

HOUSE BILL REPORT

HB 1992

As Passed House:

February 9, 2024

Title: An act relating to adding an additional superior court judge in Whatcom county.

Brief Description: Adding an additional superior court judge in Whatcom county.

Sponsors: Representatives Timmons, Lekanoff, Ramel, Fosse and Reeves; by request of Administrative Office of the Courts.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/26/24, 1/30/24 [DP];

Appropriations: 2/2/24, 2/5/24 [DP].

Floor Activity:

Passed House: 2/9/24, 96-1.

Brief Summary of Bill

- Increases from four to five the number of statutorily authorized superior court judges in Whatcom County.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 11 members: Representatives Taylor, Chair; Farivar, Vice Chair; Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno, Cheney, Entenman, Goodman, Peterson, Thai and Walen.

Staff: Yelena Baker (786-7301).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 30 members: Representatives Ormsby, Chair;

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Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Dye, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

Staff: Yvonne Walker (786-7841).

Background:

Superior courts are courts of general jurisdiction and handle felony and other criminal matters, civil matters, domestic relations matters, guardianship and probate matters, juvenile matters, and child dependency cases. Additionally, superior court judges hear appeals from lower courts and appeals from state administrative agencies.

The number of superior court judges in each county is set by statute. Any change in the number of full- and part-time judges in a county's superior court is determined by the Legislature after receiving a recommendation from the Board for Judicial Administration (BJA). The BJA's recommendation is based on an objective workload analysis developed annually by the Administrative Office of the Courts (AOC). The objective workload analysis takes into account available judicial resources and the caseload activity of the court.

Article 4, section 13 of the Washington Constitution provides that the state and the county share the cost for superior court judges. Benefits and one-half of the salary of a superior court judge are paid by the state. The other half of the judge's salary and all other costs associated with a judicial position, such as capital and support staff costs, are borne by the county.

New superior court positions are filled by gubernatorial appointment. The appointed judge must then stand for election at the next general election.

Whatcom County currently has four superior court judges, with the fourth judicial position added by the Legislature in 2013.

Summary of Bill:

An additional superior court judicial position is created in Whatcom County, changing the number of superior court judges from four to five.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Civil Rights & Judiciary):

(In support) The Superior Court in Whatcom County has an existing backlog of various types of cases, from felonies to child custody, and adding another judge to the court will help alleviate this backlog.

The state judiciary and Whatcom Superior Court specifically have been actively planning and preparing for the upcoming adjudication in Water Resource Inventory Area 1, otherwise known as the Nooksack Basin adjudication, which is expected to be filed this spring. Since Washington does not currently have a specialized water court or designated water judges, a water adjudication is heard in the superior court of general jurisdiction, so Whatcom Superior Court will be hearing the Nooksack Basin adjudication regardless of whether the court gets the fifth judge or not. The case filings are likely to at least double this year based on that water adjudication, with summons expected to be issued to approximately 25,000 people, and anywhere from 5,000 to 20,000 claims expected to be filed in the process of that water adjudication. These claims will involve farmers, businesses, municipalities, sovereign tribes and nations, and individuals who are likely unfamiliar with the court system but passionate about their water rights. These stakeholders expect a transparent, easily accessible, and efficient adjudication.

The AOC has studied other states' experiences with water adjudications and deployment of judicial and related staff, as well as the previous 40-year-long water adjudication in Washington, to estimate an appropriate staffing model and to ensure the efficiency that the Legislature encouraged with its 2009 changes to the Water Code. The AOC package of bills and budget requests presents the most efficient way to handle the upcoming adjudication. The AOC estimates that the time of the Nooksack adjudication will be shortened to 12 to 20 years.

This bill is unique as compared to other requests for additional judges because, pursuant to RCW 90.03.243, this bill asks the Legislature to fully fund this position, including salary and benefits, until the adjudication is over. When the adjudication ends, the position will revert to its normal funding structure, with one half paid by the state and the other half by the county.

The need for an additional judge is also based on Whatcom County's current judicial staffing ratio to county population and caseloads. Even without the water adjudication, this court is already severely understaffed. According to the latest analysis, this court needs two more judges, but this bill asks just for one, and it is very necessary that Whatcom Superior Court gets the resources they need.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill is part of a coordinated effort to allow for more resources to Whatcom County Superior Court in anticipation of the water rights adjudication that will be filed this spring. Generally, on average Whatcom County Superior Court deals with 5,000 to 6,000 filings per year. Due to the upcoming water rights case, the county will be handling an additional 25,000 to 30,000 filings per year. The Administrative Office of the Courts anticipate that if this bill and their budget request decision is funded, then they will be able to resolve this water rights case in approximately 20 years. This request is different from traditional requests because this time the Legislature will be funding 100 percent of the cost of the salary and benefits of this additional Whatcom County judge position until after the adjudication is over. Once the adjudication is over, the state funding for this position will revert to the normal funding structure whereby the state will reimburse at the 50 percent reimbursement rate.

(Opposed) None.

Persons Testifying (Civil Rights & Judiciary): Representative Joe Timmons, prime sponsor; Brittany Gregory and Shannon Hinchcliffe, Administrative Office of the Courts; and David Freeman, Whatcom County Superior Court.

Persons Testifying (Appropriations): Brittany Gregory, Administrative Office of the Courts.

Persons Signed In To Testify But Not Testifying (Civil Rights & Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.