

SENATE BILL REPORT

SB 5568

As Passed Senate, March 11, 2009

Title: An act relating to enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency.

Brief Description: Enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency.

Sponsors: Senators Tom, Rockefeller and Shin; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 2/09/09, 2/10/09 [DP, DNP].

Passed Senate: 3/11/09, 43-3.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Hobbs, Honeyford, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Parlette, Pflug, Pridemore, Regala, Rockefeller and Schoesler.

Minority Report: Do not pass.

Signed by Senator Carrell.

Staff: Dean Carlson (786-7305)

Background: The Department of Revenue (Department) currently has the authority to request information from third parties by way of an administrative summons. This is used to provide information in regards to an audit, a collection activity, or other type of investigation.

In a recent decision in *State v. Miles*, the Supreme Court ruled that certain information obtained through an administrative summons was not allowed in court. The case involved another agency, other than the Department, but could have impacts on the Department.

Summary of Bill: The Department may apply for a subpoena to a superior court or district court to obtain third party information if there is probable cause to believe that records in the

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possession of the third party will aid the Department in connection with its official duties relating to an audit, collection activity, or a civil or criminal investigation.

The court issuing the subpoena may require the Department to reimburse the third party for reasonable costs incurred in producing the records specified in the subpoena. The third party may not be held civilly liable for any harm resulting from compliance with the subpoena.

The Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury is added to the list of federal agencies that the Department may release otherwise confidential information to.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: Currently, the Department may issue a summons requiring a third party person to provide information that may aid the Department in assessing and collecting unpaid taxes. This is an administrative summons not required to be heard by a court. In 2007 a state Supreme Court decision now prevents the Department from using its summons authority in certain circumstances. This bill will allow the Department to go to a superior or district court to obtain a subpoena. This actually gives the taxpayer and the third party more due process than the other method.

Persons Testifying: PRO: Drew Shirk, Department of Revenue.