

HOUSE BILL REPORT

HB 1522

As Reported by House Committee On:
Judiciary

Title: An act relating to eliminating the mandatory retirement age for judges.

Brief Description: Removing the mandatory retirement age for judges.

Sponsors: Representatives Williams, Darneille, Chase, Moeller, Lantz, Ericks, Goodman, Wood, Ormsby and Hunt.

Brief History:

Committee Activity:

Judiciary: 1/31/07, 2/7/07 [DPS].

Brief Summary of Substitute Bill

- Removes the mandatory retirement age of 75 years for judges of the Supreme Court, Court of Appeals, Superior Court, and District Court.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Flannigan, Kirby, Moeller, Pedersen, Ross and Williams.

Staff: Edie Adams (786-7180).

Background:

The original Washington Constitution vested judicial power in a Supreme Court and Superior Court, and such inferior courts as the Legislature may establish. In 1968, a constitutional amendment was adopted creating a Court of Appeals and providing that the Court of Appeals would be established in statute. As a result, there are a number of constitutional provisions relating to the establishment and operation of the Supreme Court and superior courts, whereas the Court of Appeals and the courts of limited jurisdiction are governed by statute.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Article IV, Section 3(a) of the Washington Constitution requires that judges of the Supreme Court and Superior Court retire at the end of the calendar year in which the judge reaches the age of 75 years. This provision allows the Legislature to set a lesser age for mandatory retirement, but not less than 70 years of age. In addition, this provision allows the Legislature to require the retirement of judges for physical or mental disability, or any cause rendering judges incapable of performing their judicial duties. This constitutional provision was adopted by the Legislature in 1951 and approved by the people in 1952.

The Legislature has established the mandatory retirement age of 75 years for not only judges of the Supreme Court and Superior Court, but also for judges of the Court of Appeals and District Court.

Judges of the Court of Appeals must retire at the age, under the conditions, and with the same retirement benefits as established for Supreme Court judges. The judicial retirement system law, which covers some judges of the Supreme Court, Court of Appeals, and superior court, provides that a judge who has attained the age of 75 years shall be retired at the end of that calendar year. In addition, a statute requires a District Court judge to retire at the end of the calendar year in which the judge attains the age of 75 years.

Summary of Substitute Bill:

The mandatory retirement age of 75 years for judges of the Supreme Court, Court of Appeals, and Superior Court that is contained in the state's judicial retirement system laws is removed.

The provision of law requiring District Court judges to retire at the age of 75 is repealed.

Substitute Bill Compared to Original Bill:

The substitute bill added a contingent effective date of January 1, 2008, if the proposed constitutional amendment removing the mandatory retirement age for judges is adopted.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect January 1, 2008 if the proposed constitutional amendment (HJR 4209) removing the mandatory retirement age for judges is ratified at the next general election.

Staff Summary of Public Testimony:

(In support) The genesis of the constitutional provision creating the mandatory retirement age is an example of bad facts making bad law. In the 1950s when this constitutional provision was adopted, a judge had arguably overstayed his welcome. Lacking the means to remove him from office, the presumption that a person over the age of 75 is incompetent to perform the

duties of a judge was adopted. This certainly isn't a presumption that applies to other elective offices. If 75 were the mandatory retirement age for other elective offices, we would lose several distinguished members of this Legislature and Congress, and 75 would certainly be considered a young age for the United States Supreme Court. Under this proposal we retain the ability to remove incompetent judges of any age, but we remove the presumption that people become incompetent when they reach age 75.

(Opposed) None.

Persons Testifying: Representative Williams, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.