

HOUSE BILL REPORT

HB 2942

As Reported By House Committee On:

Appropriations

Title: An act relating to legal aid programs.

Brief Description: Providing legal assistance.

Sponsors: Representatives Appelwick and Conway.

Brief History:

Committee Activity:

Appropriations: 2/3/96 [DPS].

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Huff, Chairman; Clements, Vice Chairman; H. Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Brumsickle; Carlson; Chappell; Cooke; Crouse; Dellwo; Dyer; Foreman; Grant; Hickel; Kessler; Lambert; Linville; McMorris; Poulsen; Reams; Rust; Sehlin; Sheahan; Talcott and Wolfe.

Minority Report: Without recommendation. Signed by 3 members: Representatives Pelesky, Vice Chairman; Beeksma and Hargrove.

Staff: Kristen Reiber (786-7148).

Background: In Washington, the federal Legal Services Corporation (LSC) and the state Public Safety and Education Account (PSEA) are two of the major sources of funding for civil legal assistance for indigent persons.

LSC, which was established by Congress in 1974, distributes funds to non-profit legal aid programs. Until 1996, three legal aid programs in Washington received funds from LSC: Evergreen Legal Services, Spokane Legal Services Center, and Puget Sound Legal Assistance Foundation. In calendar year 1995, the three programs received a total of \$6.2 million from LSC.

Federal statutes establish a variety of prohibitions on use of funds distributed by LSC. For example, the funds must not be used to provide criminal defense, political

activities, labor or antilabor activities, and school desegregation representation. Funds distributed by LSC must not be used to lobby, unless the lobbying is necessary to representation of a client or unless a governmental entity requests information. Legislation pending before the 1996 Congress would impose more restrictive conditions on use of LSC moneys. Congress receded from a portion of the 1995 appropriations and is expected to reduce future LSC funding.

Second, the state funds legal aid programs from the PSEA. In 1992, the Washington Legislature increased superior court civil filing fees and directed the new revenues into the PSEA. This legislation permits funds from the PSEA to be appropriated for civil representation of indigent persons in matters relating to domestic relations and family law; public assistance, health care, and entitlements; public housing and utilities; and unemployment compensation. Only "qualified legal aid programs" are eligible to receive contracts for civil indigent representation. A legal aid program is "qualified" within the meaning of the statute if it received basic field funding from the federal LSC. Evergreen Legal Services, Spokane Legal Services, and Puget Sound Legal Assistance qualified under this definition. Legal aid programs receiving PSEA moneys are prohibited from lobbying or participating in class action suits with the moneys.

In addition, the state statute incorporates all conditions and limitations imposed on LSC moneys under the federal statute, as "currently in effect or as hereafter amended." Under decisions of the state Supreme Court, the statute's incorporation of future federal law may constitute an unconstitutional delegation of legislative authority.

In the 1995-97 biennial budget, the Legislature appropriated \$4.804 million from the PSEA for civil indigent representation. The budget established a task force to address issues relating to legal aid programs' representation of farmworkers. The task force is considering proposals for alternative dispute resolution of farmworker employment claims.

Effective January 1, 1996, the three legal aid programs consolidated into a single entity, Columbia Legal Services. It is unclear whether a program such as Columbia Legal Services, that is a successor of a qualified legal aid program is eligible to receive funding under the PSEA statute.

Summary of Substitute Bill: For purposes of receiving contracts for civil representation of indigent persons, "qualified legal aid programs" include successors of programs that received money from LSC.

Substitute Bill Compared to Original Bill: The substitute bill removes the changes to the PSEA statute that would have permitted PSEA moneys to be used for farmworker representation and alternative dispute resolution of farmworker claims.

PSEA moneys may not be used for these matters. The substitute bill leaves in place the reference to future federal legal restrictions on use of PSEA moneys. The substitute bill strikes the appropriations.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill is needed to clarify that successor organizations are eligible to receive the funding that has already been appropriated. The task force established in the budget has worked to bring growers and farmworkers together, and the parties have reached an agreement in principle about mediation of farmworker employment disputes. Legal aid programs' representation of farmworkers has been controversial, and a mediation program will decrease tensions between growers and farmworkers. Federal cuts have reduced Columbia Legal Services' ability to provide service to the poor. The state should consider making up some of the lost federal funds.

Testimony Against: None.

Testified: Representative Marlin Appelwick, prime sponsor; and James Bamberger, Columbia Legal Services.