
SENATE BILL 5721

State of Washington

65th Legislature

2017 Regular Session

By Senator Padden

Read first time 02/06/17. Referred to Committee on Law & Justice.

1 AN ACT Relating to requiring the Washington state bar association
2 to obtain an affirmative vote prior to increasing bar dues for
3 membership; amending RCW 2.48.130; creating new sections; and
4 declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Chapter 2.48 RCW, also known as the "state bar act," was
8 passed in 1933. The state bar act broadly regulates important aspects
9 of the Washington state bar, from creation of the board of governors
10 to criminal penalties for the unauthorized practice of law. These
11 provisions of law have been interpreted and upheld against
12 constitutional challenges. See *State v. Hunt*, 75 Wn. App. 795 (1994)
13 (upholding misdemeanor provision for unauthorized practice of law in
14 RCW 2.48.180); *Seattle v. Shaver*, 23 Wn. App. 601 (1979); *In re*
15 *Schatz*, 80 Wn.2d 604 (1972) (upholding constitutionality of
16 legislative creation of bar board of governors in RCW 2.48.060). The
17 state bar act also contains provisions regarding membership fees (RCW
18 2.48.130).

19 (2) The Washington state bar association attempted to increase
20 fees in 2012, but a referendum passed that rejected the proposed fee
21 increase. The following year, the Washington state supreme court

1 adopted an amendment to GR 12.1(b)(22) that provided that: "[t]he
2 amount of any license fee is subject to review by the Supreme Court
3 for reasonableness and may be modified by order of the Court if the
4 Court determines that it is not reasonable."

5 (3) On September 29, 2016, the Washington state bar association
6 board of governors approved yet another increase to lawyer license
7 fees. On December 20th, the bar received a petition for a referendum
8 to reject the increase and to require that future increases of the
9 license fee not be a greater percentage than the consumer price index
10 increase for Seattle.

11 (4) On January 5, 2017, in a *sua sponte* order issued under GR
12 12.1, and apparently without briefing or recitation of any evidence
13 in support for its conclusion, the Washington state supreme court
14 issued an order that the proposed fee increase by the Washington
15 state bar association board of governors was "reasonable" and that
16 the referendum proposal to tie fee increases to the consumer price
17 index was "unreasonable." The board of governors rejected the
18 referendum in light of the court order, thereby reinstating the
19 increase.

20 (5) While courts have the inherent authority to regulate the
21 practice of law, the Washington state supreme court has repeatedly
22 recognized the validity of the state bar act over the last eighty-
23 four years, including those provisions that regulate the practice of
24 law and membership dues. In so doing, the court has acknowledged the
25 legislature's role as a coequal branch of government in its exercise
26 of plenary authority over matters of state policy.

27 **Sec. 2.** RCW 2.48.130 and 1957 c 138 s 1 are each amended to read
28 as follows:

29 (1) The annual membership fees for active members shall be
30 payable on or before February 1st of each year. The board of
31 governors may establish the amount of such annual membership fee to
32 be effective each year: PROVIDED, That written notice of any proposed
33 increase in membership fee shall be sent to active members not less
34 than sixty days prior to the effective date of such increase:
35 PROVIDED FURTHER, That the board of governors may establish the fee
36 at a reduced rate for those who have been active members for less
37 than five years in this state or elsewhere.

38 (2) Any membership fee increase approved by the board must be
39 submitted to active members for approval by a vote. Any fee increase

1 not receiving a majority of member votes received is disapproved and
2 may not be assessed to any member. This subsection applies
3 retroactively to fee increases approved by the board in 2016 or
4 later.

5 NEW SECTION. **Sec. 3.** The legislature respectfully requests that
6 the Washington state supreme court repeal GR 12.1(b)(22) to the
7 extent it conflicts with this act, or amend GR 12.1(b)(22) to be in
8 conformity with this act.

9 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of
11 the state government and its existing public institutions, and takes
12 effect immediately.

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