

# SENATE BILL REPORT

## SB 6666

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As Reported by Senate Committee On:  
Judiciary, February 5, 2010

**Title:** An act relating to statutory construction.

**Brief Description:** Addressing statutory construction.

**Sponsors:** Senators Pflug and McCaslin.

**Brief History:**

**Committee Activity:** Judiciary: 2/03/10, 2/05/10 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6666 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell, Hargrove and Kohl-Welles.

**Staff:** Juliana Roe (786-7438)

**Background:** There is some concern that a disconnect exists between the Legislature and the courts in determining legislative intent. In Washington State, there are three main canons of construction, maxims of interpretation originally developed in common law. The first are those codified by statute. The next include the Superior Court Civil and Criminal Rules, which take precedence over statutes regarding procedural matters and special proceedings under the civil rules. Last are those in case law which are the primary source of canons of interpretation. However, these canons are vague and inconsistent. Within case law, the courts take either a textualist or literalist approach. The textualist approach adopts the plain meaning of the words as the Legislature stated them. If the statute is ambiguous, however, the court may take the literalist approach which evaluates the spirit or purpose of the statute. This allows the court to refer to sources outside of the text to ascertain legislative intent.

**Summary of Bill (Recommended Substitute):** The Legislature finds that the goal of the legislative branch is to enact laws in order to create balance in a rapidly changing environment which requires clarity, consistency, and precision. The Legislature finds that the judicial and legislative branches often construe statutes differently. The Legislature also finds that if the rules of statutory construction are codified, then both branches would have a better understanding of how the legislature intended statutes to be construed. The Legislature

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*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.*

further finds that the ad hoc statutory construction work group should take into account a hierarchy of factors that focus on the end of the legislative process and work backward, starting with floor colloquies on final passage, content of amendments adopted on the floor of the Legislature, content of amendments adopted in a committee of the Legislature, and intent sections, if present. Staff materials prepared to assist Legislators, such as bill reports, are specifically excluded. This is uncodified.

**EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute):** The Legislature finds that the goal of the legislative branch is to enact laws in order to create balance in a rapidly changing environment which requires clarity, consistency, and precision. The Legislature finds that the judicial and legislative branches often construe statutes differently. The Legislature also finds that if the rules of statutory construction are codified, then both branches would have a better understanding of how the legislature intended statutes to be construed. The Legislature further finds that the ad hoc statutory construction work group should take into account a hierarchy of factors that focus on the end of the legislative process and work backward, starting with floor colloquies on final passage, content of amendments adopted on the floor of the Legislature, content of amendments adopted in a committee of the Legislature, and intent sections, if present. Staff materials prepared to assist Legislators, such as bill reports, are specifically excluded. This is uncodified.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: I have been struck by conversations surrounding the issue of legislative intent. Many people are unaware of the existence of, i.e. colloquies that we, as legislators, deem important. The courts often look to sources that they determine to be legislative intent, of which the Legislature may not necessarily approve or agree. Therefore, I believe that it would be useful to create a hierarchy of factors to be used in discerning legislative intent.

**Persons Testifying:** PRO: Senator Pflug, prime sponsor.