

Judiciary Committee

HJR 4205

Brief Description: Amending the Constitution regarding the use of judges pro tempore.

Sponsors: Representatives Lantz (co-prime sponsor), Carrell (co-prime sponsor), Rockefeller and Lovick; by request of Administrator for the Courts.

Brief Summary of Bill

- Amends the state constitution to allow for the appointment of a judge pro tem to hear a case in superior court, without agreement by the parties, if the judge pro tem is a previously elected active or retired judge.

Hearing Date: 2/9/01

Staff: Trudes Hutcheson (786-7384).

Background:

The state constitution and statutes authorize the appointment of judges pro tem to temporarily serve in the courts for various reasons, such as in the absence of a regular judge or to deal with excessive caseloads.

Article IV, Section 7 of the state constitution allows the appointment of a judge pro tem to hear a case in superior court if: (1) the person is a member of the bar; (2) the appointment is agreed upon by the parties or their attorneys; (3) the appointment is approved by the court; and (4) the appointee takes the oath provided by statute.

Consent from the parties is not necessary if a previously elected judge of the superior court retires while there is a pending case in which that judge made rulings and the judge hears that pending case as a judge pro tem. According to case law, previously elected retired judges includes judges who have lost re-election. The judge pro tem's actions in the case have the same effect as if he or she were a judge of the court.

An amendment to the Washington Constitution requires passage by the Legislature by two-

thirds vote of each house and approval by a majority of the voters of the state at the next general election.

Summary of Bill:

Article IV, Section 7 of the state constitution is amended to authorize, pursuant to supreme court rule, a judge pro tem to hear a case in superior court, without the parties' consent, if the judge pro tem is a previously elected judge, active or retired.

The provisions of this act are to be submitted to the voters at the next general election for approval and ratification, or for rejection.

Appropriation: None.

Fiscal Note: Not Requested.