

HB 1322 - DIGEST

(SUBSTITUTED FOR - SEE 1ST SUB)

Finds that the Washington state supreme court, in *McClarty v. Totem Electric*, 157 Wn.2d 214, 137 P.3d 844 (2006), overstepped its constitutional role of deciding cases and controversies before it, and engaged in judicial activism by significantly rewriting the state law against discrimination. By failing to answer the question upon which the court had granted review, by disregarding a properly adopted state rule, by needlessly overturning the court's own recent precedent, and by importing into state law a substantive rule adapted from federal statute, the court has effectively legislated from the bench.

Finds that the law changed by the court is of significant importance to the citizens of the state, in that it determines the scope of application of the law against discrimination, and that the court's deviation from settled law was substantial in degree. The legislature reaffirms its intent that the law against discrimination affords to Washington residents protections that are wholly independent of those afforded by the federal Americans with disabilities act of 1990, and rejects the opinion stated by the majority in *McClarty v. Totem Electric*.