

# **BOARD FOR JUDICIAL ADMINISTRATION**



**WASHINGTON  
COURTS**

## **MEETING PACKET**

**FRIDAY, JANUARY 15, 2010  
9:30 A.M.**

**CHIEF JUSTICE'S RECEPTION ROOM  
TEMPLE OF JUSTICE  
OLYMPIA, WASHINGTON**

# Board for Judicial Administration Membership

## VOTING MEMBERS:

**Chief Justice Barbara Madsen**, Chair  
Supreme Court

**Judge Michael Lambo**, Member Chair  
District and Municipal Court Judges'  
Association  
Kirkland Municipal Court

**Judge Marlin J. Appelwick**  
Court of Appeals, Division I

**Judge Rebecca M. Baker**  
Superior Court Judges' Association  
Ferry/Stevens/Pend Oreille Superior Courts

**Judge Ronald Culpepper**  
Superior Court Judges' Association  
Pierce County Superior Court

**Judge Sara Derr**  
District and Municipal Court Judges'  
Association  
Spokane County District Court

**Judge Susan Dubuisson**  
District and Municipal Court Judges'  
Association  
Thurston County District Court

**Judge Tari Eitzen**, President  
Superior Court Judges' Association  
Spokane County Superior Court

**Judge Deborah Fleck**  
Superior Court Judges' Association  
King County Superior Court

**Judge Jack Nevin**  
District and Municipal Court Judges'  
Association  
Pierce County District Court

**Judge Glenn Phillips**, President  
District and Municipal Court Judges'  
Association  
Kent Municipal Court

**Judge Christine J. Quinn-Brintnall**  
Court of Appeals, Division II

**Judge John Schultheis**  
Court of Appeals, Division III

**Judge Chris Wickham**  
Superior Court Judges' Association  
Thurston County Superior Court

## NON-VOTING MEMBERS:

**Judge Stephen Brown**, President-Elect  
District and Municipal Court Judges'  
Association  
Grays Harbor County District Court

**Mr. Jeff Hall**  
State Court Administrator

**Ms. Paula Littlewood**, Executive Director  
Washington State Bar Association

**Mr. Salvador Mungia**, President  
Washington State Bar Association

**Mr. Steven G. Toole**, President-Elect  
Washington State Bar Association

**Judge Stephen Warning**, President-Elect  
Superior Court Judges' Association  
Cowlitz County Superior Court

# Board for Judicial Administration

January 15, 2010  
 9:30 a.m.  
 Chief Justice's Reception Room  
 Temple of Justice, Olympia

## Agenda

1. Call to Order	Chief Justice Barbara Madsen Judge Michael Lambo	
2. Welcome and Introductions	Chief Justice Barbara Madsen Judge Michael Lambo	
3. Public Financing of Campaigns for Supreme Court	Representative Marko Liias Mr. Craig Salins, Washington Public Campaigns	Tab 1
<b>Action Items</b>		
4. December 10, 2009 Meeting Minutes <b>Action: Motion to approve the minutes of the December 10 meeting</b>	Chief Justice Barbara Madsen Judge Michael Lambo	Tab 2
5. BJA Long-Range Planning Committee – Proposed Membership and Term Limits <b>Action: Motion to approve the proposed revision to the BJA Long-Range Planning Committee membership and term limits</b>	Mr. Jeff Hall	Tab 3
6. Washington State Association of Counties (WSAC) Legislative Agenda <b>Action: Motion to support WSAC legislative proposals</b>	Mr. Jeff Hall	Tab 4
7. Co-Sponsorship of Bills <b>Action: Motion to send letters of BJA support for sponsorship of HR 1956 and S 1859 to appropriate Washington State congressional delegates</b>	Mr. Jeff Hall	Tab 5
8. WSBA Dues/Regulations for Judges <b>Action: Motion to take a position on the proposed WSBA Bylaws Amendments</b>	Judge Glenn Phillips Judge Tari Eitzen	Tab 6
<b>Reports and Information</b>		
9. Public Records Act Work Group Update	Judge Marlin Appelwick	Tab 7
10. GR 29 Work Group Update	Ms. Mellani McAleenan	Tab 8

Board for Judicial Administration Meeting Agenda  
 January 15, 2010  
 Page 2 of 2

11. Legislative Update	Ms. Mellani McAleenan	Tab 9
12. Court Funding Discussion	Chief Justice Barbara Madsen Mr. Jeff Hall	
13. Access to Justice Board	Mr. M. Wayne Blair	
14. Washington State Bar Association	Mr. Salvador Mungia Ms. Paula Littlewood	
15. Reports from the Courts Supreme Court Court of Appeals Superior Courts Courts of Limited Jurisdiction	Chief Justice Barbara Madsen Judge Marlin Appelwick Judge Tari Eitzen Judge Glenn Phillips	
16. Association Reports County Clerks Superior Court Administrators District and Municipal Court Administrators Juvenile Court Administrators	Ms. Barb Miner Ms. Marti Maxwell Ms. Jeri Cusimano Ms. Sharon Paradis	
17. Administrative Office of the Courts	Mr. Jeff Hall	
18. Other Business Next meeting: February 19 Beginning at 9:30 a.m. at the Temple of Justice, Olympia	Chief Justice Barbara Madsen Judge Michael Lambo	



# Supreme Court Fair Elections bill

## Public financing of campaigns for Washington State Supreme Court

In West Virginia, a Supreme Court justice was elected with \$3 million in campaign aid from the CEO of Massey Energy, a coal mining company. A year later, that judge provided the deciding vote in a lawsuit to absolve the company of a \$50 million fine, imposed by a jury following illegal corporate behavior. Because of this outrageous case, the U.S. Supreme Court has decided that judges must recuse themselves in such egregious cases.

**Justice must never be for sale! - and judges should not have to raise large private sums to run for office. Integrity of our state's highest court is paramount. Equally important is *public confidence* in the fairness of the court - that decisions will never be made based on campaign financiers.**

Recent judicial elections nationwide show lavish spending by special interests on upper level judicial campaigns, with an increase in negative ads and campaign tactics. Meanwhile, polls reveal a concerned public, wanting assurance that courts won't be subject to influence by partisan or special-interest campaign contributions.

**Public financing achieves the desired result.** It's time to eliminate private campaign contributions as a predominant method to fund upper level judicial campaigns.

Let's enact the **Supreme Court Fair Elections bill**, to create a program of optional public financing of campaigns for seats on the Washington State Supreme Court.

## Washington State: Record-setting Campaign Spending in 2006

In Washington State in 2006, over \$4 million was spent by special interests - in contributions directly to candidates' campaigns (\$1.46 million) and in contributions buying independent ads and voter persuasion activities (\$2.73 million) - in attempt to influence the outcome of that year's supreme court races. In 2010, let's rise above this special influence!

## It's working in other states

**North Carolina** - In 2002, the legislature passed full optional public financing for statewide judicial elections, beginning in 2004. In it's first cycle the program applied to five appellate court seats; 14 of 16 appellate court candidates sought to qualify, and 14 achieved the minimum qualifying contributions. Four of five winners used public financing. In 2006, 8 of 12 candidates for six seats used the program, including five of six winners.

Public financing is always voluntary for candidates - they can still run with traditional private financing - but it is increasingly popular among candidates and voters alike.

## Legislative Proposal: Supreme Court Fair Elections bill (HB 1738 / SB 5912)

The Supreme Court Fair Elections bill will create a public financing program, optional for candidates seeking election to the **supreme court only**. Candidates would qualify for public funds by raising at least \$41,055 in contributions of \$10-\$400, from at least 500 citizens. This qualifies them for a set sum for a primary race, and if they win, an additional sum for the general election - amounts sufficient to run a competitive, robust campaign.

If a candidate is outspent by a traditionally-funded opponent or faces opposition from independent PACs, they receive matching "rescue funds" - up to capped limits set in the bill.

The program would begin once \$3 million (per biennium) has been generated by a small surcharge of \$1 on court filing fees - **paid by users of the court, not by taxpayers**.

**Information:** [www.washclean.org](http://www.washclean.org) / [wpc@washclean.org](mailto:wpc@washclean.org) / 206-784-2522

# Summary of Key Features and Provisions of Proposed Judicial Bill

## HB 1738 / SB 5912

### Public Financing of Campaigns for Positions on the State Supreme Court

*This summary prepared by Washington Public Campaigns, 1-11-10.  
Provisions and details subject to change.*

#### **Summary:**

This is a bill to establish a pilot program of optional public financing of campaigns for the Washington State Supreme Court.

The legislative intent is to reduce the likelihood or appearance of corruption or undue influence by private special interest campaign contributions, and to preserve the integrity of, and public confidence in, the state's highest court, by allowing candidates the option of financing their campaigns solely or primarily on public funding.

#### **Qualifying for the program:**

To qualify to participate in the program and receive public financing, candidates must:

- file an intent to participate and to abide by program requirements upon certification;
- as Qualifying Contributions, generate at least **\$41,055** (aggregate total, and indexed as twenty-five times the filing fee) from at least **500 contributors** who are natural persons and residents of Washington state, in amounts **at least \$10 but no more than \$400** (indexed as one-quarter of maximum campaign contributions allowed by state law)

#### **Seed funds available during qualifying period:**

Candidates may use personal funds up to \$3,200 plus up to one-quarter of the Qualifying Contributions they collect, as "seed funds" to generate the necessary Qualifying Contributions.

#### **Campaign funds made available to participants (as specified in HB 1738 and SB 5912):**

Amounts of campaign grants will be set by rule, based on the number of candidates filing for office.

**Primary election:** Not to exceed 100 times the filing fee (= \$164,221)

For uncontested races, the grant is 4 times the filing fee (= \$6,569), plus all QC's collected.

**General election campaign:** Base grant for primary winners, 125 times the filing fee (= \$205,276).

#### **Rescue funds provided: upper limit specified: up to 60% available in primary:**

Supplemental "rescue funds" are provided, up to a set upper limit (500 times filing fee overall), to match overspending by opponents or to match IE spending by 527s, etc.

Up to 75 percent of maximum rescue funds may be claimed and used in the primary race - if triggered as described - or 100 percent of such rescue funds if the publicly-financed candidate has only one opponent.

#### **Funding source(s):**

This program is proposed to be funded through a \$1 surcharge on selected court filing fees. Other sources as may be determined or authorized, including voluntary contributions.

#### **Minimum funding necessary to start:**

This program will not become operational until a sum of at least \$3 million is appropriated and deposited in the state Judicial Election Reform Act Fund - a provision to assure the program will not be underfunded at the start

---

**State Government & Tribal Affairs  
Committee**

---

**HB 1738**

**Brief Description:** Providing public funding for supreme court campaigns.

**Sponsors:** Representatives Lias, Goodman, Appleton, Carlyle, Probst, Nelson, Hasegawa, Orwall, Rolfes, Dickerson, Hunt, Pettigrew, Cody, Darneille, White, Chase, Kenney, Dunshee, Ormsby, Miloscia, Moeller, Roberts, Simpson, Sells, Flannigan, Eddy, McCoy, Wood, Kagi, Wallace, Williams and Green.

**Brief Summary of Bill**

- Establishes a program for public financing for the offices of Supreme Court Justice.

**Hearing Date:** 3/5/09

**Staff:** Marsha Reilly (786-7135)

**Background:**

The Fair Campaign Practices Act was enacted following passage of Initiative 134 in 1992. The initiative imposed campaign contribution limits on elections for statewide and legislative office, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts received in excess of \$50. In 2006 contribution limits were expanded to include elections for certain county and special purpose district offices, and for judicial office.

A series of court decisions have identified a number of constitutional limitations on the regulation of campaign financing. Certain constitutionally permissible restrictions on such financing have also been identified in those decisions. In those cases, the courts found the following to be permissible:

- limitations on contributions by individuals or organizations to candidates;

---

*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.*

- limitations on contributions by individuals or organizations to political action committees;
- limitations on contributions by political action committees to candidates;
- limitations on total contributions by individuals in a calendar year to candidates and political committees;
- prohibition of the use of corporation and labor organization general treasury funds to support or oppose the nomination or election of a candidate through contributions to political action committees, independent expenditures, or electioneering communications;
- public financing of campaigns; and
- reporting and disclosure of independent expenditures and electioneering communications.

Found to be impermissible were ceilings on candidate expenditures or on "independent expenditures" (that is, campaign expenditures not subject to the control of a candidate.) Upheld, however, were ceilings on a candidate's expenditures which become effective only as part of a public financing agreement under which a candidate agrees to abide by the limits in exchange for public financing.

Arizona, Maine, and Connecticut have enacted public financing programs for statewide and legislative offices. North Carolina has enacted a public financing program for Supreme Court and Court of Appeals offices.

#### **Summary of Bill:**

A program providing public campaign funding for candidates for Supreme Court Justice, cited as the Judicial Election Reform Act, is established. The Public Disclosure Commission (PDC) enforces the program and is authorized to adopt rules regarding reporting requirements and auditing of qualifying contributions.

#### Program Requirements.

The program is voluntary. Candidates who wish to participate in the program must agree to the following:

- accept contributions only from individuals;
- not expend more than \$1,000 in personal funds;
- collect at least 500 qualifying contributions that, in the aggregate, total at least 25 times the filing fee for the office;
- file required reports;
- expend only funds received from the Judicial Election Reform Act (Act) fund;
- comply with the provisions of the Act.

#### Qualifying Contributions.

Participating candidates must collect 500 qualifying contributions in any amount between \$10 and the contribution limit allowed for a single election, currently \$1,600. Qualifying contributions must be made by an individual, and not by any political committee, organization, union, business, etc., and must be made during the qualifying period. The qualifying period begins February 1 of an election year and ends one week after the close of the regular filing period for the office. Up to 25 percent of the minimum dollar amount of qualifying contributions may be used to pay for expenses related to raising qualifying contributions.

### Certification Procedure.

To become certified for the program, a candidate must file an application to participate, submit a report itemizing the qualifying contributions received, and submit a check or money order equal to the total qualifying contributions, less the money used to pay for expenses, to the PDC.

Affidavits attesting that the qualifying contributions were made by registered voters of the state and signed by persons collecting qualifying contributions also must be submitted. The PDC must determine a candidate's eligibility to participate in the program within 7 days of receiving an application. If an application is denied, written reasons for the denial must be provided to the candidate. Any candidate denied certification may reapply one time within 14 days of denial by submitting the required information or the number of qualifying contributions needed to complete the certification. Candidates certified for the program may be designated as a publicly financed candidate in the state voters' pamphlet.

