

# SENATE BILL REPORT

## SB 5721

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As of February 14, 2017

**Title:** An act relating to requiring the Washington state bar association to obtain an affirmative vote prior to increasing bar dues for membership.

**Brief Description:** Requiring the Washington state bar association to obtain an affirmative vote prior to increasing bar dues for membership.

**Sponsors:** Senator Padden.

**Brief History:**

**Committee Activity:** Law & Justice: 2/14/17.

**Brief Summary of Bill**

- Provides that the Washington State Bar Association (Association) board of governors may establish the annual membership fee at a reduced rate for active members who claim economic hardship.
- Requires any membership fee increase approved by the Association board of governors be submitted to active members and approved by a vote.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Aldo Melchiori (786-7439)

**Background:** The State Bar Act was passed in 1933. The State Bar Act broadly regulates the Washington State Bar (Bar) including provisions regarding membership fees. Membership in the Bar is mandatory for attorneys practicing law in Washington. The Association attempted to increase fees in 2012, but a referendum passed that rejected the proposed fee increase. The following year, the Washington State Supreme Court adopted an amendment to GR 12.1(b)(22) providing that: "the amount of any license fee is subject to review by the Supreme Court for reasonableness and may be modified by order of the Court if the Court determines that it is not reasonable."

On September 29, 2016, the Association board of governors approved another increase to lawyer license fees. On December 20, 2016, the Association received a petition for a referendum to reject the increase and to require that future increases of the license fee not be

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a greater percentage than the consumer price index increase for Seattle. Subsequently, the Washington State Supreme Court issued an order that the proposed fee increase by the Association board of governors was reasonable and that the referendum proposal to tie fee increases to the consumer price index was unreasonable. The Association board of governors rejected the referendum in light of the court order.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** The Association board of governors may establish the annual membership fee at a reduced rate for active members who claim economic hardship as well as for those who currently may get a reduced rate if they have been active members for less than five years.

Any membership fee increase approved by the Association board of governors must be submitted to active members for approval by a vote. Any fee increase not receiving a majority of member votes received is disapproved and may not be assessed to any member. This subsection applies retroactively to fee increases approved by the board in 2016 or later. The Legislature respectfully requests that the Washington State Supreme Court repeal GR 12.1(b)(22) to the extent it conflicts with this act, or amend GR 12.1(b)(22) to be in conformity with this act.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on Proposed Substitute:** PRO: The court rule abrogates the ability of the membership to have a referendum. The rule is being used to deny the vote of the members. The Association does not want to hear from the membership. The bill would restore the substantive rights of the membership. This would not be necessary if the Association let the referendum proceed. WSBA spending is out of control. Attorneys should not be forced to fund the non-mandatory functions of the Association. In the same way that the Legislature is poorly situated to determine the qualifications for practicing law, the judiciary is not well suited to determine the reasonableness of bar dues. Where the membership in the Association is compulsory, as it is here, the Association should be accountable to its members.

OTHER: The Board of Governors understands concerns about dues and does not take dues increases lightly. The dues support services that help assure competent representation. The court has always had the right to determine the reasonableness of the dues. The outcome of the vote would have been moot because the court had found that the dues under the referendum would have been unreasonable.

**Persons Testifying:** PRO: Senator Mike Padden, Prime Sponsor; D. Angus Lee, citizen; Vicki LeeAnne Parker, citizen; Ken Eikenberry, WSBA member.

OTHER: Brady Horenstein, Administraor for the Courts; Paula Littlewood, Executive Dir., Washington State Bar Association; Jill Karmy, Board Member, Washington State Bar Association.

**Persons Signed In To Testify But Not Testifying:** No one.