

HOUSE BILL REPORT

HB 2647

As Reported by House Committee On:
Judiciary

Title: An act relating to judges pro tempore.

Brief Description: Authorizing any sitting elected judge to be a judge pro tempore.

Sponsors: Representatives Lantz, Carrell, Ogden, Benson and Rockefeller; by request of Administrator for the Courts.

Brief History:

Committee Activity:

Judiciary: 2/7/02, 2/8/02 [DP].

Brief Summary of Bill

- Allows the appointment of a judge pro tempore to hear a case in superior court without the consent of the parties if the judge pro tempore is a sitting elected judge.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 8 members: Representatives Lantz, Chair; Hurst, Vice Chair; Boldt, Dickerson, Esser, Jarrett, Lovick and Lysen.

Minority Report: Without recommendation. Signed by 1 member: Representative Carrell, Ranking Minority Member.

Staff: Siovhon Sheridan-Ayala (786-7119); Trudes Hutcheson (786-7384).

Background:

Under the Washington statutes, court rules and constitution, judges pro tempore may be appointed to temporarily serve in the courts for various reasons, such as in the absence of a regular judge or to deal with excessive caseloads.

Washington voters amended Article IV, Section 7, of the Washington Constitution during the 2001 general election. The constitution was amended to allow the appointment of a

judge pro tempore to hear a case in superior court either: (1) if the parties consent and the judge pro tempore is a member of the bar; or (2) without the consent of the parties if the appointment is made pursuant to the supreme court rule. The amendment required the supreme court rule to consider the experience of the judge pro tempore before making an assignment.

On December 6, 2001, the Washington Supreme Court adopted Order 1001-50. The order provides that presiding judges will make pro tempore assignments based on the experience and demonstrated ability of the elected judge pro tempore with the subject matter and level of complexity of the case. Further, each court may appoint a minimum of three but no more than 15 elected judges pro tempore.

Under the court rule, any party or attorney appearing in any case before an elected judge pro tempore is entitled to one notice of change of judge in addition to an affidavit of prejudice. The counsel in the case must file a "Notice of Change of Judge" before the judge has made any discretionary ruling in the case.

A retired judge can still act as a pro tempore judge without the consent from the parties if a previously elected judge of the superior court retires while a case is pending. According to case law, previously-elected, retired judges include judges who have lost a re-election.

The judge pro tempore's actions in the case have the same effect as if he or she were a judge of the court.

Summary of Bill:

A case in superior court may be tried by a judge pro tempore without the consent of the parties in the suit, if the judge pro tempore is a sitting elected judge. The appointment of a judge pro tempore must be made pursuant to supreme court rules.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill will bring Washington's statutes in harmony with the constitution. Washington voters ratified a constitutional amendment regarding judges pro tempore, and the supreme court adopted a rule consistent with the amendment. If this bill does not pass, then Washington will have a conflict of laws.

Testimony Against: None.

Testified: Representative Lantz, prime sponsor; and Victor Moore, Office of the Administrator for the Courts.