### Public Financing.

Within five business days after a publicly financed candidate's name is approved to appear on the primary ballot, the PDC must authorize distribution of funds for the primary election. The amount of funding for the primary election must be set by rule by the PDC based on the number of participating candidates filing for office and may be no more than 100 times the filing fee for the office (1 percent of the salary for the office, or \$164,200). Within five business days after a publicly financed candidate's name is approved to appear on the general election ballot, the PDC must authorize an amount equal to 125 times the filing fee (\$205,250). Publicly financed candidates in uncontested elections shall receive four times the filing fee (\$6,568). A publicly financed candidate must return funds distributed that are unspent and uncommitted as of the date that the candidate ceases to be a candidate, or as of the date of the election, whichever occurs first.

### Revocation.

A publicly financed candidate may revoke a decision to participate in the program no later than June 30 in the year of the election. Within 30 days of revocation, all money received from the judicial election reform act fund must be returned.

### Rescue Funds.

A participating candidate is eligible for rescue funds in the event that a nonparticipating candidate raises more than was allotted to the participating candidate. Independent expenditures and electioneering communications made in support of a nonparticipating candidate or opposing a participating candidate are considered in determining eligibility for rescue funds. A participating candidate may determine when to access rescue funds. The total amount of rescue funds a participating candidate may receive is 500 times the filing fee for the office (\$821,000).

Participating candidates determine when to access matching funds. If the candidate chooses not to use matching funds in a contested primary, he or she is not eligible to use those funds in an uncontested general. The PDC must disburse matching funds within five calendar days of receiving a request.

### Reporting Requirements.

Non-participating candidates must provide to the PDC a report of planned expenditures for the 21 days before an election and the costs associated with those expenditures. If the non-

participating candidate fails to submit the report, the PDC shall authorize twice the amount of an expenditure not reported in rescue funds.

Non-participating candidates must report to the PDC within 24 hours of raising contributions that total 80 percent of the amount authorized for participating candidates. Any person making independent expenditures or electioneering communications in excess of \$3,000 in support of or opposition to a publicly financed candidate, or in support of a candidate opposing a publicly financed candidate, must submit a report detailing the expenditure to the PDC. The PDC may initiate a civil proceeding in superior court to enjoin political advertising not reported.

Disqualification and Penalties.

If the PDC finds that a publicly financed candidate or the candidate's committee is accepting or expending money outside the provisions of the Act, the candidate shall be disqualified from the program, be subject to a civil penalty, and return all money received from the fund.

A violation of the qualification contribution or expenditure limit may result in a fine of 10 times the amount the expenditure or contribution exceeds the limit, or 20 times that amount if the violation is within five days of an election. A violation of any reporting violation by a publicly financed candidate is subject to a fine of \$100 per day up to twice the amount not reported. The civil penalty for late revocation will result in a fine of \$1,000 per day for each day beyond the allowed revocation period.

Implementation and Enforcement.

The PDC must enforce the program, adopt rules to carry out the policy of the program, and prescribe forms for reports, statements, notices, and other documents required for the program. The PDC must develop an expedited administrative review process in which individuals may seek review of PDC decisions. The program may not be implemented until an appropriation of \$3 million is made. Once the program is offered, the PDC is required to report to the Governor and to the appropriate committees of the Legislature in January of even-numbered years on the effectiveness of the act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.



**Joint Board for Judicial Administration and Court Management Council  
Meeting Minutes**

**December 10, 2009  
AOC SeaTac Office  
SeaTac, Washington**

**BJA Members Present:** Chief Justice Gerry Alexander, Co-Chair; Judge Michael Lambo, Member Chair; Judge Marlin Appelwick; Judge Rebecca Baker; Judge Stephen Brown; Judge Ronald Culpepper; Judge Deborah Fleck; Mr. Jeff Hall; Ms. Paula Littlewood; Justice Barbara Madsen; Mr. Sal Mungia; Judge Jack Nevin; Judge Glenn Phillips; Judge Christine Quinn-Brintnall; and Judge Stephen Warning

**CMC Members Present:** Mr. Ronald Carpenter, Co-Chair; Mr. Jeff Hall, Co-Chair; Ms. Roni Booth; Ms. Jeri Cusimano; Ms. Delilah George; Ms. Shelly Maluo; Ms. Marti Maxwell; Mr. Joseph McGuire; Mr. Michael Merringer; Ms. Barb Miner; and Ms. Renee Townsley

**Guests Present:** Judge Vickie Churchill, Judge Robert McSeveney, and Judge James Riehl

**Staff Present:** Ms. Julia Appel, Ms. Shirley Bondon, Ms. Beth Flynn, Mr. Dirk Marler, Ms. Regina McDougall, Ms. Caroline Tawes, and Ms. Lorrie Thompson

The meeting was called to order by Chief Justice Alexander.

Court Manager of the Year Award

Mr. Carpenter stated that the Court Management Council (CMC) established the Court Manager of the Year Award in 1987 to honor outstanding court managers who exemplify the leadership and ideals of their chosen profession.

This year's nominees were: Mr. N. F. Jackson, Whatcom County Superior Court; Ms. Terri Cooper, Cheney Municipal Court; Mr. Michael Merringer, Island County Superior Court and Juvenile Court; and Ms. Betty Gould, Thurston County Clerk.

The 2009 Court Manager of the Year Award was presented to Mr. Merringer. In her nomination of Mr. Merringer, Ms. Sharon Paradis praised Mr. Merringer's exceptional work in implementing a standardized risk assessment tool in juvenile courts across the state; his calm rationality and highest level of professionalism; and how his exceptional skills, commitment to justice and quality of leadership benefit Washington courts. Judges Vickie Churchill and Alan Hancock noted Mr. Merringer's role in helping the juvenile courts save funding targeted toward lowering the juvenile crime rate statewide.

Mr. Merringer received a vase, a scholarship to attend the National Association for Court Management (NACM) conference in New Orleans, and his name will be added to a plaque located in the SeaTac office of the Administrative Office of the Courts.

Mr. Merringer stated that he was shocked because there is so much court management talent in the state and he would not be considered for this award if not for all the judges in the court and the state. He said the award was far more appreciated than deserved but he will do his best to live up to the expectations.

#### Recognition of Chief Justice Gerry Alexander

Judge Lambo announced that it was Chief Justice Alexander's last meeting as Chair of the BJA. Judge Lambo mentioned how wonderful it is to work with Chief Justice Alexander on the BJA. Judge Lambo presented Chief Justice Alexander with a vase, a gift certificate and a signed Temple of Justice print.

Chief Justice Alexander thanked everyone for the very nice acknowledgement. He said the gifts were more than he deserves but he gladly accepted them. He said that he hopes the BJA will move forward with the Justice in Jeopardy Initiative when the economy improves. The BJA has to stand for adequate funding, particularly for trial courts. He also hopes the BJA will consistently stand for the election of all judges because judicial independence is important. The BJA needs to stand for adequate pay for judicial positions. If the judiciary is going to get good people on the bench and working for the judiciary, adequate salaries need to be provided. His final hope is that funding will be provided to improve the really embarrassing juror pay. When the economy improves, he thinks that is something the BJA can achieve. After January 11, he will be there to support those ideas in any way he can.

Judge Fleck thanked Chief Justice Alexander for his exceptional leadership and for all his work on the Justice in Jeopardy Initiative. Without the Chief Justice, Justice in Jeopardy would not have been successful. Judge Fleck presented Chief Justice Alexander with a book of letters from members who have served on BJA over the past nine years, as well as the past nine presidents of WSBA and its Executive Director who have also served under Justice Alexander's leadership, thanking him for his years of service as Chief Justice.

Four of the five Member Chairs who have served with Justice Alexander as Chair attended the Chief Justice's last meeting to honor him. Judge Riehl, Judge McSeveney, and Judge Churchill, as well as Judges Lambo and Fleck, shared some memories of their terms as BJA Member Chair with Chief Justice Alexander. They all indicated how easy Chief Justice Alexander was to work with and how much he valued their opinions when issues were brought before the BJA.

### November 20, 2009 Meeting Minutes

By consensus, the November 20 BJA meeting minutes were approved as distributed.

### Office of Public Guardianship Report

Ms. Bondon reported that RCW 2.72 requires the Office of Public Guardianship (OPG) to provide a report to the Legislature on alternatives to guardianship by December 2009. The report was included in the meeting materials. The following recommendations were included in the report:

- Expansion of state aging and disability resource centers.
- Provide protective payee/money management services to individuals who lack the ability to manage their finances.
- Endorse adoption of the Uniform Power of Attorney Act, subject to modifications developed after review by others with expertise and experience with the use and abuse of powers of attorney.
- Provide power of attorney services to individuals who lack the ability to manage their finances.
- Create statutory surrogate decision-making committees, which empower committees of trained volunteers to evaluate the need for a surrogate decision-maker, and when necessary consent to a course of treatment.
- Develop a statewide guardianship monitoring program that includes visits/field investigations, financial audits and concise reports.

Ms. Bondon gave an update on the status of the OPG. Due to budget cuts, they are no longer accepting new cases. The office is currently being funded through the state Savings Incentive Account to carry the current caseload through 2011. The OPG will be submitting a budget request for \$275,000 which will allow them to accept some new cases. Basically, the OPG is on life support.

### BJA Long-range Planning Committee Summary and Current Status of Recommendations Report

Judge Lambo reported that the BJA Long-range Planning (LRP) Committee met last week. During the meeting they discussed a proposal to revise the membership and term limits of the LRP Committee. Mr. Hall stated that the Proposed Membership and Term Limits (page 49 of the meeting materials) will be on the January BJA agenda for approval.

Included in the meeting materials is a report of the Committee to the BJA which contains a summary of the status of each of the recommendations that have been reviewed by the LRP Committee in the last year.

The LRP Committee will bring a broader group together for a one-day retreat to discuss the long-range plan for the judiciary in the spring.

#### Court Management Council Court Transcriptionists Subcommittee

Ms. Townsley reported that in August the Court Management Council (CMC) established a subcommittee to look at transcription issues such as how transcriptionists are authorized, how to achieve consistency, accuracy and timeliness, etc. The subcommittee is not looking at court employee transcriptionists, just independent court reporters and transcriptionists. They are checking with other states to see if there is a shift to more electronic recording processes. They are also checking with the Department of Licensing regarding licensing of court reporters and transcriptionists. It appears that only court reporters are currently licensed. They are working on a county survey to determine current county processes and will ultimately bring recommendations back to the CMC.

#### Fiscal Note Process

Mr. Dirk Marler and Ms. Julia Appel gave an overview of the Administrative Office of the Courts' fiscal note process.

Prior to each legislative session they collect data to build assumptions. They use the assumptions to calculate operational costs, staff and judicial salary information, trial and plea rates. That data is entered into spreadsheets that are used to calculate the fiscal notes.

The fiscal notes come through an Office of Financial Management (OFM) system and AOC has 72 hours to complete each fiscal note. At the height of the legislative session, AOC can receive 20 fiscal note requests a day. If the fiscal note is for a bill for a hearing, AOC may only have a few hours to complete the fiscal note.

In completing the fiscal notes, AOC staff look at the potential fiscal impact only, not policy. They also look at what court levels will be impacted, if the new law will result in new cases, longer hearings, etc. AOC fiscal note staff frequently rely on subject-matter experts in completing fiscal notes (AOC staff, courts, other agencies) because of the wide variety of topics covered.

Once OFM approves the fiscal note, it is published on their Web site. Anyone can view fiscal notes on OFM's Web site or through AOC's Bill Tracker program.

### Washington State Bar Association

Mr. Mungia reported that the Washington State Bar Association's (WSBA) Board of Governors (BOG) met last week in Tacoma. One topic they discussed was the Uniform Bar Exam and they had two representatives from the National Conference of Bar Examiners to present information about the National Bar Exam. The main point that resonated with those in attendance was the disparity in passing rates among ethnicities.

Mr. Mungia will be writing about the Campaign for Equal Justice in his January *Bar News* column. He is pleased by the reaction of judges during the Fall Judicial Conference and from the BJA and is excited about the increased judicial participation. His goal is to get 100% participation for all WSBA members and judges.

Ms. Littlewood reported that the WSBA Bylaws Review Committee has made some amendments to the proposed judicial status in the WSBA Bylaws based on feedback. As soon as Ms. Littlewood has the revised language, she will push it out to the associations for comment.

### Reports from the Courts

**Supreme Court:** Justice Madsen reported that she was excited to participate in the December 7 Municipal Court Judge Swearing-in Ceremony along with Chief Justice Alexander, Justice Charles Johnson, Justice Susan Owens and Justice Mary Fairhurst. It was the first time the event has been held and she hopes it becomes a tradition.

Upcoming Supreme Court events include Justice Madsen's Swearing-in Ceremony on January 11 at the Temple of Justice; a meeting with the WSBA BOG and dinner on January 21 and 22; and a Supreme Court visit to Skagit Valley Community College on February 23.

**Court of Appeals:** Judge Appelwick reported that the Court of Appeals currently has one vacancy from Judge Susan Agid's retirement and Judge John Schultheis is retiring soon. On Thursday, January 7 Judge Schultheis will be honored for his years of service on the bench. The Court of Appeals is asking the Governor to stall filling their positions to help with the budget situation.

**Superior Courts:** Judge Warning stated that Pierce County continues to be the incubator for issues concerning the courts. He thanked Mr. Hall for requesting an Attorney General's opinion regarding the authority for county commissioners to eliminate judicial positions. The Superior Court Judges' Association is preparing for the legislative session and their largest focus is an all-out effort to hang onto as much Justice in Jeopardy funding as they can.

**Courts of Limited Jurisdiction:** Judge Phillips reported that the next District and Municipal Court Judges' Association Board meeting is next week.

Association Reports:

**County Clerks:** Ms. Miner reported that there are two big JIS-related issues going on that involve the County Clerks: 1) JIS Index on the Web, and 2) IT governance structure. Ms. Sharon Franzen, Island County Clerk, is retiring in December.

**Superior Court Administrators:** Ms. George reported that the Regional Training was very successful. Ms. Charlotte Jensen from the AOC staffed the training and she did a wonderful job. Their training focused on time management and stress management.

Ms. Maxwell stated that in January the Superior Court Administrators will be launching a new budget survey to follow-up on the survey they completed earlier this year.

**Juvenile Court Administrators:** Mr. Merringer thanked Mr. Ramsey Radwan, Ms. Maluo, and Ms. McDougall for coming to agreement on some Juvenile Rehabilitation Administration issues but they still have more issues to work on. They will have a meeting on January 8 to hopefully broker a deal.

AOC

Mr. Hall reported that the Governor released her budget earlier this week. It is an all cut budget but she made no attempt or reference to cut the budget of the judiciary. The BJA can take some satisfaction that the efforts undertaken in the last few years with the Governor regarding the budget have paid off.

