

# SENATE BILL REPORT

## SB 5630

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As of February 18, 2011

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

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

**Sponsors:** Senators Harper, Pflug, Chase, Kohl-Welles and Delvin; by request of Board For Judicial Administration.

**Brief History:**

**Committee Activity:** Judiciary: 2/18/11.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Juliana Roe (786-7438)

**Background:** There are 64 part-time municipal court judges, some of which are elected positions. Those 64 judges serve approximately 80 cities. In cities with an appointment process, 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 are 31 full-time municipal court judges.

Current law requires the election of municipal court judges when the judge is compensated for 35 hours or more per week. In cities where the judge works fewer hours, it is discretionary with city councils whether the position is filled by election or appointment.

**Summary of Bill:** Within 30 days after the effective date of the ordinance creating the municipal court, the mayor of each city or town must appoint a municipal judge or judges to serve until January 1 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, a resident of the state of Washington, and an attorney admitted to practice law in Washington State.

The legislative authority of the city or town must, by ordinance, provide for the number of full and part-time judges to be elected. The elections are held at the same time as elections for other elected city offices. Eligibility to file a declaration of candidacy to serve as a

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municipal court judge requires the person to be a citizen of the United States, a resident of the state of Washington, and either an attorney admitted to practice law in Washington State or, in cities or towns having a population of less than 5000, a person who has taken and passed by January 1, 2003, the qualifying examination for a lay candidate for judicial officer.

If a void or lapse of election occurs in a city or town with a population of less than 10,000 the filings for office are not reopened, and the mayor must 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 to confirm mayoral appointments has the power to confirm a municipal judge appointment. The terms of municipal court judges serving on the effective date of this act, and municipal judges who are appointed to terms commencing before January 1, 2014, expire January 1, 2014. Their successors' terms commence on January 1, 2014, and on January 1 of each fourth year thereafter, pursuant to the appointment or election terms set forth.

A city or town has authority to appoint a district judge as its municipal judge when the municipal judge is not required to serve full-time. The district judge does not have to stand for election as the municipal judge, but the legislative authority of the city or town that has the general power of confirmation over mayoral appointments has the power to confirm the appointment. If the district judge is appointed, the city or town must pay a pro rata share of the salary.

Where a court serves the residents of more than one city or town, the judicial position(s) serving such court are filled by election. This election appears on the ballot of each participating city or town and requires a majority of all votes for the person to be elected. The judge must be a resident of the county in which one or more of the cities or towns is located. Candidates must file with the county auditor or chief election official in the county and pay one filing fee. A candidate can file for office for multiple part-time judicial positions so long as the total amount of part-time positions does not amount to more than one full-time position.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: It is important to make sure that justice be unbiased and fairly applied. The people of this state need to have consistency in the courts of limited jurisdiction. Washington State elects its judges at every level of court except for municipal court. One of the hallmarks of democracy is the right to access the courts.

In the past, we have had different court models. Our founding fathers appointed judges who served at the pleasure of the crown. When the crown was passed, judges were removed. Currently, judges make unpopular decisions. These decisions are a function of our democracy. One situation with which I was faced in my career as a municipal court judge

was in Seattle. The city of Seattle passed an ordinance outlawing panhandling. In the first six months of its existence I struck the ordinance down as unconstitutional. The day after I made the decision, the mayor's office called asking me why I hadn't called to warn their office before making this decision. Because I was an elected judge, I could tell them that it was inappropriate for me to discuss decisions with them before publishing those decisions. If I had been appointed, and wanted to seek reappointment, I would probably have felt differently. Another circumstance I faced was when I received a call from the director of the King County jail. That person urged me to urge my colleagues not to use jail space because they needed that space. As an elected judge, I did not feel that my job depended on following through with that request. These circumstances took place many years ago and appear to continue to be happening today.

CON: Municipal courts meet the needs of the community. It is important to preserve the independence of courts. Cities operate courts not to generate revenue but to promote access to justice. We understand the concerns that have been posed, but we offer that judges should receive additional training and not be forced to run for election. We don't believe there is a difference in the standards between elected and appointed judges. In fact, 76 percent of citizens believe that election contributions effect a judge's decisionmaking. Further, voter participation rate drops in judicial elections. The appointment process allows cities to take a better look at candidates for municipal judge than those running for election.

**Persons Testifying:** PRO: Senator Harper, prime sponsor; Justice Barbara Madsen, Chief Justice of the Washington Supreme Court; Judge Stephen Brown, District and Municipal Court Judges.

CON: Candice Bock, Association of Washington Cities; Jim Haggerton, City of Tukwila; Diane Suprey, City of Sumner.