STATE

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Initiative could block justices' consideration of donors' cases

by John Stang

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Rep. Matt Manweller, R-Ellensburg, is suspicious that campaign contributions may influence Washington Supreme Court's justices. "There is a perception out there that decisions are going to the highest donors," Manweller said Tuesday.

The Washington Education Association has been the winner in a pair of high-profile decisions. In recent years, conservatives have been losers in three major court decisions.

On Tuesday, Manweller, one of the Legislature's more conservative Republicans, filed paperwork with the Washington Secretary of State's Office for an initiative to require that Supreme Court justices remove themselves from many cases. The recusals would be mandatory when any of the litigants has donated $1,000 or more to a justice's election campaigns in the previous six years. If a justice refuses to step aside, sanctions would be imposed by the Commission on Judicial Conduct, according to the proposed initiative.

Under current campaign contributions law, a person or organization is allowed to donate up to $1,900 per candidate for justice each election.

Manweller's petition will need 246,372 valid signatures by Dec. 31 to be sent to the Legislature. If enough signatures are collected, the Legislature would have to pass the initiative into law, change it and pass it, or send it to a public referendum.

prompted the initiative drive. “It seems some interest groups have won over and over again,” he said. “That raises red flags among myself and some of my colleagues.”

Rep. Reuven Carlyle, D-Seattle, said: “I strongly resist comments surfacing about the Supreme Court’s motives because someone doesn’t agree with Decision A or Decision B.” Carlyle plans to revive a 2014 bill to provide public financing for justice elections.

In an emailed statement, Chief Justice Barbara Madsen wrote: “It is important to note that the justices of the Washington Supreme Court decide cases on the merits, *and only* the legal merits of each case. With regard to campaign contributions, there are long-standing rules and procedures in place with our state’s Code of Judicial Conduct that specifically prohibit direct solicitation of campaign contributions by judges to either citizens or organizations.”

One big case that generally pleased the state teachers union and angered many conservatives is the so-called McCleary ruling of 2012. It called for dramatic reductions in teacher-student ratios in Grades K-3 and installing a permanent financial structure for the state to continually fund that obligation.

Last month, the Supreme Court levied daily $100,000 fines against the Legislature for dragging its feet on meeting the McCleary obligations. In late August, 19 members — 18 Republicans and one Democrat — of the Majority Coalition Caucus asked the Senate Democratic caucus and the two House caucuses to join it in exploring ways to combat the fines, arguing the Supreme Court has overstepped its authority. None of the other three caucuses have joined with the Senate Republicans.

The fines did prompt Gov. Jay Inslee and all four caucuses to set up a committee (http://crosscut.com/2015/09/school-fine-has-olympias-attention/) to find ways this year to comply with the McCleary obligations to the court’s satisfaction.

Meanwhile, the court recently ruled a voter-approved law on charter schools unconstitutional because they have appointed — not elected — school boards while receiving state money. This infuriated conservatives and other education reformers. The WEA had opposed charter schools. The Seattle Times editorial board has

must-reconsider-charter-schools-ruling/) for the court to reconsider its ruling.

Another court ruling that angered conservatives occurred in 2013 when the Supreme Court invalidated a law requiring two-thirds votes in the Legislature to raise taxes or close tax breaks. Anti-tax activist Tim Eyman has a measure on the November ballot that seeks to force a vote on a constitutional amendment for two-thirds approval of taxes.

Those court decisions prompted an in-depth Seattle Times story (http://www.seattletimes.com/seattle-news/politics/state-supreme-court-activist-justices-or-just-different/) Sunday. Some observers told the Times that the court is properly deciding cases on their individual merits, but some conservatives argued that justices are excessively activist and politically motivated. The Times noted that the WEA has been the biggest contributor to Supreme Court races since 2008, giving $21,200. Seven current justices received $1,800 to $1,900 apiece in donations, the Times reported.

WEA spokeswoman Linda Mullen said the association views Supreme Court election donations as being appropriate, just as they are in legislative races.

Carlyle said Manweller's measure would be "the ultimate weapon to close down government" if similar rules were applied to legislators. Manweller described legislators as advocates and the justices as referees, suggesting that legislators should be able to vote on bills affecting their campaign donors.

Carlyle's bills on pubic financing of Supreme Court races died quickly in committee in 2014. Manweller said such a bill would make every taxpayer contribute to qualifying Supreme Court candidates even if the individual does not want to donate. He also questioned whether Carlyle's bill would allow fringe candidates to file, not campaign, and still collect state money.

Carlyle said revenue from court filing fees rather than general taxes could provide the public financing money. Carlyle said that concern about abuse by fringe candidates is legitimate, and he is willing to make changes the bill to strengthen the protections.