Judge Appelwick graciously agreed to chair the Public Records Act Work Group. The first meeting is set for December 18.

There being no further business, the meeting was adjourned.



## **BJA Long-Range Planning Committee Proposed Membership and Term Limits**

The LRPC Chair shall be the Member Chair of the BJA and the membership shall consist of:

- 1 Supreme Court Justice to be appointed by the Chief Justice.
- 1 Court of Appeals Judge to be appointed by the Presiding Judge of the Court of Appeals.
- 2 Superior Court Judges, one to be appointed by the President of the Superior Court Judges Association, and one to be a BJA member.
- 2 Courts of Limited Jurisdiction Judges, one to be appointed by the President of the District and Municipal Court Judges Association, and one to be a BJA member.
- 1 member of the Board for Court Education (BCE) to be appointed by the BCE Chair.
- 1 member of the Judicial Information Systems Committee (JISC) to be appointed by the JISC Chair.
- The State Court Administrator.

BJA Members will be appointed by the BJA Chair and Member Chair.

The Member Chair for the Board is either a superior court judge or a court of limited jurisdiction judge and serves as the chair of the BJA Long-range Planning Committee; this person should continue serving on the committee (as Immediate Past-Chair) for an additional two years (representing either the SCJA or DMCJA) to help preserve the historical knowledge of the committee as it moves forward.

<b>Position</b>	<b>Member</b>	<b>Term</b>	
Chair			
BJA Member Chair	Judge Lambo	2 yrs	(7/2011)
Immediate Past-Chair		2 yrs	
Supreme Court Justice	Justice Madsen	1 yr	(7/2010)
Court of Appeals Judge	TBD	2 yrs	(7/2011)
Superior Court Judges			
1 BJA member	Judge Fleck	1 yr	(7/2010)
1 appointed by SCJA President	TBD	2 yrs	(7/2011)
Courts of Limited Jurisdiction Judges			
1 BJA member	TBD	1 yr	(7/2010)
1 appointed by DMCJA President	TBD	2 yrs	(7/2011)
BCE member			
appointed by BCE chair	Judge Dubuisson	1 yr	(7/2010)
JISC member			
appointed by JISC chair	Judge Wynne	2 yrs	(7/2011)
State Court Administrator	Jeff Hall	N/A	
Staff	Mellani McAleenan Colleen Clark		



December 2, 2009

# 2010 Legislative Agenda



WASHINGTON STATE  
ASSOCIATION OF COUNTIES

During the 2009 legislative session, WSAC pursued a fiscal health package that sought additional revenue options, flexibility within existing revenue sources, increased public health funding, flexibility in how we conduct business and no harm from state budget reductions.

Counties made some progress with the 2009 fiscal health package. The Legislature provided temporary flexibility with some of the revenue sources; they provided some flexibility with existing business practices and they maintained most of the funding for several shared revenue sources.

However, while the Legislature gave themselves flexibility by transferring multiple fund sources into the general fund (for example transferring the entire balance of the Public Works Trust Fund into the operating budget) they did not provide similar relief to local government. In some cases, they actually imposed additional criteria for several grant programs, left intact many unfunded mandates and did not provide any significant new revenue authorities. Since the 2009 legislative session the budget situation for local governments, like the state, has only worsened.

The WSAC priorities for the 2010 legislative session are tailored to this dramatic budget environment:

## **Flexibility within Existing Revenue**

- Remove the non-supplant requirement for the 1/10 Criminal Justice Safety Sales Tax that is shared with cities- RCW 82.14.340
- Remove the non-supplant requirement for the 3/10 Public Safety Sales Tax that is shared with cities-RCW 82.14.450
- Harmonize the allowed uses for the 1st and 2nd quarter of the REET- RCW 82.46.035
- Revenue and use flexibility within the Transportation Benefit District RCW 36.37 (SHB 1591)
- Expand the eligible uses of GMA Impact fees to include fire and public safety
- Expand the use of the road levy

## **Flexibility within Existing Grant/Loan Programs**

Local governments need access to grant and loan programs that are relatively free of undue restrictions. WSAC will advocate for greater flexibility in fund sources such as the:

- Public Works Trust Fund
- Washington Wildlife and Recreation Program
- Housing programs
- Allocation of funds through block grants or other distributions

*Continues on Reverse...*

December 2, 2009

# 2010 Legislative Agenda



## **Mandates**

Local governments struggle to implement basic programs that have been delegated by the state. During these budget times, local governments are being forced to choose which activities absolutely must be implemented. WSAC will advocate that relief be provided from these requirements so that basic services can continue to be provided, such as:

- Indigent defense-dependency cases
- Provide substantial relief from the requirement to update GMA and SMA plans
- Provide resources to meet stormwater requirements
- Buildable lands review/update

## **Investing in Local Government Efficiency and Effectiveness**

Local governments continually look for ways to provide efficient and effective services. Without funding local governments are limited in developing and implementing best practices. Funding and/or consultation should be provided as an investment in local government that will reduce costs in the future such as:

- Updating evaluation and assessment technology
- Providing easy public access to records through county internet sites
- Streamlining operating procedures
- Integrating local and state permit review technology
- Ongoing evaluation of local government governance options

## **Financial Assistance**

- Additional funding into the county/city financial assistance program -6050
- Maintain funding for public health and human services funding
- Maintain existing state shared revenues (Criminal Justice, Streamlined Sales Tax, Liquor, Public Health)
- Maintain allocated state funding in the public mental health system by suspending "penalties" to DSHS (when under the statewide bed cap)

## **New Local Revenue Authorities**

In some cases, flexibility and relief from mandated activities will not be sufficient, and local governments require the authority to raise additional revenue. WSAC will pursue:

- Utility tax for the unincorporated areas
- Severance tax for mineral resource extraction
- Additional funding for public health
- New revenue for transportation/transit

# Washington State Association of Counties

## 2009 Legislative Report

JUNE, 2009

### POLICY STAFF

**Eric Johnson**  
Executive Director

**Scott Merriman**  
Deputy Director

**Brian Enslow**  
Policy Director

**Rashi Gupta**  
Policy Director

**Josh Weiss**  
Policy Director

**Jeff Killip**  
WSALPHO Managing Director

**Gary Rowe**  
WSACE Managing Director

**Brad Banks**  
Policy Analyst

### INSIDE THIS REPORT:

Session Commentary 2 & 3

Budget & County Fiscal Health 4 & 5

Finance & Taxes 6 & 7

Environment & Resources 8 & 9

Human Services & Public Health 10 & 11

Public Safety 12 & 13

Transportation & Public Works 14 & 15

## From President Ring Erickson

The regular 2009 Legislative Session has been in the history books for barely more than a month and yet preparations are already well underway to build on the successes of this past session and revisit the areas in which we fell short.

Counties were acutely aware of the serious challenges, both fiscally and legislatively, facing local governments heading into the 105 day session, but WSAC had a game plan and we stuck to it. The end result was one of the more successful legislative sessions for Counties, and local governments in general, in some time. These successes were

the direct result of a nimble, informed and dedicated organization.



"Working the Doors"  
Association of Washington Cities  
President Karen Rogers &  
WSAC President Lynda Ring Erickson

The amazing participation by the membership, the guidance and direction provided by the Legislative Steering Committee (LSC), and

the assiduous efforts by your Association staff, worked in tandem to generate the successes highlighted throughout this report. I offer my sincerest thanks to our Association members and staff for all you did and continue to do. I also want to thank our partners at the State and the Cities, other local governments and our affiliates. Great challenges and great opportunities lay ahead, and I am confident we are well positioned to achieve our policy goals while continuing to provide the highest level of service possible to our members and the citizens we serve.

## A Message from the 2009 Legislative Steering Committee Co-Chairs

We want to thank the tremendous dedication of the Legislative Steering Committee members, WSAC members, single-county lobbyists, partner organizations, and WSAC staff who worked tirelessly to forward the Association's 2009 Legislative Agenda. Your diligence resulted in a very successful legislative session for counties and other local governments. We all worked hard to get the best possible budget adopted and to get positive bills passed, while also working to prevent bad legislation from getting enacted into law. Thank you for your time, effort and commitment.

Todd Mielke  
Spokane County Commissioner

Steve Stuart  
Clark County Commissioner

# Funding for Public Safety

Several bills were aimed at reducing county funding for public safety or increasing our responsibilities without any additional funding. HB 1780/SB 5819 would have reduced county public defense funding by approximately \$2 million per year. WSAC staff led a coalition of interest groups in the fight against this legislation. WSAC was successful in maintaining the current state allocation of public defense funding even in the tough budget environment. We were also successful in ensuring that the financial responsibility of extraordinary medical costs for felony offenders continues to be borne by the arresting entity, not the unit of government that ultimately charges the offender.

SB 5519 would have mandated that competency evaluations must take place in a jail rather than the state hospital. WSAC staff successfully articulated counties' concern with the policy and the fiscal implications of SB 5519, accepting the reality that a high percentage of our offenders have mental health issues, but fundamentally opposing the notion that jails are the appropriate place for individuals with serious mental health issues. WSAC was also able to communicate our concern with the notion that SB 5519 was being promoted as a saving to counties when, in fact, we believed that the net result is a shift in cost from the state to counties. SB 5519 did not pass.

## A More Efficient Criminal Justice System

The fiscal crisis of the 2009 legislative session forced policy makers to focus on what type of criminal justice system they wanted left in place moving beyond the recession. An emphasis was placed on helping to create a more efficient court.

HB 1361 eliminates the current disincentive to participating in community alternatives. Currently an offender is eligible for good time and credit for time served only while in the county jail. HB 1361 allows the court to credit an offender for time served in an available county supervised option prior to sentencing, and allows time served in a community option to be included in determination of an offender's earned release credit.

SB 5732 promotes what appears to be a very promising alternative to the way our courts currently handle driving with license suspended in the third degree (DWLS 3) by explicitly authorizing a relicensing diversion program. Nearly a third of all cases in district court are DWLS 3; relicensing programs can move those cases out of our courts in order to allow them to focus on cases that have a greater likelihood of achieving a positive public safety outcome.

SB 6167 increases the felony theft limit from \$250 to \$750. The impact of this is positive for counties overall, moving a significant number of cases from Superior Courts to Municipal Courts and potentially reducing the demand for jail beds.

# Public Safety

The public safety budget deliberation was framed early on as a responsibility to minimize the impact on our communities while accepting that reductions would have to be made. This frame was used to support greater cuts to community supervision than to sentencing or institutional programs. According to the Pew institute, Washington ranks 12th in the nation in the percentage of adults under supervision versus 44th in the number of adults in prison or jail. This disproportionate investment in Washington on supervision versus incarceration, combined with the research that indicates supervision of low-risk offenders is not effective in reducing recidivism, led lawmakers to focus their budget reductions on community supervision rather than institutions.

**Washington ranks 12th in the nation in the percentage of adults under supervision versus 44th in the number of adults in prison or jail.**

SB 5288 was the vehicle used to achieve a substantial amount of those reductions. SB 5288 eliminates supervision for low-risk felony offenders and most misdemeanants sanctioned to probation by Superior Court. The bill also fixes the length of supervision to 36 months for serious sex or violent offenders, 18 months for non-serious violent offenders, and 12 months for non-sex, non-violent offenders. SB 5288 results in a total saving to the state of approximately \$48 million.

The statutory construction of SB 5288 provides some concern since it restricts the ability of the Department of Corrections (DOC) to supervise offenders but does not curtail the ability of the court to sanction offenders to community custody. WSAC staff, along with other local government interest groups, worked to ensure the legislation included protection against a potential cascade of responsibility from the state to counties as well as preserving the DOC's involvement in the supervision of both felony and misdemeanor offenders.

# Reducing Liability

WSAC staff worked with other local government interest groups to help reduce county exposure to additional liability. A legislative priority of the House this session was to create additional homeowner protections through the development of construction warranties. Several iterations of this bill, HB 1393, included county building inspectors within the definition of individuals who are potentially liable for structural defects in the house and its foundation that make the home unfit for its intended purpose. Although this bill did not ultimately pass, the last working version in the Legislature would not have made

county employees subject to the new warranty provisions.

WSAC also supported legislation that prohibits the state Board of Pharmacy from regulating or establishing standards for a jail that does not operate a correctional pharmacy. WSAC was very concerned with the potential for additional regulations and financial obligations. With the passage of SB 5252 we can be certain that an outside entity will not be able to create unfunded mandates through the rule-making process with respect to jail pharmacies.

**HB 2637 - DIGEST**

Revises local government taxation statutes by: (1)  
Eliminating nonsupplant language;  
(2) Authorizing counties to impose an excise tax on the  
privilege of engaging in business as a utility;  
(3) Authorizing a city or town to impose a tax on the  
gross income of certain water-sewer districts;  
(4) Allowing use of local real estate excise taxes for  
park operations; and  
(5) Clarifying the location of first use for brokered  
natural gas.

---

HOUSE BILL 2637

---

State of Washington                      61st Legislature                      2010 Regular Session

By Representatives Hunter and Moeller

Prefiled 01/08/10. Read first time 01/11/10. Referred to Committee on Finance.

1            AN ACT Relating to local government taxation; amending RCW  
2 82.14.450, 82.14.450, 82.14.460, 82.14.460, 84.55.050, 82.46.035,  
3 82.12.010, and 82.14.230; reenacting and amending RCW 82.46.035; adding  
4 a new section to chapter 35.21 RCW; adding a new chapter to Title 36  
5 RCW; providing effective dates; and providing expiration dates.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            **Sec. 1.** RCW 82.14.450 and 2009 c 551 s 1 are each amended to read  
8 as follows:

9            **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative  
10 authority may submit an authorizing proposition to the county voters at  
11 a primary or general election and, if the proposition is approved by a  
12 majority of persons voting, impose a sales and use tax in accordance  
13 with the terms of this chapter. The title of each ballot measure must  
14 clearly state the purposes for which the proposed sales and use tax  
15 will be used. ~~((Funds raised under this tax shall not supplant  
16 existing funds used for these purposes, except as follows: Up to one  
17 hundred percent may be used to supplant existing funding in calendar  
18 year 2010; up to eighty percent may be used to supplant existing  
19 funding in calendar year 2011; up to sixty percent may be used to~~

1 ~~supplant existing funding in calendar year 2012; up to forty percent~~  
2 ~~may be used to supplant existing funding in calendar year 2013; and up~~  
3 ~~to twenty percent may be used to supplant existing funding in calendar~~  
4 ~~year 2014. For purposes of this subsection, existing funds means the~~  
5 ~~actual operating expenditures for the calendar year in which the ballot~~  
6 ~~measure is approved by voters. Actual operating expenditures excludes~~  
7 ~~lost federal funds, lost or expired state grants or loans,~~  
8 ~~extraordinary events not likely to reoccur, changes in contract~~  
9 ~~provisions beyond the control of the county or city receiving the~~  
10 ~~services, and major nonrecurring capital expenditures.))~~ The rate of  
11 tax under this section may not exceed three-tenths of one percent of  
12 the selling price in the case of a sales tax, or value of the article  
13 used, in the case of a use tax.

