

SENATE BILL REPORT

SJR 8225

As Reported By Senate Committee On:
Natural Resources, Energy & Water, February 5, 2004

Brief Description: Amending the Constitution to authorize a water court.

Sponsors: Senators Honeyford, Fraser and Rasmussen; by request of Governor Locke.

Brief History:

Committee Activity: Natural Resources, Energy & Water: 2/4/04, 2/5/04 [DPS, DNP].

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Majority Report: That Substitute Senate Joint Resolution No. 8225 be substituted therefor, and the substitute joint resolution do pass.

Signed by Senators Morton, Chair; Hewitt, Vice Chair; Fraser, Hale, Honeyford and Oke.

Minority Report: Do not pass.

Signed by Senator Regala.

Staff: Evan Sheffels (786-7486)

Background: In the 2002 Regular Session, the Washington State Legislature created a joint task force "to study judicial and administrative alternatives for resolving water disputes" and to issue a report to the Legislature. The members of the task force included representatives of the Legislature, the superior courts, the Court of Appeals, the Environmental Hearings Office, the Department of Ecology, and the Attorney General's Office.

According to the Water Disputes Task Force Report issued by the Attorney General, one overriding recommendation the task force believes would help in resolving water rights disputes is the creation of a specialized water rights court. Water court division lines would match the boundaries of the state's three Court of Appeals divisions, with: (i) division one including Whatcom, Skagit, Snohomish, King, San Juan, and Island counties; (ii) division two including Clallam, Jefferson, Kitsap, Mason, Grays Harbor, Pierce, Thurston, Lewis, Pacific, Wahkiakum, Cowlitz, Skamania, and Clark counties; and (iii) division three including Pend Oreille, Stevens, Ferry, Okanogan, Chelan, Douglas, Lincoln, Spokane, Whitman, Adams, Grant, Kittitas, Yakima, Klickitat, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties.

The water court would be created as a branch of the superior court, and jurisdiction over certain water disputes, like adjudications, would lie exclusively with the water court instead of the superior courts. Water court judges would not have jurisdiction over other cases typically handled by superior court judges. To authorize these jurisdictional changes, the constitutional provisions establishing the general jurisdiction of the superior courts would need to be amended.

Summary of Substitute Bill: At the next general election to be held in this state a proposed amendment to Article IV of the Constitution of the state of Washington must be submitted to the qualified voters of the state for their approval and ratification, or rejection.

In addition to the superior courts authorized under Article IV, judicial power is vested in a water court. Issues relating to the jurisdiction of the water court, review of water court actions, and the number of water court judges must be as provided by statute or rules authorized by statute.

Water court judge removal and retirement provisions shall be the same as the provisions for superior court judges. The administration and procedures of the water court must be as provided by rules issued by the Supreme Court.

Water court judges must be elected in the same manner as superior court judges, except water court judges serve six-year terms and must reside within the division in which they serve. All registered voters residing within a Court of Appeals division are eligible to vote in a judicial election for the water court division with the same boundaries.

Substitute Bill Compared to Original Bill: Language matches the original SJR 8225 with these exceptions: election of water court judges is to be accomplished in the same manner as superior court judges, instead of as provided by statute; retirement and removal provisions for water court judges are to be accomplished in the same manner as superior court judges; and water court judges must reside within the division in which they serve.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The proposed amendments to Article IV of the state Constitution take effect, if approved and ratified by the voters, at the next general election.

Testimony For: The Governor's office believes that a water court is needed. Comments: This would help expedite water changes and transfers. That is needed. This would lead to more reasoned, educated, uniform decisions from the lower courts. It is critical that judges be elected and reside in the district they serve. Citizens need to be judged by someone familiar with their climate and geographic location. Governor and Senate versions of the constitutional amendment differ primarily with regard to the judge selection process. The Governor's request calls for an initial appointed term, followed by a competitive election. If the appointed judge prevails, the next election would be on a retention basis.

Testimony Against: Concerns: Do we really need a special court? Courts can handle every other complex and important facet of law. Maybe it is the code that needs to be changed, not the court. Let us not get the cart before the horse. CON: The called for and promised collaboration with the tribes has not occurred.

Testified: Greg Christensen (pro); Jeff Dickison, Island Tribe (con); Jim Waldo, Governor's Office; Kathleen Collins, WA Water Policy Alliance (pro w/comments); Marissa Wilkie, WA State Grange (pro); Tim Boyd, Columbia-Snake River Irrigators Assn. (concerns).