
SENATE BILL 5867

State of Washington 63rd Legislature 2013 Regular Session

By Senators Baumgartner, Ericksen, and Holmquist Newbry

Read first time 03/07/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to the number of judges on the state supreme court;
2 adding a new section to chapter 2.04 RCW; creating new sections;
3 repealing RCW 2.04.070; providing an effective date; and declaring an
4 emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that given the
7 tremendous strains on the state budget, it is crucial to view all state
8 operations in light of the state's paramount and constitutionally
9 required duties. This is true for all state agencies under each of the
10 coequal branches of government, including the judicial branch. The
11 state Constitution in Article IV, section 2 provides that there shall
12 be five supreme court judges. For over one hundred years, the
13 legislature has seen fit by statute to add four additional justices to
14 that august body.

15 (2) Recent opinions by the Washington state supreme court have
16 demonstrated that this legislative decision may be constitutionally
17 problematic. First, the court has made it clear that the state
18 legislature should be focused on prioritizing its budget according to
19 constitutionally mandated duties, *McCleary v. State*, 173 Wn. 477, 269

1 P.3d 227 (2012). Given the nature of this mandate, the legislature
2 finds that it can no longer justify the luxury of four additional
3 supreme court justices. In addition, the Washington state supreme
4 court has indicated that the legislature may exceed its authority when
5 it adds to the minimum requirements provided in the plain language of
6 the state Constitution, *League of Education Voters v. Gregoire*, Case
7 No. 87425-5 (2013)(law requiring tax increases receive a two-thirds
8 vote unconstitutional in light of plain constitutional language
9 providing for a minimum voting requirement for passage of bills). With
10 due deference to the doctrine of separation of powers and the
11 Washington state supreme court as head of a coequal branch of
12 government, the legislature finds that the state supreme court should
13 return to the minimum number of judges provided for and enshrined in
14 the state Constitution.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.04 RCW
16 to read as follows:

17 On June 30, 2013, all existing judges of the state supreme court
18 shall meet in public to cast lots by drawing straws. Effective July 1,
19 2013, the positions of the four judges casting losing lots by drawing
20 the shortest straws shall be terminated and those judges shall not
21 serve the remainder of their respective unexpired terms. Any savings
22 accruing to the state as a result of the elimination of the positions
23 and associated administrative expenses of the four judges casting
24 losing lots shall be used to fund basic education.

25 NEW SECTION. **Sec. 3.** Nothing in this act prohibits or constricts
26 the right of the people to approve an increase to the number of judges
27 on the supreme court by a constitutional amendment.

28 NEW SECTION. **Sec. 4.** RCW 2.04.070 (Number of judges) and 1909 c
29 24 s 1 are each repealed.

30 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect

1 June 30, 2013.

--- END ---