14 (2) The tax authorized in this section is in addition to any other  
15 taxes authorized by law and must be collected from those persons who  
16 are taxable by the state under chapters 82.08 and 82.12 RCW upon the  
17 occurrence of any taxable event within the county.

18 (3) The retail sale or use of motor vehicles, and the lease of  
19 motor vehicles for up to the first thirty-six months of the lease, are  
20 exempt from tax imposed under this section.

21 (4) One-third of all money received under this section must be used  
22 solely for criminal justice purposes, fire protection purposes, or  
23 both. For the purposes of this subsection, "criminal justice purposes"  
24 has the same meaning as provided in RCW 82.14.340.

25 (5) Money received under this section must be shared between the  
26 county and the cities as follows: Sixty percent must be retained by  
27 the county and forty percent must be distributed on a per capita basis  
28 to cities in the county.

29 **Sec. 2.** RCW 82.14.450 and 2007 c 380 s 1 are each amended to read  
30 as follows:

31 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative  
32 authority may submit an authorizing proposition to the county voters at  
33 a primary or general election and, if the proposition is approved by a  
34 majority of persons voting, impose a sales and use tax in accordance  
35 with the terms of this chapter. The title of each ballot measure must  
36 clearly state the purposes for which the proposed sales and use tax  
37 will be used. (~~Funds raised under this tax shall not supplant~~

1 existing funds used for these purposes. For purposes of this  
2 subsection, existing funds means the actual operating expenditures for  
3 the calendar year in which the ballot measure is approved by voters.  
4 Actual operating expenditures excludes lost federal funds, lost or  
5 expired state grants or loans, extraordinary events not likely to  
6 reoccur, changes in contract provisions beyond the control of the  
7 county or city receiving the services, and major nonrecurring capital  
8 expenditures.)) The rate of tax under this section shall not exceed  
9 three-tenths of one percent of the selling price in the case of a sales  
10 tax, or value of the article used, in the case of a use tax.

11 (2) The tax authorized in this section is in addition to any other  
12 taxes authorized by law and (~~shall~~) must be collected from those  
13 persons who are taxable by the state under chapters 82.08 and 82.12 RCW  
14 upon the occurrence of any taxable event within the county.

15 (3) The retail sale or use of motor vehicles, and the lease of  
16 motor vehicles for up to the first thirty-six months of the lease, are  
17 exempt from tax imposed under this section.

18 (4) One-third of all money received under this section (~~shall~~)  
19 must be used solely for criminal justice purposes. For the purposes of  
20 this subsection, "criminal justice purposes" means additional police  
21 protection, mitigation of congested court systems, or relief of  
22 overcrowded jails or other local correctional facilities.

23 (5) Money received under this section (~~shall~~) must be shared  
24 between the county and the cities as follows: Sixty percent (~~shall~~)  
25 must be retained by the county and forty percent (~~shall~~) must be  
26 distributed on a per capita basis to cities in the county.

27 **Sec. 3.** RCW 82.14.460 and 2009 c 551 s 2 are each amended to read  
28 as follows:

29 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative  
30 authority may authorize, fix, and impose a sales and use tax in  
31 accordance with the terms of this chapter.

32 (2) The tax authorized in this section (~~shall be~~) is in addition  
33 to any other taxes authorized by law and (~~shall~~) must be collected  
34 from those persons who are taxable by the state under chapters 82.08  
35 and 82.12 RCW upon the occurrence of any taxable event within the  
36 county. The rate of tax (~~shall~~) equals one-tenth of one percent of

1 the selling price in the case of a sales tax, or value of the article  
2 used, in the case of a use tax.

3 (3) Moneys collected under this section (~~shall~~) must be used  
4 solely for the purpose of providing for the operation or delivery of  
5 chemical dependency or mental health treatment programs and services  
6 and for the operation or delivery of therapeutic court programs and  
7 services. For the purposes of this section, "programs and services"  
8 includes, but is not limited to, treatment services, case management,  
9 and housing that are a component of a coordinated chemical dependency  
10 or mental health treatment program or service.

11 ~~((4) All moneys collected under this section must be used solely  
12 for the purpose of providing new or expanded programs and services as  
13 provided in this section, except a portion of moneys collected under  
14 this section may be used to supplant existing funding for these  
15 purposes in any county as follows: Up to fifty percent may be used to  
16 supplant existing funding in calendar year 2010; up to forty percent  
17 may be used to supplant existing funding in calendar year 2011; up to  
18 thirty percent may be used to supplant existing funding in calendar  
19 year 2012; up to twenty percent may be used to supplant existing  
20 funding in calendar year 2013; and up to ten percent may be used to  
21 supplant existing funding in calendar year 2014.~~

22 ~~(5) Nothing in this section may be interpreted to prohibit the use  
23 of moneys collected under this section for the replacement of lapsed  
24 federal funding previously provided for the operation or delivery of  
25 services and programs as provided in this section.)~~

26 **Sec. 4.** RCW 82.14.460 and 2008 c 157 s 2 are each amended to read  
27 as follows:

28 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative  
29 authority may authorize, fix, and impose a sales and use tax in  
30 accordance with the terms of this chapter.

31 (2) The tax authorized in this section (~~shall be~~) is in addition  
32 to any other taxes authorized by law and (~~shall~~) must be collected  
33 from those persons who are taxable by the state under chapters 82.08  
34 and 82.12 RCW upon the occurrence of any taxable event within the  
35 county. The rate of tax (~~shall~~) equals one-tenth of one percent of  
36 the selling price in the case of a sales tax, or value of the article  
37 used, in the case of a use tax.

1 (3) Moneys collected under this section (~~shall~~) must be used  
2 solely for the purpose of providing for the operation or delivery of  
3 new or expanded chemical dependency or mental health treatment programs  
4 and services and for the operation or delivery of new or expanded  
5 therapeutic court programs and services. For the purposes of this  
6 section, "programs and services" includes, but is not limited to,  
7 treatment services, case management, and housing that are a component  
8 of a coordinated chemical dependency or mental health treatment program  
9 or service.

10 (~~((4) Moneys collected under this section shall not be used to  
11 supplant existing funding for these purposes, provided that nothing in  
12 this section shall be interpreted to prohibit the use of moneys  
13 collected under this section for the replacement of lapsed federal  
14 funding previously provided for the operation or delivery of services  
15 and programs as provided in this section.))~~)

16 **Sec. 5.** RCW 84.55.050 and 2009 c 551 s 3 are each amended to read  
17 as follows:

18 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) Subject to any otherwise  
19 applicable statutory dollar rate limitations, regular property taxes  
20 may be levied by or for a taxing district in an amount exceeding the  
21 limitations provided for in this chapter if such levy is authorized by  
22 a proposition approved by a majority of the voters of the taxing  
23 district voting on the proposition at a general election held within  
24 the district or at a special election within the taxing district called  
25 by the district for the purpose of submitting such proposition to the  
26 voters. Any election held pursuant to this section (~~shall~~) must be  
27 held not more than twelve months prior to the date on which the  
28 proposed levy is to be made, except as provided in subsection (2) of  
29 this section. The ballot of the proposition (~~shall~~) must state the  
30 dollar rate proposed and (~~shall~~) must clearly state the conditions,  
31 if any, which are applicable under subsection (4) of this section.

32 (2) (~~(a)~~) Subject to statutory dollar limitations, a proposition  
33 placed before the voters under this section may authorize annual  
34 increases in levies for multiple consecutive years, up to six  
35 consecutive years, during which period each year's authorized maximum  
36 legal levy (~~shall~~) must be used as the base upon which an increased  
37 levy limit for the succeeding year is computed, but the ballot

1 proposition must state the dollar rate proposed only for the first year  
2 of the consecutive years and must state the limit factor, or a  
3 specified index to be used for determining a limit factor, such as the  
4 consumer price index, which need not be the same for all years, by  
5 which the regular tax levy for the district may be increased in each of  
6 the subsequent consecutive years. Elections for this purpose must be  
7 held at a primary or general election. The title of each ballot  
8 measure must state the limited purposes for which the proposed annual  
9 increases during the specified period of up to six consecutive years  
10 shall be used.

11 ~~((b)(i) Except as otherwise provided in this subsection (2)(b),~~  
12 ~~funds raised by a levy under this subsection may not supplant existing~~  
13 ~~funds used for the limited purpose specified in the ballot title. For~~  
14 ~~purposes of this subsection, existing funds means the actual operating~~  
15 ~~expenditures for the calendar year in which the ballot measure is~~  
16 ~~approved by voters. Actual operating expenditures excludes lost~~  
17 ~~federal funds, lost or expired state grants or loans, extraordinary~~  
18 ~~events not likely to reoccur, changes in contract provisions beyond the~~  
19 ~~control of the taxing district receiving the services, and major~~  
20 ~~nonrecurring capital expenditures.~~

21 ~~(ii) The supplanting limitations in (b)(i) of this subsection do~~  
22 ~~not apply to levies approved by the voters in calendar years 2009,~~  
23 ~~2010, and 2011, in any county with a population of one million five~~  
24 ~~hundred thousand or more. This subsection (2)(b)(ii) only applies to~~  
25 ~~levies approved by the voters after July 26, 2009.~~

26 ~~(iii) The supplanting limitations in (b)(i) of this subsection do~~  
27 ~~not apply to levies approved by the voters in calendar year 2009 and~~  
28 ~~thereafter in any county with a population less than one million five~~  
29 ~~hundred thousand. This subsection (2)(b)(iii) only applies to levies~~  
30 ~~approved by the voters after July 26, 2009.)~~

31 (3) After a levy authorized pursuant to this section is made, the  
32 dollar amount of ~~((such))~~ the levy may not be used for the purpose of  
33 computing the limitations for subsequent levies provided for in this  
34 chapter, unless the ballot proposition expressly states that the levy  
35 made under this section will be used for this purpose.

36 (4) If expressly stated, a proposition placed before the voters  
37 under subsection (1) or (2) of this section may:

1 (a) Use the dollar amount of a levy under subsection (1) of this  
2 section, or the dollar amount of the final levy under subsection (2) of  
3 this section, for the purpose of computing the limitations for  
4 subsequent levies provided for in this chapter;

5 (b) Limit the period for which the increased levy is to be made  
6 under (a) of this subsection;

7 (c) Limit the purpose for which the increased levy is to be made  
8 under (a) of this subsection, but if the limited purpose includes  
9 making redemption payments on bonds, the period for which the increased  
10 levies are made shall not exceed nine years;

11 (d) Set the levy or levies at a rate less than the maximum rate  
12 allowed for the district; or

13 (e) Include any combination of the conditions in this subsection.

14 (5) Except as otherwise expressly stated in an approved ballot  
15 measure under this section, subsequent levies (~~(shall)~~) must be  
16 computed as if:

17 (a) The proposition under this section had not been approved; and

18 (b) The taxing district had made levies at the maximum rates which  
19 would otherwise have been allowed under this chapter during the years  
20 levies were made under the proposition.

21 NEW SECTION. **Sec. 6. AUTHORIZING A COUNTY UTILITY TAX.** (1)

22 Subject to the conditions and requirements of this section, a county  
23 may impose an excise tax on the privilege of engaging in business as a  
24 utility. The tax is equal to the gross income derived from providing  
25 service to consumers within the county multiplied by the rate provided  
26 in subsection (3) of this section.

27 (2) A county with a population of one million five hundred thousand  
28 persons or less may not impose an excise tax on the privilege of  
29 engaging in business as a gas utility.

30 (3) A county may not impose a rate of tax that exceeds six percent,  
31 except a county with a population of one million five hundred thousand  
32 persons or less may not impose a rate that exceeds one percent on an  
33 electrical power utility.

34 (4) A county must use taxes collected under the authority of this  
35 section only for public safety, infrastructure, capital projects, and  
36 other services.

1 (2) The tax (~~shall be~~) is imposed in an amount equal to the value  
2 of the article used by the taxpayer multiplied by the rate in effect  
3 for the tax on natural gas businesses under RCW 35.21.870 in the city  
4 in which the article is used. The "value of the article used," does  
5 not include any amounts that are paid for the hire or use of a natural  
6 gas business in transporting the gas subject to tax under this  
7 subsection if those amounts are subject to tax under RCW 35.21.870.

8 (3) The tax imposed under this section (~~shall~~) does not apply to  
9 the use of natural or manufactured gas if the person who sold the gas  
10 to the consumer has paid a tax under RCW 35.21.870 with respect to the  
11 gas for which exemption is sought under this subsection.

12 (4) There (~~shall be~~) is a credit against the tax levied under  
13 this section in an amount equal to any tax paid by:

14 (a) The person who sold the gas to the consumer when that tax is a  
15 gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by  
16 another (~~state~~) municipality or other unit of local government with  
17 respect to the gas for which a credit is sought under this subsection;  
18 or

19 (b) The person consuming the gas upon which a use tax similar to  
20 the tax imposed by this section was paid to another (~~state~~)  
21 municipality or other unit of local government with respect to the gas  
22 for which a credit is sought under this subsection.

23 (5) The use tax (~~hereby~~) imposed (~~shall~~) must be paid by the  
24 consumer. The administration and collection of the tax (~~hereby~~)  
25 imposed (~~shall be~~) is pursuant to RCW 82.14.050.

