

THE SUPREME COURT

STATE OF WASHINGTON

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TEMPLE OF JUSTICE

P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

March 6, 2008

Hugh Davidson Spitzer
Thomas Fitzgerald Ahearne
Ramsey E. Ramerman
Foster Pepper PLLC
1111 3rd Ave Suite 3400
Seattle, WA 98101-3299

Maureen A. Hart
Jeffrey Todd Even
James Kendrick Pharris
Office of the Attorney General
1125 Washington St SE
PO Box 40100
Olympia, WA 98504-0100

Re: Supreme Court No. 81287-0 - Lisa Brown v. Brad Owen

Counsel:

On March 3, 2008, the "Petition Against State Officer" was received and assigned the above referenced cause number. Enclosed for the parties is a copy of an Order entered on March 6, 2008.

It is noted that the pending petition is set for consideration on the Court Commissioner's April 17, 2008, motion calendar. The motion will be determined without oral argument unless a written request for oral argument is received for filing by not later than March 24, 2008.

Sincerely,

Ronald R. Carpenter
Supreme Court Clerk

RRC:alb

Enclosures as stated

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

LISA BROWN, Washington State
Senator and Majority Leader of the
Washington State Senate,

Petitioner,

v.

BRAD OWEN, Lieutenant Governor of
the State of Washington,

Respondent.

NO. 81287-0

ORDER

Filed: MAR 06 2008

FILED
SUPREME COURT
STATE OF WASHINGTON
2008 MAR -6 P 12:22
BY RONALD R. CHRISTEN
CLERK

This is an original action filed in this court by state senate member (and majority leader) Lisa Brown, challenging the decision by the president of the senate (Lieutenant Governor Brad Owen) not to forward Senate Bill 6931 to the house after it received a majority vote of the senate. Petitioner Brown seeks the issuance of a writ of mandamus ordering respondent Owen to forward the bill to the house.

The matter came before the en banc court on petitioner Brown's motion for accelerated review. Petitioner asks the court to set a briefing schedule so that oral argument can be heard and a decision can be made by March 13, 2008, the last day of the legislative session. In the alternative she asks the court for a ruling retaining the case for determination of the constitutional issue raised in the petition (the validity of RCW 43.135.035(1)) and setting a briefing and hearing schedule that allows a final determination of the case before the January 2009 legislative session. (In her reply petitioner acknowledges that the case could also be decided on alternative grounds

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without answering the constitutional question.) Respondent Owen opposes accelerated review, arguing that the case involves important and complex issues that cannot be fully and fairly decided on an accelerated basis. But respondent has no objection to litigating the case, even on an accelerated basis, and even if the controversy has become moot, if adequate time is provided for briefing.

Having considered the motion for accelerated review, the response, the reply, and the underlying pleadings, the court has decided to enter the following order.

IT IS HEREBY ORDERED:

(1) The motion for accelerated review on the proposed briefing and oral argument schedule, with a decision on the petition by March 13, 2008, is denied.

(2) The alternative request that the court now decide to retain the petition so it can determine petitioner's constitutional issue (or other determinative issue) before the January 2009 legislative session is also denied.

(3) The matter will instead proceed according to Rule of Appellate Procedure (RAP) 16.2, with the petition to be noted for hearing before this court's commissioner, as required by RAP 16.2(b), for determination whether it should be decided by this court, transferred to the superior court, or dismissed, and for determination, if necessary, of the remaining steps in the proceeding. *See* RAP 16.2(d). Motion procedure will govern, RAP 16.2(c), and respondent may serve and file an answer not later than March 24, 2008. Any reply to the answer must be served and filed not later than April 2, 2008.

(4) Apart from any answer and reply, to aid the commissioner in making the determinations required by RAP 16.2(d), the parties shall file memoranda addressing whether the petition should be decided by this court, transferred to the superior court for a determination on the merits, or dismissed. These memoranda should also address whether, if the petition is retained, there are questions of fact that

must be referred to a special master or to the superior court, or whether an agreed and adequate written statement of facts has been approved or can be approved by the parties prior to or at the hearing. And finally, the memoranda should address the parties' preferred timing of the remaining steps in the proceeding, including time for filing briefs on the merits. These memoranda, not to exceed 25 pages, shall be served and filed not later than April 9, 2008. The clerk's office will inform the parties when the matter is set on the commissioner's docket.

Alexander, C. J.

WE CONCUR:

Johnson, J.

Madsen, J.

Sandus, J.

Chambers, J.

Cover, J.

Fairhurst, J.

JM Johnson, J.

Paul L. Steyer