

SENATE BILL REPORT

ESB 6342

As Passed Senate, February 13, 2006

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

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

Sponsors: Senators Kline, Esser and Pflug; by request of Board For Judicial Administration.

Brief History:

Committee Activity: Judiciary: 1/18/06, 1/31/06 [DP, DNP, w/oRec].
Passed Senate: 2/13/06, 27-20.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

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

Minority Report: Do not pass.

Signed by Senators Carrell, Hargrove and McCaslin.

Minority Report: That it be referred without recommendation.

Signed by Senator Rasmussen.

Staff: Lidia Mori (786-7755)

Background: Current state law requires the election of municipal court judges where the judge is compensated for more than 35 hours a week. It is discretionary with city councils, in cities where the judge works fewer hours, whether the position is filled by election or appointment.

Currently, municipal court judge positions are filled by election in eight cities. In the other approximately 119 cities with independent municipal courts, the judge is appointed to a four year term of office by the council or confirmed by the council upon recommendation of the mayor.

There is concern that when a municipal court judge is subject to initial appointment and reappointment by the legislative and executive branches of the city, the potential for abuse exists. In some cities with appointed judges, the municipal court is shown on organizational charts as reporting to the mayor, city manager, or city finance director.

Summary of Bill: The mayor of each city or town, within thirty days after the effective date of the ordinance creating the municipal court, is directed to appoint a municipal judge or judges to serve until January 1st of the year following the next election when other city elected positions are normally elected. The legislative authority of a city or town has the power to

confirm the appointment of a municipal judge initially appointed. A person appointed as a municipal judge must be a citizen of the United States and a resident of the state of Washington and an attorney admitted to practice law before the courts of the state of Washington.

The legislative authority of a city or town must, by ordinance, provide for the number of full and part-time judges to be elected. The elections will be held at the same time as elections for other elected city offices. In those cities and towns with more than one full or part-time judge position, the county auditor or election official in which the majority of city or town residents reside is directed to designate each office of a municipal court judge to be filled by a number, starting with the number one and numbering the remaining offices consecutively. This is required to be done at least ten days before the time of filing declarations of candidacy for the election of municipal court judges. At the time of filing the declaration of candidacy, each candidate must designate by number which one of the numbered offices for which he or she is a candidate. If a void or lapse of election occurs in a city or town with a population of less than ten thousand, the filings for office will not be reopened and the mayor is directed to appoint a qualified person to serve the term of office for the position for which the void in election or lapse of election occurred. The legislative authority of a city or town that has the power of confirmation over mayoral appointments has the power to confirm the appointment of the person as a municipal judge.

Eligibility to file a declaration of candidacy to serve as a municipal court judge requires the person to be a citizen of the United States and a resident of Washington and either a lawyer admitted to practice in Washington State or, in cities or towns having a population of less than five thousand, a person who has taken and passed, by January 1, 2003, the qualifying examination for a lay candidate for judicial officer.

The terms of municipal court judges serving on July 1, 2006, and those municipal court judges who are appointed to terms commencing prior to January 1, 2010, will expire January 1, 2010. Terms of their successors will begin on January 1, 2010, and on January 1st of every fourth year after.

In cities or towns where a court commissioner has not been appointed and the municipal court is presided over by a part-time judge, he or she need not be a resident of the city or county in which the municipal court is created. Court commissioners may be appointed by a municipal court judge. A commissioner authorized to hear or dispose of cases must be a lawyer admitted to practice law in Washington or a nonlawyer who has passed the qualifying examination for law judges for courts of limited jurisdiction by January 1, 2003.

Appropriation: None.

Fiscal Note: Requested on January 18, 2006.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: When judges are appointed, the organizational charts of the cities often show the judge reporting to the mayor, city manager, or city finance director. Even the court staff do not report to the judge, but instead, often report to an executive branch manager.

Appointed municipal court judges are often not able to be involved in court personnel issues, budget issues, etc. The pressure to do what the city wants may be subtle but it is there. Municipal courts are often created as a separate department of the city. There are many examples of lack of separation of power. The District and Municipal Court Judges Association voted unanimously for the position that all judges should be elected. A population cap is artificial.

Testimony Against: There is a House bill that sets a threshold population above which judges must be elected. The Administrative Office of the Courts did a study in 2003 and found that judicial officers do not impose fines to generate revenue for the city. The city of Ocean Shores has always felt it important to have an independent court within the city. It meets 5 to 12 hours per month. It keeps our police officers in town, and gives members of the community the convenience of being able to access their court.

Who Testified: PRO: Justice Barbara Madsen, Washington State Supreme Court; Judge Marilyn Paja, District and Municipal Court Judges Association, Kitsap County District Court; Jerry Belur; Marjorie Tedrick, Buckley Municipal Court; Judge Darrell Phillipson, King County District Court; Jeff Hall, Board for Judicial Administration.

CON: Tammy Fellin, Association of Washinton Cities; David Weiser, City of Ocean Shores; Mary-Alyce Burleigh, City of Kirkland Council.