26 NEW SECTION. Sec. 12. Section 6 of this act constitutes a new  
27 chapter in Title 36 RCW.

28 NEW SECTION. Sec. 13. Sections 2 and 4 of this act take effect  
29 January 1, 2015.

30 NEW SECTION. Sec. 14. Sections 1 and 3 of this act expire January  
31 1, 2015.

32 NEW SECTION. Sec. 15. Section 9 of this act takes effect June 30,  
33 2012.

1        NEW SECTION.    **Sec. 16.**    Section 8 of this act expires June 30,  
2    2012.

--- END ---

---

HOUSE BILL 2773

---

State of Washington

61st Legislature

2010 Regular Session

By Representative Nelson; by request of Governor Gregoire

1 AN ACT Relating to local excise tax authorities for counties and  
2 cities; and amending RCW 82.14.450, 82.14.450, 82.14.460, 82.14.460,  
3 and 82.14.340.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.14.450 and 2009 c 551 s 1 are each amended to read  
6 as follows:

7 (1) A county legislative authority may ~~((submit an authorizing~~  
8 ~~proposition to the county voters at a primary or general election and,~~  
9 ~~if the proposition is approved by a majority of persons voting,))~~  
10 authorize, fix, and impose a sales and use tax ((in accordance with the  
11 terms of this chapter)) until December 31, 2014. To retain or impose  
12 the tax after December 31, 2014, the county must submit an authorizing  
13 proposition to the county voters at a primary or general election and  
14 a majority of persons voting must approve the continuation or  
15 imposition of the sales and use tax. The title of each ballot measure  
16 must clearly state the purposes for which the proposed sales and use  
17 tax will be used. ~~((Funds raised under this tax shall not supplant~~  
18 ~~existing funds used for these purposes, except as follows: Up to one~~  
19 ~~hundred percent may be used to supplant existing funding in calendar~~

1 ~~year 2010; up to eighty percent may be used to supplant existing~~  
2 ~~funding in calendar year 2011; up to sixty percent may be used to~~  
3 ~~supplant existing funding in calendar year 2012; up to forty percent~~  
4 ~~may be used to supplant existing funding in calendar year 2013; and up~~  
5 ~~to twenty percent may be used to supplant existing funding in calendar~~  
6 ~~year 2014. For purposes of this subsection, existing funds means the~~  
7 ~~actual operating expenditures for the calendar year in which the ballot~~  
8 ~~measure is approved by voters. Actual operating expenditures excludes~~  
9 ~~lost federal funds, lost or expired state grants or loans,~~  
10 ~~extraordinary events not likely to reoccur, changes in contract~~  
11 ~~provisions beyond the control of the county or city receiving the~~  
12 ~~services, and major nonrecurring capital expenditures.)) The tax must~~  
13 ~~be imposed in accordance with this chapter and the rate of tax under~~  
14 ~~this section may not exceed three-tenths of one percent of the selling~~  
15 ~~price in the case of a sales tax, or value of the article used, in the~~  
16 ~~case of a use tax.~~

17 (2) The tax authorized in this section is in addition to any other  
18 taxes authorized by law and must be collected from those persons who  
19 are taxable by the state under chapters 82.08 and 82.12 RCW upon the  
20 occurrence of any taxable event within the county.

21 (3) The retail sale or use of motor vehicles, and the lease of  
22 motor vehicles for up to the first thirty-six months of the lease, are  
23 exempt from tax imposed under this section.

24 (4) One-third of all money received under this section must be used  
25 solely for criminal justice purposes, fire protection purposes, or  
26 both. For the purposes of this subsection, "criminal justice purposes"  
27 has the same meaning as provided in RCW 82.14.340.

28 (5) Money received under this section must be shared between the  
29 county and the cities as follows: Sixty percent must be retained by  
30 the county and forty percent must be distributed on a per capita basis  
31 to cities in the county.

32 **Sec. 2.** RCW 82.14.450 and 2007 c 380 s 1 are each amended to read  
33 as follows:

34 (1) A county legislative authority may (~~submit an authorizing~~  
35 ~~proposition to the county voters at a primary or general election and,~~  
36 ~~if the proposition is approved by a majority of persons voting,))  
37 authorize, fix, and impose a sales and use tax (~~in accordance with the~~~~

1 ~~terms of this chapter)) until December 31, 2014. To retain or impose~~  
2 ~~the tax after December 31, 2014, the county must submit an authorizing~~  
3 ~~proposition to the county voters at a primary or general election and~~  
4 ~~a majority of persons voting must approve the continuation or~~  
5 ~~imposition of the sales and use tax. The title of each ballot measure~~  
6 ~~must clearly state the purposes for which the proposed sales and use~~  
7 ~~tax will be used. ((Funds raised under this tax shall not supplant~~  
8 ~~existing funds used for these purposes. For purposes of this~~  
9 ~~subsection, existing funds means the actual operating expenditures for~~  
10 ~~the calendar year in which the ballot measure is approved by voters.~~  
11 ~~Actual operating expenditures excludes lost federal funds, lost or~~  
12 ~~expired state grants or loans, extraordinary events not likely to~~  
13 ~~reoccur, changes in contract provisions beyond the control of the~~  
14 ~~county or city receiving the services, and major nonrecurring capital~~  
15 ~~expenditures.)) The tax must be imposed in accordance with this~~  
16 ~~chapter and the~~ rate of tax under this section shall not exceed three-  
17 tenths of one percent of the selling price in the case of a sales tax,  
18 or value of the article used, in the case of a use tax.

19 (2) The tax authorized in this section is in addition to any other  
20 taxes authorized by law and shall be collected from those persons who  
21 are taxable by the state under chapters 82.08 and 82.12 RCW upon the  
22 occurrence of any taxable event within the county.

23 (3) The retail sale or use of motor vehicles, and the lease of  
24 motor vehicles for up to the first thirty-six months of the lease, are  
25 exempt from tax imposed under this section.

26 (4) One-third of all money received under this section shall be  
27 used solely for criminal justice purposes. For the purposes of this  
28 subsection, "criminal justice purposes" means additional police  
29 protection, mitigation of congested court systems, or relief of  
30 overcrowded jails or other local correctional facilities.

31 (5) Money received under this section shall be shared between the  
32 county and the cities as follows: Sixty percent shall be retained by  
33 the county and forty percent shall be distributed on a per capita basis  
34 to cities in the county.

35 **Sec. 3.** RCW 82.14.460 and 2009 c 551 s 2 are each amended to read  
36 as follows:

1 (1) A county legislative authority may authorize, fix, and impose  
2 a sales and use tax in accordance with the terms of this chapter.

3 (2) The tax authorized in this section shall be in addition to any  
4 other taxes authorized by law and shall be collected from those persons  
5 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
6 the occurrence of any taxable event within the county. The rate of tax  
7 shall equal one-tenth of one percent of the selling price in the case  
8 of a sales tax, or value of the article used, in the case of a use tax.

9 (3) Moneys collected under this section shall be used solely for  
10 the purpose of providing for the operation or delivery of chemical  
11 dependency or mental health treatment programs and services and for the  
12 operation or delivery of therapeutic court programs and services. For  
13 the purposes of this section, "programs and services" includes, but is  
14 not limited to, treatment services, case management, and housing that  
15 are a component of a coordinated chemical dependency or mental health  
16 treatment program or service.

17 (4) All moneys collected under this section must be used solely for  
18 the purpose of providing new or expanded programs and services as  
19 provided in this section, except (~~(a portion of)~~) the moneys collected  
20 under this section may be used to supplant existing funding for these  
21 purposes in any county (~~(as follows: Up to fifty percent may be used~~  
22 ~~to supplant existing funding in calendar year 2010; up to forty percent~~  
23 ~~may be used to supplant existing funding in calendar year 2011; up to~~  
24 ~~thirty percent may be used to supplant existing funding in calendar~~  
25 ~~year 2012; up to twenty percent may be used to supplant existing~~  
26 ~~funding in calendar year 2013; and up to ten percent may be used to~~  
27 ~~supplant existing funding in)~~ through calendar year 2014. For the  
28 purposes of this subsection, "existing funds" means the actual  
29 operating expenditures for the calendar year in which the tax was first  
30 imposed.

31 (5) Nothing in this section may be interpreted to prohibit the use  
32 of moneys collected under this section for the replacement of lapsed  
33 federal funding previously provided for the operation or delivery of  
34 services and programs as provided in this section.

35 **Sec. 4.** RCW 82.14.460 and 2008 c 157 s 2 are each amended to read  
36 as follows:

1 (1) A county legislative authority may authorize, fix, and impose  
2 a sales and use tax in accordance with the terms of this chapter.

3 (2) The tax authorized in this section shall be in addition to any  
4 other taxes authorized by law and shall be collected from those persons  
5 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
6 the occurrence of any taxable event within the county. The rate of tax  
7 shall equal one-tenth of one percent of the selling price in the case  
8 of a sales tax, or value of the article used, in the case of a use tax.

9 (3) Moneys collected under this section shall be used solely for  
10 the purpose of providing for the operation or delivery of new or  
11 expanded chemical dependency or mental health treatment programs and  
12 services and for the operation or delivery of new or expanded  
13 therapeutic court programs and services. For the purposes of this  
14 section, "programs and services" includes, but is not limited to,  
15 treatment services, case management, and housing that are a component  
16 of a coordinated chemical dependency or mental health treatment program  
17 or service.

18 (4) Moneys collected under this section (~~(shall not)~~) may be used  
19 to supplant existing funding for these purposes(~~(, provided that~~  
20 ~~nothing in this section shall be interpreted to prohibit the use of~~  
21 ~~moneys collected under this section for the replacement of lapsed~~  
22 ~~federal funding previously provided for the operation or delivery of~~  
23 ~~services and programs as provided in this section)) through calendar  
24 year 2014. For the purposes of this subsection, "existing funds" means  
25 the actual operating expenditures for the calendar year in which the  
26 tax was first imposed.~~

27 **Sec. 5.** RCW 82.14.340 and 1995 c 309 s 1 are each amended to read  
28 as follows:

29 (1) The legislative authority of any county may fix and impose a  
30 sales and use tax in accordance with the terms of this chapter,  
31 provided that such sales and use tax is subject to repeal by  
32 referendum, using the procedures provided in RCW 82.14.036. The  
33 referendum procedure provided in RCW 82.14.036 is the exclusive method  
34 for subjecting any county sales and use tax ordinance or resolution to  
35 a referendum vote.

36 (2) The tax authorized in this section shall be in addition to any  
37 other taxes authorized by law and shall be collected from those persons

1 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW  
2 upon the occurrence of any taxable event within such county. The rate  
3 of tax shall equal one-tenth of one percent of the selling price (in  
4 the case of a sales tax) or value of the article used (in the case of  
5 a use tax).

6 (3) When distributing moneys collected under this section, the  
7 state treasurer shall distribute ten percent of the moneys to the  
8 county in which the tax was collected. The remainder of the moneys  
9 collected under this section shall be distributed to the county and the  
10 cities within the county ratably based on population as last determined  
11 by the office of financial management. In making the distribution  
12 based on population, the county shall receive that proportion that the  
13 unincorporated population of the county bears to the total population  
14 of the county and each city shall receive that proportion that the city  
15 incorporated population bears to the total county population.

16 (4) Moneys received from any tax imposed under this section shall  
17 be expended exclusively for criminal justice purposes (~~and shall not~~  
18 ~~be used to replace or supplant existing funding~~). Criminal justice  
19 purposes are defined as activities that substantially assist the  
20 criminal justice system, which may include circumstances where  
21 ancillary benefit to the civil justice system occurs, and which  
22 includes domestic violence services such as those provided by domestic  
23 violence programs, community advocates, and legal advocates, as defined  
24 in RCW 70.123.020. (~~Existing funding for purposes of this subsection~~  
25 ~~is defined as calendar year 1989 actual operating expenditures for~~  
26 ~~criminal justice purposes. Calendar year 1989 actual operating~~  
27 ~~expenditures for criminal justice purposes exclude the following:~~  
28 ~~Expenditures for extraordinary events not likely to reoccur, changes in~~  
29 ~~contract provisions for criminal justice services, beyond the control~~  
30 ~~of the local jurisdiction receiving the services, and major~~  
31 ~~nonrecurring capital expenditures.~~)

32 (5) In the expenditure of funds for criminal justice purposes as  
33 provided in this section, cities and counties, or any combination  
34 thereof, are expressly authorized to participate in agreements,  
35 pursuant to chapter 39.34 RCW, to jointly expend funds for criminal  
36 justice purposes of mutual benefit. Such criminal justice purposes of  
37 mutual benefit include, but are not limited to, the construction,

1 improvement, and expansion of jails, court facilities, and juvenile  
2 justice facilities.

--- END ---





# Memorandum

**To:** COSCA Members  
**From:** Kay Farley and Jose Dimas  
**Date:** December 18, 2009  
**Re:** Co-Sponsorship of Bills

---

We are seeking your help to recruit co-sponsors of the following bills. The list of co-sponsors is current as of this date.

If you need staff contact information, talking points, or additional background materials, please let us know.

## **HR 1956 – Crime Victim Restitution and Court Fee Intercept Act**

### **Summary:**

Amends the Internal Revenue Code to direct the Secretary of the Treasury, upon receiving notice from a state judicial agency that a named person owes a past-due, legally enforceable state judicial debt, to pay such debt from any tax refund due to such person.

### **Main Sponsors:**

Representative Artur Davis (D-AL) and Erik Paulsen (R-MN)

### **Co-Sponsors (28):**

Neil Abercrombie (D-HI), Michele Bachman (R-MN), Spencer Bachus (R-AL), Michael Burgess (R-TX), Michael Capuano (D-MA), Bill Cassidy (R-LA), Michael Castle (R-DE), Mike Coffman (R-CO), Peter DeFazio (D-OR), William Delahunt ((D-MA), Keith Ellison (D-MN), Mazie Hirono (D-HI), John Kline (R-MN), Christopher J. Lee (R-NY), Betsy Markey (D-CO), Betty McCollum (D-MN), Gwen Moore (D-WI), Christopher Murphy (D-CT), James Oberstar (D-MN), Ed Pastor (D-AZ), Ed Perlmutter (D-CO), Collin Peterson (D-MN), Todd Russell Platts (R-PA), Ted Poe (R-TX), Kurt Schrader (D-OR), Lamar Smith (R-TX), Edolphus Towns (D-NY), and Timothy Walz (D-MN).

### **CCJ/COSCA Policy Position:**

*In Support of the Court Fee Intercept Legislation in the United States Congress (CCJ/COSCA Resolution 09-A-10)*

---

### **Government Relations Office**

111 2<sup>nd</sup> Street, NE  
Washington, DC 20002  
Voice: (866) 941-0229  
FAX: (202) 544-0978

---

**S 1329 – State Court Interpreter Grant Program Act**

**Summary:**

Directs the Administrator of the Office of Justice Programs of the Department of Justice to: (1) make grants to state courts to develop and implement programs to assist individuals with limited English proficiency to access and understand state court proceedings in which they are a party; and (2) allocate specified funds to establish a court interpreter technical assistance program to assist state courts receiving grants under this Act.

Authorizes the use of grant awards by state courts to: (1) assess regional language demands; (2) develop a court interpreter program; (3) develop, institute, and administer language certification examinations; (4) recruit, train, and certify qualified court interpreters; and (5) pay for salaries, transportation, and technology necessary to implement the court interpreter program.

