

SENATE BILL REPORT

ESB 5860

As Passed Senate, March 8, 2013

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 History:

Committee Activity: Ways & Means: 2/28/13, 3/01/13 [DP].
Passed Senate: 3/08/13, 47-2.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Bailey, Becker, Braun, Conway, Dammeier, Fraser, Hatfield, Hewitt, Keiser, Kohl-Welles, Padden, Parlette, Rivers, Schoesler and Tom.

Staff: Steve Jones (786-7440)

Background: Under the state constitution, state statutes, and court decisions, the Attorney General is the legal representative of all state officers. The Attorney General must represent the state and all officials, departments, boards, commissions, and agencies in the courts, before all administrative tribunals or bodies, in all legal or quasi-legal matters, hearings, or proceedings, and advise all officials, departments, boards, commissions, or agencies in all these matters. Superior Court judges are state officials for this purpose.

Alleging inadequate funding of the Superior Court of Grays Harbor County, the superior court judges of Grays Harbor county have brought legal action against the county and the state. The Attorney General is defending the lawsuit on behalf of the state. The Attorney General is also providing legal representation, through an appointed Special Assistant Attorney General, to the Grays Harbor county judges.

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.

The Administrator for the Courts is appointed by the state Supreme Court and is the executive officer of the Administrative Office of the Courts.

Summary of Engrossed Bill: The Attorney General is not required to institute legal actions on behalf of superior court judges unless requested to do so by the Administrator for the Courts. The Attorney General's Office and the Administrator for the Courts must share equally in the legal costs.

In a case brought by Superior Court judges against the state or a county, a 90-day notice is required before filing suit, and a 120-day period of alternative dispute resolution is required following the filing of the suit.

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: The potential for additional litigation by superior court judges is a serious problem because of the fiscal liability for litigation costs. An approval process, such as the one proposed by this bill, is needed. The current litigation brought by the superior court judges in Grays Harbor county has incurred approximately \$350,000 in state costs on behalf of the judges, not including costs incurred by the state in defense costs.

OTHER: This is a complicated legal issue, and further discussions are needed. The Superior Court Judges Association has not yet taken a position on this bill.

Persons Testifying: PRO: Jay Geck, Office of the Attorney General.

OTHER: Mellani McAleenan, Administrative Office of the Courts, Board for Judicial Administration; Tom Parker, Superior Court Judges Assn.