/99 [DPS].
Passed Senate, 2/19/99, 43-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5195 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Johnson, Long, McCaslin, Roach and Thibaudeau.

Staff: Penny Nerup (786-7484)

Background: Except for child support collection actions or unless otherwise provided by federal law, all federal and certain state pension plans are exempt from execution, attachment, garnishment or seizure by legal process. This exemption applies to family members who obtain these pensions after the debtor dies or absconds.

The Washington State Bar Association suggests that other commonly used types of pension plans (such as Roth IRAs, tax sheltered annuities, etc.) should be brought under these same protections from garnishment because federal law encourages these types of savings as a matter of public policy. The Bar also suggests extension of the protections of this act to include all state government pension plans.

Summary of Bill: The existing statute which exempts various pension plans from execution, attachment, garnishment or seizure is expanded to include various types of retirement savings plans recognized by the federal government. Included in the term "employee benefit plan" are tax-sheltered annuities, individual retirement accounts, Roth individual retirement accounts, medical saving accounts, education individual retirement accounts, retirement bonds, and the monies deposited in the advanced college tuition payment plan. Various Washington State Department of Retirement Systems pension plans are excluded from the protections against execution, attachment, garnishment, and seizure of this statute. Language is added conforming the act to the numerical changes of the IRS Tax Code and to the alternate dispute resolution provisions that are required with disputes of wills or trusts.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill extends the protections from execution, attachment, garnishment, and seizure to other forms of retirement savings that are encouraged and recognized by the federal government. Most CPA practitioners already believe that these protections exist and welcome the legislation.

Testimony Against: Pensions provided by the Department of Retirement Systems should not be included in this legislation because these pensions are already protected by other statutes and their inclusion here could cause confusion.

Testified: PRO: Richard Hopp, Chair, Creditor/Debtor Section, Washington State Bar Association; Jim Boldt, Peter Slowaviczek, Washington Society of CPAs; CON: John Charles, Director, Department of Retirement Systems (only as to those provisions concerning DRS pensions).