

SENATE BILL REPORT

SSB 6686

As Passed Senate, February 15, 2010

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

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

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Gordon, McCaslin, Kline, Regala, Kohl-Welles, Delvin, Tom and Shin; by request of Board For Judicial Administration).

Brief History:

Committee Activity: Judiciary: 1/27/10, 2/02/10 [DPS, DNP].

Passed Senate: 2/15/10, 36-12.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6686 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin, Ranking Minority Member; Gordon and Kohl-Welles.

Minority Report: Do not pass.

Signed by Senators Carrell and Roach.

Staff: Lidia Mori (786-7755)

Background: There are 65 part-time municipal court judges, some of which are elected positions. Those 65 judges serve approximately 90 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 where the judge is compensated for 35 hours or more a week. It is discretionary with city councils, in cities where the judge works fewer hours, whether the position is filled by election or appointment.

Summary of Substitute Bill: The mayor of each city or town, within 30 days after the effective date of the ordinance creating the municipal court, is directed to appoint a

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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 before the courts of the state of Washington.

The legislative authority of a city or town must, by ordinance, provide for the number of full and part-time judges to be elected. The elections will be held at the same time as elections for other elected city offices. Eligibility to file a declaration of candidacy to serve as a municipal court judge requires the person to be a citizen of the United States, a resident of Washington and either a lawyer admitted to practice in Washington State or, in cities or towns having a population of less than 5,000 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 will not be reopened and the mayor is directed to 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 of confirmation over mayoral appointments has the power to confirm the appointment of the person as a municipal judge.

Appropriation: None.

Fiscal Note: Available on original bill.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: For the last decade, the Supreme Court and the Board for Judicial Administration have taken the position that all judges should be elected. The only ones who are not elected now are the part-time judges and even some of those are elected. Election of judges allows the public to choose its judges for a term of office, and this keeps judges accountable via the election process. If a judge is appointed, they are accountable to the mayor and city council. There are numerous examples of appointed judges being under pressure to bring in revenue for the city. Both appointed and elected judges must be aware of fiscal issues and balance jail costs with imposition of fines. The appearance of fairness is greater when judges are elected. This bill isn't just about how judges are elected, but it's also about how they are retained. Also, the bill still allows cities to contract with other cities. The election process is not expensive, especially in small cities.

CON: Small cities have a very small court, some operate only a few hours per week. The people that appoint the judge are accountable to the public. Cities handle the pay for these part-time judges in different ways, some pay hourly and some pay by contract. The appointed judge in Shelton goes through a careful selection process, we look at qualifications, ethics, budgetary knowledge, administrative experience, and overall

performance such as speaking ability, etc. The person is questioned to discern sensitivity to budget constraints. Many small jurisdictions don't fit under the one size fits all approach in this bill. If a judge has to be elected in a small jurisdiction, there is concern that it would come down to a popularity contest with the most importance given to name recognition, amount of money that the person could raise, etc.

Persons Testifying: PRO: Justice Gerry Alexander, Washington State Supreme Court; Judge Robert McSeveney, Board for Judicial Administration, District and Municipal Court Judges Assn; Judge Doug Fair, City of Edmonds, District and Municipal Court Judges Assn.

CON: Candice Bock, Assn of Washington Cities; Dave O'Leary, City of Shelton; Leonard Sanderson, City of Milton.