**Main Sponsor:**

Senator Herb Kohl (D-WI)

**Co-Sponsors (6):**

Senators Ben Cardin (D-MD), Richard Durbin (D-IL), Dianne Feinstein (D-CA), Edward Kaufman (D-DE), Edward Kennedy (D-MA), and Patrick Leahy (D-VT)

**CCJ/COSCA Policy Position:**

*In Support of National Court Interpreter Legislation (COSCA Resolution 07-M-2)*

*In Support of Efforts to Ensure Adequate Court Interpretation Services (CCJ Resolution 08-M-7)*

**S 1859 – Child Support Protection Act**

**Summary:**

Amends part D (Child Support and Establishment of Paternity) of title IV of the Social Security Act to repeal the exclusion from federal matching payments of any amounts expended by a state from child support incentive payments it has received from the Secretary of Health and Human Services. (Thus reinstates federal matching of state spending of child support incentive payments.)

**Main Sponsor:**

Senator John D. Rockefeller IV (D-WV)

**Co-Sponsors (15):**

Senators Jeff Bingaman (D-NM), Sherrod Brown (D-OH), Robert Casey (D-PA), John Cornyn (R-TX), Richard Durbin (D-IL), Kirsten Gillibrand (D-NY), Tim Johnson (D-SD), Ed Kaufman (D-DE), John Kerry (D-MA), Herb Kohl (D-WI), Carl Levin (D-MI), Olympia Snowe (R-ME), Debbie Stabenow (D-MI), David Vitter (R-LA), and Sheldon Whitehouse (D-RI)

**CCJ/COSCA Policy Position:**

*In Support of State Flexibility for the Use of State Earned Child Support Incentive Dollars (CCJ/COSCA Resolution 07-A-6)*

---

**Government Relations Office**

111 2<sup>nd</sup> Street, NE  
Washington, DC 20002  
Voice: (866) 941-0229  
FAX: (202) 544-0978

**CONFERENCE OF CHIEF JUSTICES  
CONFERENCE OF STATE COURT ADMINISTRATORS**

**Resolution 10**

**In Support of the Court Fee Intercept Legislation in the United States  
Congress**

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators recognize that allowing court-ordered penalties, fines, fees, restitution and surcharges to be ignored diminishes public respect for the rule of law and that it is in the interest of the courts that their orders be honored; and

WHEREAS, significant amounts of court-imposed penalties, fines, fees, restitution and surcharges are not paid; and

WHEREAS, the United States Treasury Offset Program allows for the federal income tax refund interception of federal tax debt, Temporary Assistance to Needy Families (TANF) child support debt, federal agency non-tax debt, non-TANF child support debt and state tax debt (other than child support); and

WHEREAS, collection of court-imposed obligations through a tax refund intercept would be among the most accurate, least intrusive and least burdensome methods to satisfy these debts; and

WHEREAS, collection of such debts through a tax refund intercept mechanism would contribute to the public trust and confidence in the courts; and

WHEREAS, Reps. Davis (D-AL) and Paulsen (R-MN) have introduced legislation (H.R. 1956) in the United States Congress to allow for the interception of federal income tax refunds for payment of such debts; and

WHEREAS, the legislation has received support from a broad-based coalition of public interest groups such as the National Association for Court Management, National Association of Counties, Mothers Against Drunk Driving, Government Finance Officers Association, National Center for Victims of Crime and the American Probation and Parole Association;

NOW, THEREFORE, BE IT RESOLVED that the Conferences support legislation to add conforming language to federal statutes that will enable the states to intercept federal tax refunds for payment of obligations under legally enforceable court orders.

Adopted at the COSCA 2009 Annual Meeting on August 5, 2009.

AGENCY

제출처

제출일자

제출번호



---

**CONFERENCE OF STATE COURT ADMINISTRATORS**

**Resolution 2**

**In Support of National Court Interpreter Legislation**

WHEREAS, the growing diversity of the United States' population is reflected in the changing needs of people appearing in the state courts; and

WHEREAS, courts increasingly serve people who lack fluency in the English language; and

WHEREAS, justice for such persons requires the availability of interpreter services that will allow them to understand and participate in the court process; and

WHEREAS, interpreters must have specialized knowledge of the legal language and process as well as general language skills; and

WHEREAS, state courts have taken an active role in developing the instruments needed to train court interpreters; and

WHEREAS, the cost of developing a pool of interpreters is growing as the number of languages and the population requiring this assistance increases; and

WHEREAS, the federal government should assist state courts to provide this critical component of their adjudicatory process, especially in view of federal requirements under the American Disabilities Act and federal regulations governing court interpreter services; and

WHEREAS, Senator Herbert H. Kohl (D-WI) has introduced a bill that would create a "State Court Interpreter Grant Program Act" and would authorize \$15 million a year for four years under this program; and

WHEREAS, Senator Kohl's bill would be patterned after the very successful Court Improvement Program, which gives discretion to state courts in allocating federal funds for child

abuse and neglect cases;

NOW, THEREFORE, BE IT RESOLVED that the Conference of State Court Administrators urges Senator Kohl to continue his efforts for enactment of this legislation; and

BE IT FURTHER RESOLVED that the Conference calls on Congress to approve the legislation and provide funding in a timely manner for the benefit of state courts and the people they serve.

*Adopted at the COSCA Midyear Meeting on November 30, 2007.*

*top*



# Conference of Chief Justices

## Policy Statements & Resolutions

[About CCI](#)[Members Only](#)[Links](#)[Contact Us](#)[Home](#)

### Resolution 7

#### In Support of Efforts to Ensure Adequate Court Interpretation Services

WHEREAS, in every state and territory throughout our nation, individuals look to state court and territorial systems to protect their rights and resolve legal issues and disputes in accord with the constitutional principles upon which this nation was founded; and

WHEREAS, the Conference of Chief Justices (Conference) and the Conference of State Court Administrators (COSCA) recognize that when language barriers intrude into the process of justice and prevent essential communication and understanding, some of the most basic strengths and values of our justice system are too often negated; and

WHEREAS, for individuals to be afforded equal justice and for courts to achieve their mission of providing equal justice accessible to all by ensuring that every litigant, victim, and witness understands what is happening in the courtroom, the Conference and COSCA recognize that court systems must develop effective systems to provide competent interpretation services to limited- and non-English speakers; and

WHEREAS, the steadily increasing population of limited- and non-English-speaking individuals in the United States presents many challenges, including the states' and territories' abilities to provide adequate resources to address the need for court interpretation services in hundreds of languages in all areas of the country; and

WHEREAS, COSCA wrote a White Paper, *Court Interpretation: Fundamental to Access to Justice*, to identify issues, and key policies and practices, that state and territorial court leaders and policy makers need to understand and address to ensure that they are able to develop effective court interpretation programs in their jurisdictions;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices (1) endorses the *Court Interpretation: Fundamental to Access to Justice* White Paper, (2) commits to take necessary steps to implement the recommendations proposed in the White Paper, and (3) requests that the President of the Conference, in collaboration with the President of COSCA, assign the White Paper to the appropriate committees to advance the implementation of the recommendations; and

BE IT FURTHER RESOLVED that the Conference encourages state court leaders to recognize the aspirational goal that, as a matter of fundamental fairness, all persons appearing in court as a litigant or witness who do not sufficiently understand English should have access to qualified interpreter services in all court proceedings; and

BE IT FURTHER RESOLVED that the Conference encourages its members and state and territorial court leaders to consider participation in the Consortium for State Court Interpreter Certification and to undertake robust efforts to advance

the quality of court interpreter services in their jurisdictions, including, but not limited to, adopting standards for distinguishing qualified from non-qualified court interpreters, enacting policies supporting the required use of qualified interpreters for limited- and non-English speaking litigants in as many court proceedings as possible, and establishing ethical guidelines for court interpreters; and

BE IT FURTHER RESOLVED that the Conference commits to working with the Consortium and the National Center for State Courts to develop strategies to assure the future sustainability of the Consortium; and

BE IT FURTHER RESOLVED that the Conference supports further study by appropriate justice system partners of important related areas not covered, or not sufficiently addressed, in the COSCA White Paper, such as American Sign Language, document translation, and in collaboration with other justice system partners, the provision of interpreter services in non-court justice system settings; and

BE IT FURTHER RESOLVED that the Conference encourages Congress to enact legislation, such as the State Court Interpreter Grant Program Act (S. 702), which would provide direct funding to state and territorial courts to support state and territorial court interpreter initiatives.

*Adopted as proposed by the CCJ/COSCA Access to and Fairness in the Courts Committee at the 31st Midyear Meeting on January 30, 2008.*

[Bylaws](#) | [Mission](#) | [Policy Statements & Resolutions](#) | [History](#)  
[Member Roster](#) | [Reports](#) | [Search](#) | [Home](#)

# **CONFERENCE OF CHIEF JUSTICES CONFERENCE OF STATE COURT ADMINISTRATORS**

## **Resolution 6**

### **In Support of State Flexibility for the Use of State-Earned Child Support Incentive Dollars**

WHEREAS, the Deficit Reduction Act of 2005 (Public Law 109-171) eliminated the ability of states to use federal child support enforcement performance incentive funds as state match to draw down federal financial participation dollars; and

WHEREAS, many states have re-invested their federal incentive funds in their child support enforcement programs as a means to expand their services to reach more families; and

WHEREAS, this action was taken by Congress as a cost-cutting measure, but the impact on child support enforcement programs and services was not fully understood at that time; and

WHEREAS, the Congressional Budget Office has estimated that the elimination of this incentive match practice will reduce families' child support income by \$8.4 billion over the next 10 years; and

WHEREAS, if state and local governments are unable to replace the lost federal funding on a long-term basis, child support services will be reduced; and

WHEREAS, state courts will be hindered in their ability to establish and enforce child support obligations; and

WHEREAS, as a result, some families may not be able to access needed services; and

WHEREAS, Congress is considering the Child Support Protection Act of 2007 (HR 1386 and S 803), which would repeal the provision in the Deficit Reduction Act of 2005 that ends the ability of states to use performance incentives as match for federal funds;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators encourage Congress to enact the Child Support Protection Act of 2007 or similar legislation that would restore flexibility to states and allow the states to provide much-needed child support enforcement services.

Adopted at the COSCA 2007 Annual Meeting on August 1, 2007.

Dear Congressman \_\_\_\_\_,

I am writing to request that you co-sponsor HR 1956, the Crime Victim Restitution and Court Fee Intercept bill. This legislation, introduced by Representatives Erik Paulsen (R-MN) and Arthur Davis (D-AL), would allow for the interception of federal tax refunds for unpaid court debt.

Federal law permits the interception for child support debts, state tax and other federal debts, but currently does not include other court-ordered state debts, e.g. fines and restitution arising from criminal judgments. The funds collected from such an intercept program not only benefit victims of crime and our state's General Fund, but many state agencies, cities, and counties. There are millions of dollars in uncollected court-imposed fines, fees, assessments, and restitution in our state and throughout the country. Enforcing these court orders by accessing the U.S. Treasury's Offset Program and therefore, collecting a portion of this uncollected debt, would benefit the budget of the state, county, and city governments.

Under this legislation, these interceptions are on refunds that would otherwise be returned to the taxpayer. As such, there is no loss to the Federal budget. Additionally, court-owed debts would be next in line after child support interception and other current debt priorities and would not affect the other recipients now intercepting funds. Finally, this tax intercept proposal would be a revenue-generating mechanism that is not a tax increase.

This proposal has been endorsed by a number of national organizations such as the National Association of Counties, the Government Finance Officers Association and the American Probation and Parole Association.

Jose Dimas at the National Center for State Courts can be contacted for additional information from the state judiciaries. He can be reached at (202/684-2645). In addition, if you need more information from our state's judiciary, please do not hesitate to contact me.

Sincerely,

The Honorable \_\_\_\_  
United States Senate  
Washington, DC 20005

Dear Senator \_\_\_\_\_:

The Child Support Protection Act of 2009 (S 1859) was introduced on October 22, 2009 by Senators Rockefeller, Cornyn, Kohl and Snowe. I am writing to urge you to co-sponsor this important bill, which would permanently restore full funding for the Child Support Enforcement program.

Federal funding for the program was seriously reduced by the Deficit Reduction Act of 2005. While the federal funds were temporarily restored by the Congress earlier this year, the temporary restoration will expire on September 30, 2010. This permanent restoration is critical so that state and local governments can budget for 2011.

The Child Support Enforcement program is widely recognized as one of the most effective government programs and has impressive results. In 2008, paternity was established for 1.8 million children, ensuring that the legal rights of both the children and their fathers are protected. Over 1.2 million orders for support were established, resulting in \$26.6 billion of child support collections being distributed. The program is extremely cost effective collecting \$4.79 for each dollar of expenditure.

Child support collections account for 13% of the income for single-parent households, and 38% of the income for families below the poverty level. The program does much more by working with non-custodial parents who need employment so that they can make regular payments. The program also plays a critical role in times of high joblessness by processing adjustments to support orders so that the orders accurately reflect the non-custodial parents' ability to pay support.

I appreciate your attention to this matter and hope that you will seriously consider co-sponsoring the Child Support Protection Act of 2009 (S 1859).

Sincerely,

The Honorable  
United States Senate  
Washington, DC 20510

Dear Senator:

I write to urge you to be a cosponsor of Senator Kohl of Wisconsin's State Court Interpreter Grant Program Act (S. 1329). This legislation would establish a grant program for state court interpreter assistance services at the Department of Justice.

As you know, over the past ten years the use of court interpreters has grown in <my state> with the greater diversity of our population. The Census Bureau estimates that the number of individuals speaking a language other than English in <my state> is projected to grow in the next few years. As per <my state's> court rules, we work to provide certified court interpreters for our court customers that need it, but it comes at a cost. Obviously, the approval of the Court Interpreter Grant Program Act would help alleviate those costs as well as assist all our courts.

Senator Kohl introduced this legislation on June 23, 2009. He is looking for additional cosponsors to endorse his bill. I hope that you will join him in support of this legislation.

I am attaching a resolution in support of this legislation that my colleagues at the <Conference of Chief Justices/Conference of State Court Administrators> approved regarding Senator Kohl's bill. If you have any questions about this legislation, please contact me or our staff at the National Center for State Courts (NCSC). Our staff person at the NCSC handling this issue is Jose Dimas (202) 684-2645 or [jdimas@ncsc.org](mailto:jdimas@ncsc.org). Senator Kohl's staff person handling this issue is Nicole Silver at (202) 224-3406.

Thank you for your time and attention to this important matter.

Sincerely,



July 24, 2009

The Honorable Maria Cantwell  
United States Senate  
511 Dirksen Senate Office Building  
Washington, DC 20510

Re: State Court Interpreters Grant Program Act

Dear Senator Cantwell:

We write to urge you to be a cosponsor of Wisconsin Senator Kohl's State Court Interpreter Grant Program Act (S. 1329). This legislation would establish a grant program for state court interpreter assistance services at the Department of Justice.

