

# SENATE BILL REPORT

## SB 6666

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As of February 4, 2010

**Title:** An act relating to statutory construction.

**Brief Description:** Addressing statutory construction.

**Sponsors:** Senators Pflug and McCaslin.

**Brief History:**

**Committee Activity:** Judiciary: 2/03/10.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Juliana Roe (786-7438)

**Background:** There is some concern that a disconnect exists between the Legislature and the courts in determining legislative intent. In Washington State, there are three main canons of construction, maxims of interpretation originally developed in common law. The first are those codified by statute. The next include the Superior Court Civil and Criminal Rules, which take precedence over statutes regarding procedural matters and special proceedings under the civil rules. Last are those in case law which are the primary source of canons of interpretation. However, these canons are vague and inconsistent. Within case law, the courts take either a textualist or literalist approach. The textualist approach adopts the plain meaning of the words as the Legislature stated them. If the statute is ambiguous, however, the court may take the literalist approach which evaluates the spirit or purpose of the statute. This allows the court to refer to sources outside of the text to ascertain legislative intent.

**Summary of Bill:** Parties discerning legislative intent must consider the introductory comments of the prime sponsor of a piece of legislation to understand the issue to which the Legislature was responding as well as the context in which the law was enacted. Other factors to be used to discern legislative intent include: floor colloquies on final passage; content of amendments adopted on the floor of the Legislature; content of amendments adopted in a committee of the Legislature; and intent sections, if present. An officer of the court cannot use staff materials prepared to assist legislators, such as bill reports, to discern legislative intent.

**Appropriation:** None.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Fiscal Note:** Not requested.

**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: I have been struck by conversations surrounding the issue of legislative intent. Many people are unaware of the existence of, i.e. colloquies that we, as legislators, deem important. The courts often look to sources that they determine to be legislative intent, of which the Legislature may not necessarily approve or agree. Therefore, I believe that it would be useful to create a hierarchy of factors to be used in discerning legislative intent.

**Persons Testifying:** PRO: Senator Pflug, prime sponsor.