

SENATE BILL REPORT

E2SSB 5454

As Passed Senate, March 14, 2005

Title: An act relating to court operations.

Brief Description: Revising trial court funding provisions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Kline, Delvin, Thibaudeau, Johnson, Shin, Stevens, Rockefeller and Kohl-Welles; by request of Board For Judicial Administration).

Brief History:

Committee Activity: Judiciary: 2/10/05, 3/1/05 [DPS-WM, DNP].

Ways & Means: 3/4/05, 3/7/05 [DP2S, DNP, w/oRec].

Passed Senate: 3/14/05, 45-3.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5454 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Esser, Hargrove, Rasmussen and Thibaudeau.

Minority Report: Do not pass.

Signed by Senator Carrell.

Staff: Lilah Amos (786-7429)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5454 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Fairley, Hewitt, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau.

Minority Report: Do not pass.

Signed by Senator Roach.

Minority Report: That it be referred without recommendation.

Signed by Senator Schoesler.

Staff: Chelsea Buchanan (786-7446)

Background: Currently the funding of superior, district, and municipal courts is primarily provided by local jurisdictions. The state's direct contribution to operation of the trial courts

consists of the constitutionally required payment of one-half of superior court judges' salaries, all of the superior court judges' benefits, and roughly one-third of the cost of running juvenile courts. Indirect support includes funding to develop and maintain the judicial information system.

Local jurisdictions are required to pay jurors between \$10 and \$25 per day plus mileage for their service. Local jurisdictions collect numerous fees from users of the trial court system and share some of the fees with the state, which deposits the funds into the public safety and education account. No fee is currently collected from parties filing counterclaims, cross-claims, and third party claims in civil actions.

Concern exists that court funding is inadequate, that access to justice is impaired due to lack of funding, and that the state should pay a greater share of trial court costs. A judicial funding task force composed of more than 100 members serving on work groups and subcommittees for the past two years has developed a plan for improvement of the funding and quality of trial courts in Washington, leading to proposed legislation.

Summary of Bill: The legislature finds that the responsibility of funding trial courts in Washington State should not rest primarily upon local government. The legislature intends to increase state funding responsibility and provide trial courts with additional resources to provide justice equally to the citizens of Washington State.

Trial Court Funding. The state will pay one-half of the salaries of district court judges and of elected municipal court judges, beginning July 1, 2006. District court judges and elected municipal court judges who are members of the Public Employees' Retirement System are also made eligible for the existing judicial retirement account plan, which requires a 2.5 percent monthly contribution of salary from the member, equally matched by the state.

Trial Court Improvement Accounts. All cities, towns, and counties are required to create trial court improvement accounts, effective July 1, 2006. One-half of the state's contributions to local governments for payment of judges' salaries and for reimbursement of juror costs must be deposited into the county, city, or town trial court improvement account. The accounts must be appropriated by the legislative authority of each county, city, or town and must be used to fund improvements to court staffing, programs, facilities, and services.

Fee Increases & Law Library Funding. District court civil filing fees are increased from \$31 to \$43, and superior court civil filing fees are increased from \$110 to \$200. Counterclaims, cross-claims, and third-party claims will be assessed the same filing fee as the fee for initiating the action. A new \$43 fee is assessed against a criminal defendant upon conviction or plea of guilty in a court of limited jurisdiction. Jury fee demand charges in district and superior courts are increased. Other increased fees involve small claims actions, courthouse facilitator programs, unlawful detainer complaints and answers, nonjudicial probate disputes, petitions for modifying decrees of dissolution or paternity, certified copy fees, supplemental proceeding filings, writs of garnishment, transcripts of judgment, and various fees associated with real property.

Funding for county law libraries is increased. The portion of each superior court civil filing fee which is distributed to county law libraries is increased from \$12 to \$17. The portion of each district court civil filing fee distributed to county law libraries is increased from \$6 to

\$7. These distributions will also be made from filing fees for counterclaims, cross-claims, and third-party claims.

The revenue from fee increases is deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges prior to the effective date of the bill, and the state must not be liable for benefits for prior periods.