We could not agree more that "the fair administration of justice depends on the ability of all participants in a courtroom proceeding to understand that proceeding, regardless of their English proficiency." *Sec. 2(1)*.

As the diversity of languages spoken in the United States grows, so does the need for courts to serve people who lack fluency in the English language. This is especially true in linguistically diverse states like Washington, which is a destination of choice from many immigrant and refugee populations. Because court interpreters require very specialized skills, it is becoming more difficult for courts to develop and maintain a pool of qualified interpreters.

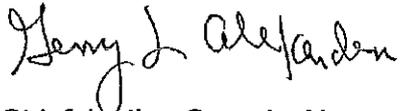
We continue to work diligently to improve court interpreter services at the Washington State level and strongly support the creation of a federal grant program that will assist state courts in providing court interpreter services.

Senator Kohl introduced this legislation on June 23, 2009. He is looking for additional cosponsors to endorse his bill. We hope that you will join him in support of this legislation.

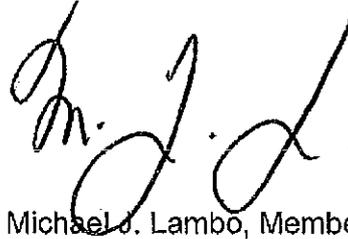
The Honorable Maria Cantwell  
July 24, 2009  
Page 2

Please do not hesitate to contact us if you have any questions or if we can provide any assistance or information.

Sincerely,



Chief Justice Gerry L. Alexander, Chair  
Board for Judicial Administration



Judge Michael J. Lambo, Member-chair  
Board for Judicial Administration

cc: Justice Susan Owens, Interpreter Commission  
Judge Tari Eitzen, Superior Court Judges' Association  
Judge Glenn Phillips, District and Municipal Court Judges' Association  
Mr. Jeff Hall, State Court Administrator  
Washington Congressional Delegation



July 24, 2009

The Honorable Patty Murray  
United States Senate  
173 Russell Senate Office Building  
Washington, DC 20510

Re: State Court Interpreters Grant Program Act

Dear Senator Murray:

We write to urge you to be a cosponsor of Wisconsin Senator Kohl's State Court Interpreter Grant Program Act (S. 1329). This legislation would establish a grant program for state court interpreter assistance services at the Department of Justice.

We could not agree more that "the fair administration of justice depends on the ability of all participants in a courtroom proceeding to understand that proceeding, regardless of their English proficiency." *Sec. 2(1)*.

As the diversity of languages spoken in the United States grows, so does the need for courts to serve people who lack fluency in the English language. This is especially true in linguistically diverse states like Washington, which is a destination of choice from many immigrant and refugee populations. Because court interpreters require very specialized skills, it is becoming more difficult for courts to develop and maintain a pool of qualified interpreters.

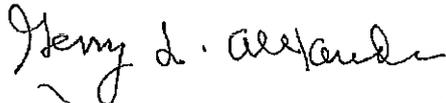
We continue to work diligently to improve court interpreter services at the Washington State level and strongly support the creation of a federal grant program that will assist state courts in providing court interpreter services.

Senator Kohl introduced this legislation on June 23, 2009. He is looking for additional cosponsors to endorse his bill. We hope that you will join him in support of this legislation.

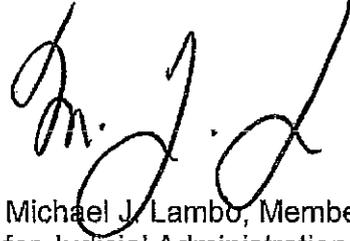
The Honorable Patty Murray  
July 24, 2009  
Page 2

Please do not hesitate to contact us if you have any questions or if we can provide any assistance or information.

Sincerely,



Chief Justice Gerry L. Alexander, Chair  
Board for Judicial Administration



Judge Michael J. Lambo, Member-chair  
Board for Judicial Administration

cc: Justice Susan Owens, Interpreter Commission  
Judge Tari Eitzen, Superior Court Judges' Association  
Judge Glenn Phillips, District and Municipal Court Judges' Association  
Mr. Jeff Hall, State Court Administrator  
Washington Congressional Delegation



**From:** David A. Larson [mailto:David.Larson@cityoffederalway.com]  
**Sent:** Monday, December 28, 2009 2:22 PM  
**To:** Phillips, Glenn  
**Subject:** WSBA Dues/Regulations for Judges

Judge Phillips: I have done some quick research and I make the following observations for whatever they are worth. I certainly may have missed something, but I have some concerns as outlined below.

RCW 2.48.040 gives the WSBA the right to enforce RCW 2.48.010 through RCW 2.48.180. RCW 2.48.050(1) gives the Board of Governors the power to adopt rules "concerning membership and the classification thereof into active, inactive and honorary members." There is no specific provision for them adopting rules regarding judicial members, but one could reasonably construe judicial members as inactive or honorary. The WSBA BOG does have the power to "adopt rules, subject to the approval of the supreme court, fixing the qualifications, requirements and procedure for admission to the practice of law", but there is no provision allowing them to regulate the appointment or election of judges or regulate a judge's service as a member of the bench. The WSBA BOG may set dues charged to active members under RCW 2.48.130, but the dues for inactive members is set by statute at \$2 per year without any provision for adjustment by the BOG. RCW 2.48.140. There is no dues provision for honorary members.

It should be noted that RCW 2.48.021 specifically excluded "judges of courts of record" from becoming active members of the bar when the bar was formed. "Courts of record" include the Supreme Court (RCW 2.04.020), Courts of Appeals (RCW 2.06.010), and Superior Courts (RCW 2.08.030), but not courts of limited jurisdiction.

Judges in "courts of record" are specifically prohibited from practicing law. See RCW 2.48.200; State Constitution Art. 4 § 19. Court of Appeals judges are prohibited from practicing law. RCW 2.06.090. Full-time district court judges cannot practice law under RCW 3.34.040, but part-time district court judges may still practice law with some restrictions. See RCW 2.28.040. Municipal court judges in cities with over 400,000 population cannot practice law. RCW 35.20.170. However, there is no direct provision prohibiting RCW 3.50 municipal court judges from practicing law. Nevertheless, Canon 5(f) of the Code of Judicial Conduct prohibits all judges from practicing law.

RCW 3.50.040 requires that "A person appointed as a full-time or part-time municipal judge shall be a citizen of the United States of America and of the state of Washington; **and an attorney admitted to practice law** before the courts of record of the state of Washington", but there is no provision prohibiting full time RCW 3.50 judges from continuing to practice law once appointed. The qualifications for filing for office as a full time elected RCW 3.50 judges "shall be the same as the qualifications necessary for the appointment thereof", which arguably includes admission to practice law. See RCW 3.50.050; RCW 3.50.040. The same requirement of bar admission is necessary to be a district court judge (RCW 3.34.060), but RCW 3.34.040 specifically prohibits them from practicing law once they become a judge and RCW 3.50 has no such prohibition. There is also no provision allowing part-time RCW 3.50 judges to practice law as provided for in the case of part-time district court judges under RCW 2.28.040.

In reading the above provisions in harmony, it appears that the WSBA do not have the statutory authority to regulate judges while they are in office. My opinion is that the bar can regulate how we become "inactive" once we become judges and can regulate how we become "active" once we stop

serving as judges, but they cannot regulate us while we are judges. The most they can do is define what "active", "inactive", and "honorary" memberships are, charge us \$2 per year for dues while we are "inactive" and no dues if we are considered "honorary", and they can define the mechanism that would allow us to practice law again once we cease being a judge.

There is still a question in my mind about RCW 3.50 municipal court judges. The question based upon the above statutes is whether RCW 3.50 municipal court judges still need to be members of the bar to be eligible to hold office. If this is the case, the next question is whether the bar can regulate municipal court judges in ways that they cannot regulate other judges. If so, is the above discrepancy in treatment caused by oversight or by intent? Or, am I simply missing something?

Thanks.

Judge David Larson  
Federal Way Municipal Court  
33325 8th Avenue South  
Federal Way, WA 98063  
[david.larson@cityoffederalway.com](mailto:david.larson@cityoffederalway.com)  
253-835-3012

City Hall  
17425 Ballinger Way N.E. 2<sup>nd</sup> Floor  
Lake Forest Park, WA 98155  
Telephone: 206-364-7711  
FAX: 206-364-7712  
E-mail: cityhall@ci.lake-forest-park.wa.us  
www.cityoffp.com



Judge  
Linda S. Portnoy

Administrator  
Jane Poppe

Probation  
Phil Stanley

## MUNICIPAL COURT

12/10/08

Washington State Bar Association  
1325 4<sup>th</sup> Ave., Suite 600  
Seattle, WA. 98101  
Attn: Bylaws Review Committee

Dear Bylaw Review Committee members:

I am writing to formally request a status change to "judicial status". I have been the presiding judge for Lake Forest Park Municipal Court since 1998. This position is a half-time judicial position. I do not, however, practice law nor have any legal practice. I supplement my part-time income with pro tem work, teaching and writing.

Under current WSBA rules, only full time judicial officers may have special "judicial" status. I am willing to sign an affidavit to the fact that I do not practice law. It is my hope that the WSBA will make an exception to this rule, or institute a change in rule to accommodate part-time judges who do not practice law. Part-time judges are held to all the same rules and standards as full time judges. In addition, part-time judges must fulfill all the same CJE hours as full time judges and have mandatory membership dues to the judicial association.

Thank you in advance for your attention to this matter. I am happy to provide any further information to the WSBA that might facilitate this request.

Sincerely,

Judge Linda S. Portnoy  
Presiding Judge, Lake Forest Park Municipal Court



# WSBA

OFFICE OF THE EXECUTIVE DIRECTOR

Paula C. Littlewood

direct line: 206-239-2120

fax: 206-727-8310

e-mail: paulal@wsba.org

## MEMO

TO: Board for Judicial Administration  
FROM: Paula Littlewood  
DATE: January 12, 2010  
RE: Proposed Changes to WSBA Bylaws and Judicial Status

---

Attached here please find the latest version of the proposed changes to the WSBA Bylaws regarding judicial status. The redlining in this version reflects changes made in response to feedback received from various judges' associations since we first sent the language out in the fall.

We look forward to a continued discussion of these proposed changes at the Friday meeting.

*Working Together to Champion Justice*

## II. MEMBERSHIP

### A. CLASSES OF MEMBERSHIP.

There shall be four classes of membership with the qualifications, privileges and restrictions specified.

1. Active.  
...
2. Inactive. There are three types of inactive membership: "Inactive-Lawyer," "Inactive-Disability," and "Inactive-Honorary."  
...
3. Judicial.
  - a. An active member may qualify to become a Judicial member of the Bar if the member is one of the following:
    1. A current full-time judge, commissioner, or magistrate of the courts of record in the State of Washington, or the courts of the United States, or a member who is employed on a regular (not *pro tempore*) basis in more than one such position where the total of hours worked in all such positions is equivalent to full-time employment;
    2. A current full-time or former full-time judge, commissioner, or magistrate in the district or municipal courts in the State of Washington, or a member who is employed on a regular (not *pro tempore*) basis in more than one such position where the total of hours worked in all such positions is equivalent to full-time employment, provided that such position requires the person to be a lawyer;
    3. A current senior status judge in the Courts of the United States; or
    4. A current full-time Tribal Court judge in the State of Washington, or a member who is employed on a regular (not *pro tempore*) basis in more than one such position where the total of hours worked in all such positions is equivalent to full-time employment.
  - b. Judicial members may:
    1. Practice law only where permitted by the Code of Judicial Conduct;
    2. Be appointed to serve on any task force, advisory board or council of the Bar; and
    3. Be non-voting members in WSBA Sections, if allowed under the Section's bylaws.

c. Nothing in these bylaws shall be deemed to prohibit a judicial member from carrying out their judicial duties.

d. Judicial members are required to provide the member registry information required of other members, and are to provide the WSBA with any changes to such within 10 days of any change.

e. Judicial members are required to inform the WSBA within 10 days when they retire or when their employment situation has otherwise changed so as to cause them to be ineligible for Judicial membership, and must apply to change to another membership class or to resign. Judicial members desiring to change membership class to Active or Emeritus/Pro Bono are required to pass a character and fitness review, and in addition to any other requested information, must disclose any judicial discipline or investigations, whether or not ongoing.

f. Judicial members must pay any required license fee and/or assessments that may be established by the WSBA, subject to review by the Supreme Court, for this membership class. Notices, deadlines, late fees, and other consequences of failing to pay any required fees and assessments shall be consistent with those established for Active members.

g. Members who transfer to Judicial membership shall be maintained in their assigned reporting group for mandatory continuing legal education purposes, and shall report earned credits to the WSBA in accordance with the reporting requirements of that group. A certificate of compliance with judicial education requirements shall be sufficient to establish compliance with those requirements. Either judicial continuing education credits or lawyer continuing legal education credits may be applied to the credit requirement for judicial members; if judicial continuing education credits are applied, the standards for determining accreditation for judicial continuing education courses will be accepted as establishing compliance.

4. Emeritus/Pro Bono. ...

#### C. CHANGE OF MEMBERSHIP CLASS TO ACTIVE.

1. Transfer from Inactive to Active.

....

2. Transfer from Judicial to Active.

A judicial member may request to transfer to Active. Upon a Judicial member's resignation, retirement, or completion of such member's term of judicial office, such member must notify the WSBA within 10 days, and any Judicial member desiring to continue his/her affiliation with the WSBA must change to another membership class within the WSBA. A Judicial member may transfer to Active by:

a. completing and submitting an application form, all required licensing forms, and any other required information;

- b. paying the then current Active license fee, including any mandatory assessments, less any license fee and assessments paid as a Judicial member for the same licensing year;
  - c. passing a character and fitness review essentially equivalent to that required of applicants for admission to the Bar. Judicial members seeking to transfer to Active must disclose any judicial discipline or investigations of which the member is aware, whether previously concluded or ongoing at the time of the requested transfer.
3. Transfer from Emeritus/Pro Bono to Active.  
...
4. Referral to Character and Fitness Board. The Board of Governors may withhold a transfer to Active where there are serious and substantial questions regarding the present professional competence, moral character, or fitness of the member. In such instance, the Board of Governors shall refer the matter to the Character and Fitness Board for investigation and hearing consistent with the provisions of the Admission to Practice Rules relating to character and fitness hearing for people seeking admission. After a full hearing and upon recommendation by the Character and Fitness Board, the Board of Governors may require the member to take and pass the Washington Bar Examination to demonstrate continued professional competence, or take such other actions as are recommended by the Character and Fitness Board. The member shall be responsible for the costs of any investigation, bar examination, or proceeding before the Character and Fitness Board.

