

SENATE BILL REPORT

SB 6012

As Reported by Senate Committee On:
Law & Justice, January 15, 2014

Title: An act relating to the prohibition of fees for judicial members of the bar.

Brief Description: Prohibiting the state bar association from charging fees to judicial members.

Sponsors: Senator Padden.

Brief History:

Committee Activity: Law & Justice: 1/13/14, 1/15/14 [DP, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Kline, Ranking Member; Darneille and Pedersen.

Staff: Kelly Walsh (786-7755)

Background: The Washington State Bar Association (WSBA) has four basic classes of bar membership. These classes are active, inactive, judicial, and emeritus/pro bono. An active member may request a change of membership to judicial status if the member qualifies as a judicial member. Prior to 2012, individuals in judicial status did not need to pay an annual license renewal fee. In 2012, WSBA bylaws were changed to require a \$50 annual license renewal fee for individuals in judicial membership status. At the request of WSBA, the Supreme Court of Washington approved the imposition of the annual license fee for judicial bar members by issuing an order. The order stated that members of WSBA who qualify for and choose to be in judicial membership status must comply with annual reporting requirements and must pay a \$50 annual license renewal fee. If a judicial member fails to pay the fee any year while the member is in judicial status and the member chooses to transfer to any other status within WSBA, the member must pay the equivalent of the full license fee for active members retroactively for each year of judicial membership in which the annual license fee was not paid. The full license fee for active members admitted to the bar prior to 2012 is \$355 annually. Retroactive calculation for failed judicial fee payments is prospective from 2012. Judicial members returning to active status must pay a \$100

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nonrefundable investigation fee to WSBA when that member applies to return to active status.

Summary of Bill: A full-time judicial officer who is not an active member of the state bar cannot be charged any fee. If a judicial member applies to return to active status, that member cannot be charged any fee for the period in which the member was a judicial member. The member cannot be charged any investigation fee for the change in membership status from judicial to active.

Appropriation: None.

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: Judges are governed by the Washington State Commission on Judicial Conduct. The WSBA cannot discipline judges and should not be permitted to charge judges a fee. This is an issue of judicial independence. Members of the judiciary are already disciplined and regulated by the Commission on Judicial Conduct and should not be subject to the regulation of an independent body. The fees currently imposed establish a precedent to invade the province of an independent judiciary. The Supreme Court has not adopted a court rule that prohibits the action by the Legislature proposed by this bill.

OTHER: The WSBA does not have authority to set inactive member fees. Those fees are set by a proposal to the Supreme Court for approval. The reason for proposing the current judicial membership fee is that the bar found that many judges who wished to return back to practice never changed their status back to active and it was difficult to track them and make sure they were properly regulated as active members. The WSBA has \$5-7 million per year in expenses. The \$50 fee for judicial members is not a revenue maker. Rather, it is a way to keep in touch with people. There is currently no consequence for a judge who does not go back to practice if that judge does not pay the \$50 annual fee. However, there is a penalty if the member does not keep up with the \$50 annual fee if the judicial member wishes to return to practice. The imposition of the \$50 fee was discussed thoroughly in 2011 with stakeholders, including the Board for Judicial Administration. The proposal was revised several times and approved. Judicial members maintain all of the benefits of the state bar, including the significant regulatory and education duties required of WSBA. The Legislature must have authority over the bar. It is a state agency created by the Legislature. The Legislature has the authority to control and supervise WSBA just like any other state agency. In other states, the state bar is a public agency. A study group should be formed to make recommendations. The state bar should not be isolated from regulation by the state Legislature and the public.

Persons Testifying: PRO: Salvatore Cozza, Judge.

OTHER: Kathryn Leathers, WSBA; Arthur West, citizen.