

Senate Study Bill 3181 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act regarding legislative oversight of supreme court
2 decisions, and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 602.1615 Legislative findings —
2 challenges to the validity of a statute — exclusive jurisdiction
— public hearings — legislative oversight.

4 1. The general assembly finds and declares all of the
5 following:

6 a. The power to impeach subsumes reasonable less severe
7 remedies.

8 b. The intent of this section is to provide for a mechanism
9 in which to resolve disputes regarding the constitutionality of
10 laws between the courts and the legislature, both of which are
11 composed of constitutional scholars.

12 c. Article 5, section 4 of the Constitution of the State
13 of Iowa states that the supreme court is "a court for the
14 correction of errors at law, under such restriction as the
15 general assembly may, by law, prescribe . . .".

16 d. Article 3, section 20 of the Constitution of the State
17 of Iowa gives the legislature the power to impeach judges for
18 "malfeasance in office", which is generally defined to include
19 acting without authority and abusing power. The power to
20 impeach subsumes all lesser remedies.

21 e. The Constitution of the State of Iowa does not give the
22 courts of this state the power to invalidate laws enacted by
23 the legislature, to require the legislature to enact different
24 laws, or to publish rulings that have the same effect as new
25 legislation. Article 3, section 1 of the Constitution of
26 the State of Iowa states: "The powers of the government of
27 Iowa shall be divided into three separate departments — the
28 legislative, the executive, and the judicial: and no person
29 charged with the exercise of powers properly belonging to one
30 of these departments shall exercise any function appertaining
31 to either of the others, except in cases hereinafter expressly
32 directed or permitted".

33 f. Although the courts of Iowa have usurped those powers
34 without constitutional authority, it has been done for reasons
35 which the general assembly respects. The general assembly

1 welcomes the expertise and guidance of the courts in evaluating
2 the constitutionality of its laws. But when the reasoning of
3 rulings which function as legislation appears to be not only
4 unsound, but unconstitutional, the general assembly has the
5 constitutional duty and authority to determine that judges and
6 justices have abused their power and exceeded their authority,
7 which are grounds for impeachment under the malfeasance in
8 office clause.

9 *g.* A remedy short of impeachment should advance wisdom,
10 build consensus, and educate voters so that informed voters
11 may hold both judges and legislators accountable. Article 1,
12 section 2 of the Constitution of the State of Iowa states:
13 "All political power is inherent in the people. Government is
14 instituted for the protection, security, and benefit of the
15 people, and they have the right, at all times, to alter or
16 reform the same, whenever the public good may require it".

17 2. The supreme court shall have discretionary and exclusive
18 original jurisdiction over any challenge to any law. A
19 district court or the court of appeals shall not invalidate a
20 law on any grounds.

21 3. A decision of the supreme court that invalidates
22 existing law or has the effect of creating new law shall not
23 have any effect unless agreed to by five or more of the seven
24 justices, and otherwise shall not have any effect for one
25 year. The supreme court shall also have the power to suspend
26 implementation of a new law provided the supreme court produces
27 an expedited ruling within three months of the law's enactment.

28 4. *a.* Within one year of the date a supreme court decision
29 is published that invalidates existing law or has the effect
30 of creating new law, the general assembly may, by resolution,
31 compel the attendance of specified justices to a public hearing
32 to discuss and debate the justification for the decision with
33 members of the general assembly. A public record of the
34 hearing shall be made.

35 *b.* During or after the hearing, the general assembly shall

1 determine if grounds to begin impeachment exist as to any
2 of the justices present at the hearing for acting without
3 authority or malfeasance in office.

4 c. Based on the results of a hearing commenced pursuant to
5 this subsection, a justice whose presence was required at the
6 hearing may change the justice's vote or alter the justice's
7 individual contribution to the decision.

8 5. A supreme court decision invalidating existing law or
9 having the effect of creating new law will not take effect if
10 two-thirds of both the senate and the house of representatives
11 approve a resolution to overturn the decision within one year
12 of the date the decision was published. The resolution must
13 specify the basis for overturning the decision, including
14 its reasoning, not to be limited by court precedent that is
15 responsive to the supreme court's initial published decision,
16 and must be documented by expert testimony and constitutional
17 authority.

18 6. The general assembly may issue its own statement to a
19 published supreme court decision that invalidates existing law
20 or has the effect of creating new law if done within one year of
21 the date the decision was published. The statement must regard
22 the constitutionality of the invalidated existing law or the
23 newly created law.

24 Sec. 2. APPLICABILITY. This Act applies to decisions
25 published by the supreme court on or after the effective date
26 of this Act.

27

EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill gives the supreme court discretionary and
31 exclusive jurisdiction over any challenge to any law and
32 provides that district courts and the court of appeals shall
33 not invalidate a law on any grounds.

34 The bill includes legislative findings relating to
35 the powers of the supreme court, and the supreme court's

1 relationship with the legislative branch.

2 The bill provides that any decision of the supreme court that
3 invalidates existing law or has the effect of creating a new
4 law does not have any effect unless agreed to by five or more of
5 the seven justices, and otherwise does not have any effect for
6 one year. The supreme court may also suspend implementation
7 of a new law if it produces an expedited ruling within three
8 months of the law's enactment.

9 The bill provides that, if within one year of the date a
10 supreme court decision is rendered that invalidates existing
11 law or has the effect of creating new law, the general assembly
12 may hold a public hearing and compel the attendance of justices
13 to justify the decision.

14 Based on the results of the hearing, a justice present at the
15 hearing may change the justice's vote or alter the justice's
16 individual contribution to a decision that invalidates existing
17 law or has the effect of creating a new law if done before that
18 decision takes effect.

19 Lastly, the bill provides that a supreme court decision
20 that invalidates existing law or has the effect of creating
21 new law will not take effect if two-thirds of both the senate
22 and the house of representatives approves of a resolution
23 to overturn the decision within one year of the date the
24 decision was published. The general assembly may also issue
25 its own statement to a published supreme court decision that
26 invalidates existing law or has the effect of creating new
27 law if issued within one year of the date the decision was
28 published, which must regard the constitutionality of the
29 invalidated existing law or newly created law.

30 The bill applies to decisions published by the supreme court
31 on or after the effective date of the bill.