

HOUSE BILL REPORT

ESJR 8208

As Passed House - Amended:

April 9, 2001

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

Sponsors: By Senators Kline and Constantine; by request of Administrator for the Courts.

Brief History:

Committee Activity:

Judiciary: 3/27/01 [DPA].

Floor Activity:

Passed House - Amended: 4/9/01, 91-5.

Brief Summary of Engrossed Bill (As Amended by House)

- Amends the state constitution to allow, pursuant to supreme court rule, the appointment of a judge pro tempore to hear a case in superior court without agreement by the parties if the judge pro tempore is a sitting elected judge.
- Requires that the supreme court rule: (1) provide for a right, exercisable once during a case, to a change of a judge pro tempore; and (2) require assignments based on the judge's experience.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada, Dickerson, Esser, Lovick and McDermott.

Staff: Trudes Hutcheson (786-7384).

Background:

The state constitution and statutes authorize the appointment of judges pro tempore 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 tempore to hear a case in superior court if: (1) the person appointed 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 tempore.

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 Amended Bill:

Article IV, Section 7, of the state constitution is amended to authorize, pursuant to supreme court rule, a judge pro tempore to hear a case in superior court without the parties' consent if the judge pro tempore is a sitting elected judge. The supreme court rule must provide for the right, exercisable once during a case, to a change of a judge pro tempore. Such right is in addition to any other right provided by law. The supreme court rule must also require assignment of a judge pro tempore based on the judge's experience.

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.

Testimony For: The courts must be able to substitute judges in superior court and get help from judges in district courts. Allowing pro tempore judges would allow flexibility to the judiciary to use assets the judiciary already has within the system. Courts are so backed up that providing defendants with a speedy trial has become an issue. This bill does not add new judges or cost the taxpayers any money. It makes the courts more efficient and helps ease the overburdened workload in superior courts. Litigants in civil actions have to wait a long time to get their cases heard, and that is expensive for the parties. This bill will encourage cooperation between the judiciary and the bar to ensure that the lists of pro tempore judges include high quality judges.

Testimony Against: It is inappropriate to have a constitutional amendment that delegates

so much authority to the court by supreme court rule. Using pro tempore judges who come from different districts than the parties goes against the notion that parties appear before judges who the parties have elected. It is difficult enough to remove bad judges that sit on the court now.

Testified: (In support) Senator Kline, prime sponsor; Chief Justice Gerry Alexander, Washington State Supreme Court; Jan Eric Peterson, Washington State Bar Association; and Larry Shannon, Washington State Trial Lawyers Association.

(Opposed) Lawrence Hutt; and Mark Bennett.