#### D. CHANGE OF MEMBERSHIP CLASS TO INACTIVE

1. Any Active, Judicial, or Emeritus/Pro Bono member who is not Suspended or Disbarred shall become an Inactive-Lawyer member when the member files a written request for Inactive membership with the Executive Director, and that request is approved.
2. Members are transferred to Inactive-Disability pursuant to Title 8 of the Rules for Enforcement of Lawyer Conduct. Any member seeking to transfer from Inactive-Disability to Inactive-Lawyer must first establish that the member has complied with the requirements of Title 8 of the ELC, and then must submit a written request to make the change and comply with all applicable licensing requirements for Inactive-Lawyer members.
3. All members who have been Active or Judicial, or a combination of Active and Judicial, members for fifty years may qualify for Inactive-Honorary membership. A qualified member may request to change to Inactive-Honorary membership by submitting a request in writing, or making such request in response to the WSBA's inquiry regarding such a membership change.
4. An Active member may apply to change from Active to Inactive-Lawyer while disciplinary investigations or proceedings are pending against such

member. Such transfer, however, shall not terminate, stay or suspend any pending disciplinary investigation or proceeding against the member.

E. CHANGE OF MEMBERSHIP CLASS TO JUDICIAL

An Active member may request to become a Judicial member of the Bar by submitting a written request on judicial letterhead and complying with the provisions of these bylaws.

F. VOLUNTARY RESIGNATION.

...

G. ANNUAL LICENSE FEES AND ASSESSMENTS.

All annual license fees and assessments must be paid as prescribed by the WSBA Board of Governors, subject to review by the Washington Supreme Court.

1. License Fees.

a. Active Members.

...

b. Inactive Members.

...

c. Judicial Members.

Judicial members shall pay any required annual license fee or mandatory assessment in an amount(s) established by the BOG, subject to review by the state Supreme Court, in such manner or on such form as is required by the WSBA. Except for the amount of the license fee itself, the annual license fee payment requirements, including deadlines and late payment fees, for Active members shall apply to Judicial members.

d. Emeritus/Pro Bono Members

...

2. Deadline and Late Payment Fee.

a. License fees and mandatory assessments shall be payable on or before February 1st of each year. Members who pay their license fees on or after February 2<sup>nd</sup> shall be assessed a late payment fee of 30% of the total amount of the license fees required for that membership class. License fees for newly admitted members shall be due and payable at the time of admission and registration, and are not subject to the late payment fee.

b. Notice requirements for the collection of license fees after the deadline, late payment fees, and/or assessments shall be mailed one time by the Executive Director to the member's address of record with the WSBA by registered or certified mail. In addition to the written notices, the Bar shall make one attempt to contact the member at the telephone number(s) the member has made of record with the Bar and shall speak to the member or

leave a message, if possible. The Bar shall also make one attempt to contact the member at the member's e-mail address of record with the Bar.

3. Rebates / Apportionments.

No part of the license fees shall be apportioned to fractional parts of the year, except as provided for new admittees by the Board of Governors. No part of the license fees shall be rebated by reason of death, resignation, suspension, disbarment or change of membership class.

4. License Fee Exemptions Due to Hardship.

...

## H. SUSPENSION.

1. Interim Suspension.

...

2. Disciplinary Suspension.

Suspensions ordered as a disciplinary sanction pursuant to the Rules for Enforcement of Lawyer Conduct are considered disciplinary suspensions.

3. Administrative Suspension.

a. Administrative suspensions are neither interim nor disciplinary suspensions, nor are they disciplinary sanctions. A member may be administratively suspended for the following reasons:

1. Nonpayment of license fees or late-payment fees;
2. Nonpayment of any mandatory assessment (including without limitation the assessment for the Lawyers' Fund for Client Protection) (APR 15(d));
3. Failure to file a trust account declaration (ELC 15.5(b));
4. Failure to file an insurance disclosure form (APR 26(c));
5. Failure to comply with mandatory continuing legal education requirements (APR 11);
6. Nonpayment of child support (APR 17);
7. Failure to designate a resident agent (APR 5(f));
8. Failure to provide a current address or to notify the Bar of a change of address or other information required by APR 13(b) within 10 days after the change (APR 13(b)); and
9. For such other reasons as may be approved by the Board of Governors and the Washington Supreme Court.

b. Unless requirement for hearing and/or notice of suspension are otherwise stated in these bylaws or the APR, ELC, or other applicable rules, a member shall be provided notice of the member's failure to

comply with requirements and of the pendency of administrative suspension if the member does not cure the failure within 60 days of the date of the written notice, as follows:

1. Written notice of non-compliance shall be sent one time by the Executive Director to a member at the member's address of record with the WSBA by registered or certified mail. Such written notice shall inform the member that the WSBA will recommend to the Washington Supreme Court that the member be suspended from membership and the practice of law if the member has not corrected the deficiency within 60 days of the date of the notice.

2. In addition to the written notice described above, the Bar shall make one attempt to contact the member at the telephone number(s) the member has made of record with the Bar and shall speak to the member or leave a message, if possible. The Bar shall also make one attempt to contact the member at the member's e-mail address of record with the Bar.

c. Although not required to provide any additional notice beyond what is described above, the Bar may, in its sole discretion, make such other attempt(s) to contact delinquent members as it deems appropriate for that member's situation.

d. As directed by the Supreme Court, any member failing to correct any deficiency after two months' written notice as provided above must be suspended from membership. The Executive Director must certify to the Clerk of the Supreme Court the name of any member who has failed to correct any deficiency, and when so ordered by the Supreme Court, the member shall be suspended from membership in the Bar and from the practice of law in Washington. The list of suspended members may be provided to the relevant courts or otherwise published at the discretion of the Board of Governors.

4. A member may be suspended from membership and from the practice of law for more than one reason at any given time.

#### I. CHANGING STATUS AFTER SUSPENSION.

1. Upon the completion of an ordered period of suspension, or at any time after entry of an order for an administrative suspension, a suspended member may seek to change status from suspended to any other membership class for which the member qualifies at the time the change in status would occur.

2. Before changing status, a member who is suspended pursuant to an interim or disciplinary suspension must comply with all requirements imposed by the Court and/or the ELC in connection with the disciplinary or interim suspension. Additionally, such member must comply with all other requirements as stated in these bylaws.

3. If a member was suspended from practice for more than one reason, all requirements associated with each type of suspension must be met before the change in status can occur.

4. A suspended member may seek to change status by:

a. Paying the required license fee and any assessments for the licensing year in which the status change is sought, for the membership class to which the member is seeking to change. For members seeking to change to Active from suspension for nonpayment of license fees, the required license fee shall be the current year's license fee and assessments, the assessments for the year of suspension, and double the amount of the delinquent license fee and late fees for the licensing year that resulted in the member's suspension.

b. Completing and submitting to the Bar an application for change of status, any required or requested additional documentation, and any required application or investigation fee, and cooperating with any additional character and fitness investigation or hearing that may be required;

c. Completing and submitting all licensing forms required for the licensing year for the membership class to which the member is seeking to change;

d. For any member seeking to change to Active who was suspended, or any combination of suspended and inactive, for less than six consecutive years, establishing that within the six years prior to the requested change in status, the member has earned a minimum of 45 credits of continuing legal education in a manner consistent with the requirements for one reporting period for an Active member. However, if the member has been suspended and/or inactive for less than one year and the member is in the MCLE reporting group that was required to report during the time the member was suspended and/or inactive, the member must establish that the member is compliant with the MCLE credits the member would have been required to report that period.

e. For any member seeking to change to Active who was suspended, or any combination of suspended and inactive, for more than six consecutive years, establishing that the member has earned a minimum of 45 credits of continuing legal education in a manner consistent with the requirement for one reporting period for an Active member and completing a reinstatement/admission course put on by the WSBA CLE or other WSBA-approved sponsor and accredited for a minimum of 15 live CLE credits, which course shall comply with the following requirements;

1) At least six credit hours regarding law office management and professional responsibility and Washington's Rules of Professional Conduct, to include proper handling of client funds and IOLTA and other trust accounts, communications with clients, etc., and

2) At least three credit hours regarding legal research and writing.

3) The remaining credit hours shall cover areas of legal practice in which the law in Washington may be unique or may differ significantly from the law in other U.S. jurisdictions.

Any member completing such course shall be entitled to credit towards mandatory continuing legal education requirement for all CLE credits for which

such reinstatement/admission course is accredited. It is the member's responsibility to pay the cost of attending the course. The member shall comply with all registration, payment, attendance, and other requirements for such course, and shall be responsible for obtaining proof of attendance at the entire course and submitting or having such proof submitted to the Bar.

J. REINSTATEMENT AFTER DISBARMENT.

...

K. REINSTATEMENT AFTER RESIGNATION IN LIEU OF DISBARMENT OR DISCIPLINE.

...

L. READMISSION AFTER VOLUNTARY RESIGNATION.

...

M. BAR EXAM MAY BE REQUIRED

Notwithstanding the above, the Board of Governors may withhold approval and/or recommendation of a reinstatement or a change to Active status where there are serious and substantial questions regarding the present professional competence, moral character, or fitness of the member. In such instance, the Board of Governors shall refer the matter to the Character and Fitness Board for investigation and hearing. After a full hearing and upon recommendation by the Character and Fitness Board, the Board of Governors may require the member or former member to take and pass the Washington Bar Examination to demonstrate continued professional competence. The member/former member shall be responsible for the costs of any investigation, bar examination, or proceeding before the Character and Fitness Board.



## **BOARD FOR JUDICIAL ADMINISTRATION**

### **Public Records Act Work Group**

#### **Work Group Charge:**

- Make recommendations regarding how the Public Records Act (PRA) should apply to the administrative records of the judicial branch as defined by GR 31 (c) (2), with consideration given to:
  - o Whether such application should be made via statutory amendments or court rule;
  - o What exemptions to the PRA are necessary for the judicial branch; and
  - o Application of existing court rules, statutes and common law.
  
- Develop a substantive Implementation proposal consistent with the recommendations.
  
- Involve such other stakeholders as the work group determines is necessary to develop a realistic and acceptable proposal.

#### **Work Group Membership:**

Judge Marlin Appelwick, Appellate Court Judge, Chair  
Judge Ronald Culpepper, Superior Court Judge  
Judge Susan Dubuisson, Limited Jurisdiction Court Judge  
Jeff Hall, State Court Administrator  
Marti Maxwell, Superior Court Administrator  
Aimee Vance, Limited Jurisdiction Court Administrator  
Toby Nixon, Washington Coalition for Open Government  
William Crittenden, Washington Coalition for Open Government  
Doug Ende, Washington State Bar Association  
Kristal Wiitala, Washington State Bar Association

#### **Administrative Office of the Courts Staff:**

Charley Bates  
Rick Neidhardt  
Beth Flynn



# **BOARD FOR JUDICIAL ADMINISTRATION**

## **GR 29 Work Group**

### **Work Group Charge:**

- Review GR 29 for possible amendment to establish a process for investigating and resolving workplace related complaints against ~~judges~~ ~~Presiding Judge or Court Administrator~~.

  - o Any recommended process should account for multi-county judicial districts as well as contracting cities and hosting jurisdictions under Ch. 3.50 RCW.

- Develop a substantive implementation proposal consistent with the recommendations.
- Involve such other stakeholders as the work group determines is necessary to develop a realistic and acceptable proposal.

### **Work Group Membership:**

Judge Sara Derr, DMCJA

Judge David Larson, DMCJA

Judge Kathleen O'Connor, SCJA

### **Administrative Office of the Courts Staff:**

**From:** David A. Larson [David.Larson@cityoffederalway.com]  
**Sent:** Monday, January 11, 2010 2:54 PM  
**To:** McAleenan, Mellani; Phillips, Glenn; Fleck, Deborah; Derr, Sara  
**Cc:** HALL, JEFF E.; Marler, Dirk A.; Eitzen, Tari; DeMoss, Ashley; McDougall, Regina  
**Subject:** RE: GR 29 work group

I am not sure when I am supposed to chime in, but I have attached my suggested change. I understand that this document just sets the scope of the group, but I wanted to make a couple points to give context for my suggested change. My original intent was to suggest a process to address employment related complaints against all judges, not just the PJ.

As indicated at the meeting, the CJC does not believe they have jurisdiction over the investigation of employment issues until the issue becomes a pattern of conduct that qualifies as a violation of a Canon. My goal is to create a process that helps keep the pattern from developing.

As to including court administrators, the PJ has enough authority in the rules now to discipline and manage the administrator, but perhaps there needs to be clarification on how to handle allegations against the court administrator when it comes to smaller courts due to executive branch intrusion. However, that was not my primary concern.

Thank you.

Judge David Larson  
Federal Way Municipal Court  
33325 8th Avenue South  
Federal Way, WA 98063  
[david.larson@cityoffederalway.com](mailto:david.larson@cityoffederalway.com)  
253-835-3012



## BOARD FOR JUDICIAL ADMINISTRATION

2010 LEGISLATIVE SESSION

POSITIONS TAKEN AS OF 1.11.10

The 2010 Legislative Session convened Monday, January 11<sup>th</sup>. The policy committee cut-off is scheduled for February 2<sup>nd</sup> in the House and February 5<sup>th</sup> in the Senate.

### BJA REQUEST LEGISLATION

BILL	DESCRIPTION	POSITION	STATUS, COMMENTS
HB 2518	<b>Interpreter oath requirements</b> Modifying oath requirements for interpreters.	BJA Request	Hearing on 1/13. Scheduled for executive action on 1/14.
HB 2520	<b>Yakima Co. sup. court judges</b> Increasing the number of superior court judges in Yakima county.	BJA Request	No hearing scheduled to date.  Senate bill "dropped" on 1/12.

LEGISLATION BJA HAS TAKEN A POSITION ON AS OF JANUARY 11, 2010  
(BILLS WITH A "NO POSITION" STATUS ARE NOT LISTED.)

BILL	DESCRIPTION	POSITION	STATUS, COMMENTS
HB 1003	<b>Dissolution of ports</b> Providing notice and summons in proceedings involving the dissolution of ports and other districts and in dependency matters.	Support	Clerks bill from 2009.
HB 2489 HJR 4216	<b>Retirement age for judges</b> Removing the mandatory retirement age for judges.	Support	
HB 2530	<b>Campaign contributions</b> Concerning a time limit for accepting or soliciting campaign contributions.	Watch	Does not appear to apply to judicial branch.
SJR 8218	<b>Offenses not bailable</b> Amending the state Constitution so that offenses that may result in a mandatory life sentence upon conviction are not bailable by sufficient sureties.	Watch	Will review this bill in conjunction with other related legislation.