

HOUSE BILL REPORT

SSB 5152

As Reported by House Committee On:
Judiciary

Title: An act relating to statutory construction.

Brief Description: Creating a legislative task force on statutory construction.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, Rockefeller, McDermott and Kohl-Welles).

Brief History:

Committee Activity:

Judiciary: 3/25/09, 3/26/09 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Creates the Legislative Task Force on Statutory Construction to review issues relating to the potential codification of rules of statutory construction.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Edie Adams (786-7180)

Background:

The rules of statutory construction are a set of principles or guidelines that courts use when construing the meaning or application of statutes to the particular facts in a case. The stated fundamental objective of the courts in construing and applying statutes is to ascertain and carry out the Legislature's intent.

As a general rule, courts will not construe an unambiguous statute. If a statute's meaning is plain on its face, the court will give effect to that plain meaning as an expression of

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legislative intent. The approach the courts use in determining the plain meaning of a statute allows for consideration of not just the actual language but also the statute's context, including related statutes that disclose legislative intent about the provision in question.

A statute is considered ambiguous if the statute is susceptible to more than one reasonable interpretation. Once the court determines that a statute is ambiguous, the court may resort to the rules of statutory construction and to legislative history to aid in the interpretation of the statute. The Legislature has established some statutory rules of construction, but the predominant source of statutory construction rules is found in case law. There are numerous rules of statutory construction that include: textual rules that are based on the meaning of words, punctuation, and grammar; contextual rules that are based on the relation of words, syntax, structure of the statute, and related statutes; and other rules that create presumptions on how statutes will be read and that allow the court to look at extrinsic sources, such as legislative history, in construing statutes.

Summary of Amended Bill:

The Legislative Task Force on Statutory Construction (Task Force) is established to review issues relating to the potential codification of rules of statutory construction. The Task Force consists of the following 18 members: four legislators; the Chief Justice of the Supreme Court and a superior court judge (invited members); the Attorney General or designee; the Code Reviser or designee; two prosecutors; two defense attorneys; two attorneys whose primary practice is in tort law; a law professor knowledgeable in statutory construction; an administrative law judge; a representative of the Association of Washington Cities; and a representative of the Washington State Association of Counties.

The Task Force must review if any of the rules of statutory construction should be codified, the method of codification, benefits and drawbacks of codification, and if there are additional measures that can be taken to improve the collective understanding of the meaning of statutes. An interim report is due to the Washington Supreme Court and the Legislature by January 1, 2010, and a final report is due by January 1, 2011.

The Task Force is subject to the Open Public Meetings Act and it must hold meetings throughout the state to accommodate the varied places of residence of Task Force members. Legislative members of the Task Force may not be reimbursed for travel and other membership expenses. Non-legislative members must seek reimbursement for travel and other expenses through their respective agencies.

Amended Bill Compared to Original Bill:

The amended bill adds the Code Reviser to the Task Force membership.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There is often controversy surrounding the role of the courts in interpreting laws. Some people feel that judges interpret the law; others feel they make the law. In actuality they do both and historically have done both. But when they are dealing with laws passed by the Legislature, their role is limited to interpreting the law. One way to approach the conflict about the proper role of judges in interpreting statutes is to have the Legislature set the rules. The Task Force established in this bill will create a process for determining the proper rules that should apply to judicial interpretation of statutes. It is up to the Legislature to set the rules for interpreting the laws.

It would be beneficial to include the Code Reviser on the Task Force to provide insight from the perspective of the office that is involved in drafting and publishing the code.

(Information) The Statute Law Committee has not taken a position on the bill.

(Opposed) None.

Persons Testifying: (In support) Senator Kline, prime sponsor.

(Information) Kyle Theissen, Statute Law Committee, Code Reviser.

Persons Signed In To Testify But Not Testifying: None.