
Judiciary Committee

ESB 5860

Title: An act relating to legal proceedings by the attorney general on behalf of superior court judges.

Brief Description: Addressing legal proceedings by the attorney general on behalf of superior court judges.

Sponsors: Senators Padden and Kline.

Brief Summary of Engrossed Bill

- Provides that the Attorney General (AG) is not required to institute or prosecute actions on behalf of Superior Court judges unless requested to do so by the Administrative Office of the Courts (AOC).
- Mandates that, in any such action, the AG and the AOC must each bear one-half of the attorneys' fees and costs.
- Requires that a claim be filed before suit and that, immediately after filing suit, the parties engage in mediation or other alternative dispute resolution.

Hearing Date: 3/27/13

Staff: Cece Clynych (786-7195).

Background:

Washington Constitution Article III, sec. 21 provides that "[t]he attorney general shall be the legal adviser of the state officers, and shall perform such other duties as may be prescribed by law." In statute, the Legislature has provided that the Attorney General (AG) shall, among other things, "Institute and prosecute all actions and proceedings for, or for the use of the state, which may be necessary in the execution of the duties of any state officer."

Generally, each of the state's counties is to have at least one Superior Court judge elected by the qualified electors of the county, although the Constitution allows and provides for situations in

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which counties share a judge or judges. The exact number of superior court judges in each county is set by statute. The state and each county share the cost of superior court judges for that county.

In a variety of cases and contexts, the Supreme Court has held that Superior Court judges are state officers, or both state and county officers.

The Administrative Office of the Courts (AOC) operates under the direction and supervision of the Chief Justice of the Supreme Court, and its Executive Director is appointed by and holds office at the pleasure of the Supreme Court. The powers and duties of the AOC include, among other things: examining the administrative methods and systems in the courts; examining the dockets and determining the need for assistance by any court; collecting and compiling statistical data; preparing and submitting budget estimates of state appropriations for the judicial system; administering training and education for judicial personnel; developing curricula and handbooks; and administering state funds.

Summary of Bill:

The Attorney General (AG) is not required to institute or prosecute actions or proceedings on behalf of a Superior Court judge or judges unless requested to do so by the Administrative Office of the Courts (AOC). In such an action, the AOC must bear one-half of the attorneys' fees and costs and the AG must bear the other half.

No legal action may be brought against the state or a county by a Superior Court judge or judges until 90 days have elapsed after the claim has been filed with the AG or the county prosecuting attorney, as the case may be. During the 180 day period following the filing of the suit, the parties must engage in mediation or other form of alternative dispute resolution to resolve the suit.

Appropriation: None.

Fiscal Note: Available.

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