Second Substitute Bill Compared to Substitute Bill: Intent language is modified. All provisions related to juror fee increases and state payment of juror fees are removed. Provisions for the state to provide one-half of district court and elected municipal court salaries, and for local governments to establish trial court improvement accounts are delayed until July 1, 2006. Filing fee increases for unlawful detainer actions are increased from the current \$30 to \$60 rather than to \$80. For answered claims, filing fees are increased from \$80 to \$112 rather than to \$120. A provision is added stating that the revenue from some of the increased fees relieves the state of liability for prior payments of superior court judges benefits.

Appropriation: None.

Fiscal Note: Fiscal note available on original bill and substitute. Requested on second substitute March 8, 2005.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed, except for provisions related to trial court improvement accounts and pay of municipal and district court judges' salaries, which take effect July 1, 2006.

Testimony For (Judiciary): This bill results from a two-year study by the trial court funding task force. It is a step toward adequate funding for trial courts throughout the state. It recognizes the state's responsibility to bear a more equitable portion of trial court costs and the urgent need for additional funding to ensure that justice is accessible and provided in a timely manner throughout the state. Washington is 50th in state contribution to trial court funding, yet the trial courts' workloads are greatly affected by state legislation and state law enforcement.

Testimony Against: (Judiciary) Increasing certain filing fees will be unreasonably burdensome to businesses. The unlawful detainer fee increase would adversely impact debtors to whom this fee is passed as a court cost. Actions which are within the jurisdictional limit for district court but are required to be filed in superior court, such as claims against contractor's bonds and governmental agencies collecting fines or penalties, should not have an increased filing fee since the current superior court filing fee is much higher than the current district court filing fee.

Who Testified (Judiciary): PRO: Judge Leonard Costello, Superior Court Judges Association; Judge Deborah Fleck, Jeff Hall, Board for Judicial Administration; Judge Alicia Nakata, District and Municipal Court Judges Association; Sophia Byrd, Association of Washington Counties; Judy Warnick, Kevin Underwood, Washington Collector's Association; Tammy Fellin, Association of Washington Cities; Kris Tefft, Association of Washington Business.

CON: Christina Trott, Industrial Credit and National Association of Credit Managers; Walter Olsen, Manufactured Housing Communities of Washington and Rental Housing Association.

Testimony For (Ways & Means): The intent section should not create liability for the state to fund trial courts. Washington State's trial courts aren't the worst funded in the nation, but they are the worst in terms of state funding provided. The laws the courts enforce are state laws, so the courts are a state function, not a local function. This funding is a backfill of sorts. The substitute bill from the Judiciary Committee reflects a lower level of increase on the kinds of fees collection agencies commonly pay. Counties support this bill. The courts would like to propose a new substitute that drops the portion related to juror fees to make the bill budget neutral. Also, the new substitute would delay the funding of trial court judges' salaries, generating some revenue the first year that could be used for some of the other "Justice in Jeopardy" proposals, like indigent defense. Most fees haven't been increased for twelve years.

Testimony Against (Ways & Means): None.

Who Testified (Ways & Means): PRO: Senator Kline, co-sponsor. OTHER: Sophia Byrd, Washington Association of Counties; Judge Deborah Fleck, Superior Court Judges Association; Jeff Hall, Board for Judicial Administration.

House Amendment(s): Provisions requiring the state to pay one-half of district court and elected municipal court judges' salaries and to contribute to the supplemental retirement account for those judges are removed. Provisions requiring cities and counties to establish trial court improvement accounts are removed. Funds from fee increases specified in this bill will be deposited into a judicial improvement subaccount of the public safety and education account. The legislature must appropriate funds from this subaccount only for trial-level indigent defense, representation of parents in dependency and termination proceedings, civil legal representation of indigent persons, and to fund a trial court improvement account.

A trial court improvement account is created in the State Treasury. The administrator for the courts will authorize expenditures from the account to be used solely to fund improvements to trial courts, including but not limited to trial court staffing, programs, facilities, and services. Expenditures are subject to allotment procedures in chapter 43.88 RCW. The administrator for the courts will establish criteria for submitting, approving, and funding requests for distributions from the trial court improvement account, which must at a minimum require applicants to demonstrate need for the funds.

Passed House: 87-9.