

# HOUSE BILL REPORT

## HB 3021

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to municipal court judges and commissioners.

**Brief Description:** Changing the election and appointment provisions for municipal court judges.

**Sponsors:** Representatives Lantz, Serben, Campbell, Williams, Dickerson, Rodne and Hudgins; by request of Board For Judicial Administration.

**Brief History:**

**Committee Activity:**

Judiciary: 1/30/06, 2/2/06 [DPS].

<p><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Requires election of all municipal court judges.</li></ul>
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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Rodne, Assistant Ranking Minority Member; Campbell, Serben and Wood.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Priest, Ranking Minority Member; Kirby and Springer.

**Staff:** Edie Adams (786-7180).

**Background:**

Municipal courts are courts of limited jurisdiction that hear cases involving infractions or crimes that are violations of city ordinances. Cities have several options in how to provide municipal court services. The city can contract with the district court to provide court services; establish a municipal department of the district court; or establish an independent municipal court. In addition, some cities contract with other cities for court services.

A judge of the municipal court serves a four-year term and must be an attorney admitted to practice law in Washington, except that in a municipality with less than 5,000 population, the judge may be a non-attorney who has passed the qualifying examination for a lay judicial officer by January 1, 2003. A municipal court judge must be a resident of the county in which

the court resides, but does not need to be a resident of the city in which the court is created. However, in a municipal court with a part-time judge where a commissioner has not been appointed, the part-time judge does not have to be a resident of the county where the court is located.

A full-time municipal court judge position (35 hours per week) must be filled by election. Additional positions that are by themselves or in combination equal to more than one-half of a full-time judge position also must be filled by election. Part-time judge positions may be filled by appointment or election at the option of the city. The city may appoint a district judge as its municipal judge if the municipal judge position is part-time.

A judge of the municipal court may appoint a commissioner, who holds office at the pleasure of the appointing judge and has the same power, authority, and jurisdiction as the appointing judge. The commissioner must be a lawyer admitted to practice in Washington or a non-lawyer who has passed the qualifying examination for lay judges.

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### **Summary of Substitute Bill:**

The statute governing independent municipal courts is amended to require election of all municipal court judges.

The mayor of a municipality must initially appoint a judge or judges for a newly created municipal court. The appointed judge serves until January 1 of the year following the next election when other city elected positions are normally elected.

The legislative authority of the municipality must provide by ordinance for the number of full and part-time judges to be elected. Municipal court judge elections must be held at the same time as elections for other elected city offices.

Procedures are established for conducting municipal court judge elections. Where there is more than one judge position for a municipal court, the election official for the county in which the majority of city or town residents reside must designate each judge position by number. A candidate may run for only one of the numbered positions and must designate that numbered position when filing a declaration of candidacy.

Where a void in election or lapse of election occurs in a city or town with a population of less than 10,000, the filings for office may not be reopened and the mayor must appoint a qualified person to serve the entire term for the position. The legislative authority of the city or town may confirm this appointment if it has the general power of confirmation over mayoral appointments.

A municipal court judge may appoint as a commissioner a non-lawyer only if the person passed the qualifying examination for lay judges by January 1, 2003.

The terms of municipal court judges serving on July 1, 2006, and municipal judges appointed to terms commencing before January 1, 2010, expire on January 1, 2010. The terms of their successors commence on that date.

**Substitute Bill Compared to Original Bill:**

The substitute bill reinserts the requirement that an elected judge be a citizen of the United States and a resident of Washington. This requirement had been deleted in the underlying bill.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The election of judges is an important and fundamental requirement for the independence of the judiciary. A city does not have to create a municipal court, but once it does, it has created a third branch of government. Municipal court judges, whether elected or appointed, are city officials. They are not department heads. The normal and appropriate relationships are distinctly different when a judge is elected versus appointed. Election puts the judge on an equal footing with the other elected officials and changes how they are perceived and how other elected officials deal with them. Elected judges are responsible directly to the citizens, not to the mayor.

In most cities today the municipal court judges are appointed. There are cities where the court is reflected as a department of the executive branch. It is very disturbing to see the courts listed as having the same boss as the city attorney. This is representative of where courts are placed in cities where judges are appointed rather than elected.

Administration of the courts is very different when the judge is appointed rather than elected. The judge faces more difficulties with respect to improper encroachments on the independence of the judiciary. There have been cases of very highly-rated judges that have been terminated because of either disagreement or friction between the branches or because of adverse rulings on the constitutionality of city ordinances.

**Testimony Against:** Judges do need to be independent but electing judges isn't the way to get there. There are claims that appointed judges are under undue influence but these are just anecdotal stories, and there are many people on the other side of the issue with different stories. You should instead look at the study done for the Court Funding Task Force in 2003 to compare practices in the various courts and recommend improvements to the courts. This study did not find any of the court models to be superior or inferior. Results of surveys of judges done for this study show that conversations around revenue that take place between judges and city officials dealt with enforcement of judgments, not such things as giving fines

in lieu of jail time. The report also shows that sentencing practices change when judges are coming up to an election. The idea that elected judges are free from influence is a misnomer. Judges, because of the code of judicial conduct, can't take a position on issues or cases they may rule on. The basis on which judges are elected should be their credentials, experience, and their judicial temperament, but how can they run a candidacy on those issues?

**Persons Testifying:** (In support) Representative Lantz, prime sponsor; Marilyn Paja, Kitsap County District Court, District Municipal Court Judges; and Judge Robert McSeveney and Jeff Hall, Board of Judicial Administration.

(Opposed) Vickie Raines, City of Cosmopolis; and Tammy Fellin, Association of Washington Cities.

**Persons Signed In To Testify But Not Testifying:** None.