

Such offices shall be filled by persons elected and qualified at the general election immediately preceding such effective dates.

*Sec. 6 was vetoed, see message at end of chapter.

Passed the Senate May 12, 1979.

Passed the House April 30, 1979.

Approved by the Governor May 24, 1979, with the exception of Section 6, which is vetoed.

Filed in Office of Secretary of State May 24, 1979.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to Section 6, Substitute Senate Bill No. 2095 entitled:

"AN ACT Relating to superior court judges."

Substitute Senate Bill No. 2095 creates a number of additional superior court judgeships throughout the state. Section 6 of the bill was added as a House amendment to the original Senate bill and provides an elective procedure for the selection of judges in several of the newly created positions. I cannot support the provision of Section 6 for several reasons but principally for the reason that such procedure destroys the Governor's historic constitutional and statutory right to appoint judges to the newly created positions. Those appointed must then stand for election as provided by the election laws.

The provisions of Article 4, Section 5 of the constitution provide the framework within which newly created judgeships must be filled. The applicable provision provides:

If a vacancy occurs in the office of judge of the superior court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election...

This constitutional principle was tested just two years ago in the supreme court case of *Fain v. Chapman*, 89 Wn.2d 48 and I recommend that decision to the readers of this message.

RCW 2.08.069 Judges—Filling vacancies resulting from creation of additional judgeships. Unless otherwise provided, upon the taking effect of any act providing for additional judges of the superior court and thereby creating a vacancy, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

As far as I am able to determine, the elective procedure as set forth in Substitute Senate Bill No. 2095 on newly created judgeships is the first departure from the long-established constitutional and statutory right of the executive to fill those judgeships by appointment. If the Legislature is truly serious about relieving all Governors of this long-established right, then I suggest a change in the constitution would be required.

For these reasons, I have determined to veto Section 6 of Substitute Senate Bill No. 2095."

CHAPTER 203

[Engrossed Substitute Senate Bill No. 2388]

FOOD FISH AND SHELLFISH—PRIVILEGE FEES

AN ACT Relating to revenue; and amending section 75.32.030, chapter 12, Laws of 1955 as last amended by section 20, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.030.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 75.32.030, chapter 12, Laws of 1955 as last amended by section 20, chapter 327, Laws of 1977 ex. sess. and RCW 75.32.030 are each amended to read as follows:

Canners, curers, freezers, wholesale dealers and retail dealers of food fish and shellfish, other than oysters, and manufacturers of food fish and shellfish byproducts, other than oyster byproducts, but not including any person with respect to the growing, processing or dealing in any manner with food fish which are raised from eggs or fry, and are under the physical control of the grower at all times until being sold or harvested, (1) shall pay a privilege fee equal to five percent of the primary market value on all fresh or frozen chinook, coho, and chum salmon, or parts thereof, which they receive, handle, deal in, or deal with as original receiver in the state; (2) shall pay a privilege fee equal to three percent of the primary market value on all fresh or frozen pink and sockeye salmon, or parts thereof, which they receive, handle, deal in, or deal with as original receiver in the state; and (3) shall pay a privilege fee equal to two percent of the primary market value on all other fresh or frozen food fish and shellfish, or parts thereof, except oysters, which they receive, handle, deal in or deal with, as original receiver in the state: PROVIDED, That any person or sales agency selling fresh or frozen food fish or shellfish, or parts thereof, to purchasers of food fish or shellfish residing outside the state of Washington which had been previously landed in the state, shall be responsible for and shall pay the privilege fees herein provided.

Passed the Senate May 11, 1979.

Passed the House May 4, 1979.

Approved by the Governor May 24, 1979.

Filed in Office of Secretary of State May 24, 1979.

CHAPTER 204

[Engrossed Senate Bill No. 2176] STATE DEBTS—LIMITATION

AN ACT Relating to a limitation on state debts; and amending section 6, chapter 184, Laws of 1971 ex. sess. and RCW 39.42.060.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 6, chapter 184, Laws of 1971 ex. sess. and RCW 39.42.060 are each amended to read as follows:

No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the aggregate debt contracted by the state to exceed ((the limitation contained)) that amount for which