

HOUSE BILL REPORT

ESB 5774

As Reported By House Committee On:

Law & Justice

Title: An act relating to pro tempore judges.

Brief Description: Authorizing appellate judges to be appointed as pro tempore judges to complete pending business at the end of their terms of office.

Sponsors: Senators Roach, McCaslin, Fairley and Oke; by request of Supreme Court.

Brief History:

Committee Activity:

Law & Justice: 3/28/97, 4/1/97 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

Staff: Bill Perry (786-7123).

Background: For various reasons, the supreme court or the court of appeals may need judges on a temporary basis. Constitutional and statutory authority exists for the appointment of judges pro tem.—

In the case of the Supreme Court, a judge pro tem may be appointed at the direction of a majority of the Supreme Court. The pool from which a Supreme Court judge pro tem may be drawn consists of sitting elected judges of the court of appeals and all retired judges of courts of record in this state. There is no statutory limit on the length or number of appointments that may be made.

In the case of the court of appeals, a judge pro tem may be appointed by the chief justice of the Supreme Court. The pool from which a court of appeals judge pro tem may be drawn consists of sitting elected judges of the superior court and all retired judges of courts of record in this state. No court of appeals judge pro tem may serve for more than 90 days in any one year.

Sitting judges who serve as judges pro tem in the court of appeals or the supreme court continue to receive their regular salaries plus reimbursement for subsistence, lodging, and travel. Retired judges who serve as judges pro tem also continue to receive their retirement pay plus reimbursement for subsistence, lodging, and travel. In addition, a retired judge serving as a pro tem receives the difference between his or her retirement pay and the pay received by an active elected judge in the same position as the last judicial position held by the pro tem before retirement.

A separate Judicial Retirement System— exists for judges first appointed or elected to a court of record between 1971 and 1988. For purposes of that system a judge— does not include persons serving as pro tems. Generally, since 1988, elected and appointed judges of courts of record have been eligible for membership in the state Public Employees Retirement System. The Public Employees Retirement System does not explicitly mention pro tem judges.

When the term of office of a judge expires, particularly when the judge has run unsuccessfully for reelection, there may be cases still pending that the judge was working on.

Summary of Bill: Authorization is given for the appointment of certain additional judges as supreme court and court of appeals judges pro tem. The appointments are to be made when necessary for the prompt and orderly administration of justice.

A judge of the supreme court whose term expires with cases pending may be appointed by the chief justice as a supreme court judge pro tem for up to 60 days. A judge of the court of appeals whose term expires under the same conditions may, upon the recommendation of the presiding judge of the court of appeals, be appointed by the chief justice as a court of appeals judge pro tem also for up to 60 days. A judge may be appointed as a pro tem no more than once under these provisions, and will continue to draw the same salary he or she was earning at the time of the expiration of his or her term.

The definition of a judge— for purposes of the Judicial Retirement System is amended to explicitly include a judge of a court of record whose term has expired and who has been appointed as a pro tem. The state employees retirement system law is amended to include the pro tem positions held by these same judges.

A technical correction is made to a cross-reference in the Public Employees Retirement System law.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill will provide a limit to the length of time a judge can remain on the state payroll after losing an election.

Testimony Against: None.

Testified: Chuck Foster, Washington State Supreme Court.