



WASHINGTON STATE
ASSOCIATION OF
COUNTY CLERKS

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November 10, 2009

The Honorable Charles W. Johnson, Chair
Supreme Court Rules Committee
P.O. Box 40929
Olympia, WA 98504-0929

Re: Comment on GR 35, Clerk's Fees and Charges

Dear Justice Johnson and Rules Committee Members:

Thank you for the invitation to comment on proposed State Court Rule GR 35.

The Washington State Association of County Clerks asks that the Rules Committee not approve this rule and not forward it for consideration to the Supreme Court. The proposed rule implies some misunderstandings by the authors and does not take into account current statute or division of authority among governmental branches. Overall the rule is unnecessary.

The text of the proposed rule reads as follows:

Court clerks shall neither charge nor collect any fee or charge, except as authorized by statute or the Supreme Court.

The draft rule itself has several specific problems, including:

- 1) It ignores the fact that charter and constitutional counties can adopt local ordinances to impose fees.
- 2) It is directly contrary to a section in current RCW in 36.18 that allows clerks to legally adopt fees via local policy or ordinance.
- 3) It implies that that the Supreme Court can authorize fees of county clerks, which is contrary to our understanding of the role of the judicial vs. the legislative branch of government.

The rule assumes a need to reign in or control clerks from a historical or future practice of charging or collecting fees without appropriate local or state authority. Instead of pursuing a proposed state court rule, the Clerks suggest a meeting or several meetings with the impacted parties where the misunderstandings that may have lead to this rule can be discussed. Because our association was not consulted in the drafting of this rule, we can only assume the circumstances which led to its development. We are not aware of any situations state wide where a clerk is inappropriately or illegally charging or collecting any fees, but if that circumstance exists, the Clerks' Association would be willing to address the issue with that clerk.

The Washington State Association of County Clerks appreciates that the Supreme Court Rules Committee invites this conversation. WSACC believes that the draft rule is ill advised and contrary to standing state laws and the constitutional division of branch authority. We request that the Rules Committee neither approve this rule nor forward it for further consideration.

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Please contact me at 206-296-2910 should you have questions or if you need further information. I reiterate that a more appropriate response to concerns about fees would be communications or consultation with those of us involved in the issue. The Clerks would be interested in being part of that conversation.

Sincerely,



Barbara Miner, President
Washington State Association of County Clerks

cc: Judge Marlin Appelwick, Presiding Chief Judge, Court of Appeals
Judge Tari Eitzen, President-Judge, Superior Court Judges' Association
Judge Glenn Phillips, President-Judge, District and Municipal Court Judges' Association
Mr. Salvador Mungia, President, Washington State Bar Association
Ms. Debbie Wilke, Executive Director, Washington Association of County Officials
Judge Mary E. Roberts, Chair, Civil Rules Committee, SCJA
Judge Bruce Hilyer, Presiding Judge, King County Superior Court
Washington State Association of County Clerks