

SENATE BILL REPORT

SB 6871

As Reported by Senate Committee On:
Ways & Means, March 3, 2010

Title: An act relating to judicial branch and criminal justice funding.

Brief Description: Supporting judicial branch and criminal justice funding.

Sponsors: Senators Hargrove and Regala.

Brief History:

Committee Activity: Ways & Means: 3/02/10, 3/03/10 [DPS, DNP].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6871 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Pridemore, Regala and Rockefeller.

Minority Report: Do not pass.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Carrell, Honeyford, Parlette, Pflug and Schoesler.

Staff: Jenny Greenlee (786-7711)

Background: Court Filing Fees Surcharges. Both superior courts and district courts collect court filing fees and other fees for court services as prescribed by statute. In 2009 SHB 2362 authorized temporary surcharges on fees collected in these courts. All superior court filings are subject to a \$30 fee, except filings of an appeal from a court of limited jurisdiction, where the fee is \$20. All filings in district courts are subject to a \$20 fee, except small claims filings, which are subject to a \$10 fee.

All of the surcharge funding is deposited into the judicial stabilization trust (JST) account and surcharges are set to expire on July 1, 2011. Expenditures from the JST account may only be used to support judicial branch agencies.

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.

Auto Theft Prevention. In 2007 E3SHB 1001 applied a \$10 surcharge to traffic infractions. These fees are deposited into the Washington Auto Theft Prevention Authority (WATPA) account and must be used to for activities related to motor vehicle theft, including education, prevention, law enforcement, investigation, prosecution, and confinement costs. A portion of the funds are used by the WATPA to award grants to combat auto theft in Washington.

Summary of Bill (Recommended Substitute): Surcharges. The surcharges on filing fees in superior and district court are no longer set to expire and a portion of the funds are retained by the local courts. Of the amount district courts must remit to the State Treasurer under RCW 3.62.060, \$6.40 must be deposited into the JST account. Superior courts must remit 46 percent of surcharge revenue to the JST account. Forty-six percent of the small claims surcharge must be deposited into the JST account.

Traffic Infraction Penalty. The \$10 traffic infraction penalty is no longer deposited into the WATPA account but is deposited into the JST account.

Auto Theft Prevention. A \$1 per auto policy per six-month period is charged on auto insurance. Insurers that write annual policies may collect a \$2 surcharge at the beginning of the annual term. The Insurance Commission can retain up to 2 percent of the funds for administration. The remaining funds are deposited into the WATPA account. The Insurance Commissioner may impose a penalty for failure to pay the surcharge.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute): Small claims surcharges are split between local courts and the state JST account. The language regarding district court collections is clarified. Allowances are made for auto insurers who write annual policies. Language was added to clarify how the auto insurance surcharge should be collected and remitted. The Insurance Commissioner may impose penalties for failure to pay the surcharge.

Appropriation: None.

Fiscal Note: Requested on February 22, 2010.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2010.

Staff Summary of Public Testimony on Original Bill: PRO: This bill provides stable funding for the judiciary. Splitting surcharge funds with the locals will help improve the fiscal health of local courts. This bill helps preserve the constitutional right to council. There have been major improvements to public defense and this bill helps keep those improvements in place. In the Senate budget, the Office of Public Defense's budget is dependent on \$2 million in additional JST funds and this bill is necessary to make those funds available. If the bill doesn't pass, then cuts will have to be made to public defense programs. This bill also helps ensure funds for core judicial branch services at the state and local level. In the Senate budget, \$1.1 million of the Office of Civil Legal Aid's budget

depends on passage of this bill. Failure to pass this bill will cause significant harm to state funded civil legal aid.

CON: Progressive Insurance recently implemented something similar to this bill in Arizona and found it to be complicated and costly to administer. They had to wait until they had a significant rate revision to incorporate into the fee and they didn't see a lot of results from the program. The current auto theft program has only been in place a few years and there hasn't made a measurable decrease in auto theft. If the committee does move forward with the bill, a sunset clause should be incorporated with reports back to the Legislature on the effectiveness of the auto theft program. Also, the bill should allow for any fee to be specifically called out in the insurance premium statements and the Insurance Commissioner should not receive any portion of the funds. The insurance industry already pays into the general fund and assessments to the Insurance Commissioner. This bill could make insurance companies subject to retaliatory taxes, where they will have to pay higher taxes in other states because of this fee. This fee was looked at before to fund auto theft prevention and it was decided at the time that law abiding citizens shouldn't have to pay for the actions of law breakers. Policy holders and insurance companies already pay taxes. Insurers have to pay a premium tax that is three times higher than the B&O tax rate. The bill is not clear regarding what policies are charged and some carriers have annual policies and the bill needs to be clarified.

OTHER: Fifteen other states have some kind of auto theft prevention authority currently or are considering creating one. Of these states, 11 fund the authority through surcharges or taxes on auto insurance. This bill is most similar to Minnesota's program. The Office of the Insurance Commissioner has language which would clarify how this surcharge is collected and deposited so it's not confused with a tax. The way this bill is crafted, it would not likely trigger retaliatory taxes. The auto theft prevention program has made a difference. Federal Way has had a 60 percent reduction in auto theft. Please ensure that funding is continued to the auto theft program. The program helped prevent 20,000 cars from being stolen last year. Many counties have experienced significant reductions in auto theft. Auto theft negatively impacts the state's economy and it's important to keep funding this program.

Persons Testifying: PRO: Jeff Hall, Board for Judicial Administration; Jim Bamberger, Office of Civil Legal Aid; Joanne Moore, Office of Public Defense.

CON: Carrie Tellefson, Progressive Insurance; Jean Leonard, Washington Insurers and State Farm; Kenton Brine, Property Casualty Insurers Association.

OTHER: Drew Bouton, Office of the Insurance Commissioner; Doug Levy, Cities of Everett, Kent, Federal Way, and Renton; Don Pierce, Washington Association of Sheriffs and Police Chiefs; Tom McBride, Washington Association of Prosecuting Attorneys.