

SENATE BILL REPORT

ESJR 8208

As Passed Senate, March 13, 2001

Brief Description: Amending the Constitution regarding the use of judges pro tempore.

Sponsors: Senators Kline and Constantine; by request of Administrator for the Courts.

Brief History:

Committee Activity: Judiciary: 2/8/01, 2/26/01 [DP, DNP].

Passed Senate: 3/13/01, 42-6.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Kastama, Long, McCaslin and Thibaudeau.

Minority Report: Do not pass.

Signed by Senators Johnson, Roach and Zarelli.

Staff: Dick Armstrong (786-7460)

Background: Under the provisions of the Washington State Constitution and statutes, there are specific limitations on the use of judges pro tempore in superior courts. A case in superior court may only be heard by a judge pro tempore if the person is a member of the State Bar and is agreed to in writing by the litigants and approved by the court.

Given the court congestion that many superior courts are experiencing throughout the state, the Board for Judicial Administration is recommending that the current restrictions on the use of pro tempore judges be made more flexible. The board is of the opinion that greater use of pro tempore judges will reduce court congestion and help to alleviate the need for authorizing additional full-time elected judges in the superior courts.

Summary of Bill: In addition to those persons currently authorized to be a judge pro tempore in superior court, any sitting elected judge may serve as a judge pro tempore in superior court without the approval of the litigants, as provided by Supreme Court rule. The rule must provide for the right, exercisable once during a case, to a change of a judge pro tempore.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: January 1, 2002, upon approval by the voters.

Testimony For: This bill will greatly expand the number of persons who can be used as a judge pro tempore. The BJA is willing to agree to delete any references to retired judges, since this has created a considerable amount of controversy. The use of active judges from all courts as pro tempore judges in superior court will help reduce caseload and promote justice and efficiencies. It will give the courts greater flexibility. This will be an inexpensive way to make use of all judges in the court system.

Testimony Against: WSBA opposes the bill as drafted. It is too broad; but the Bar could possibly support the bill if "retired judges" were deleted from the bill. The bill needs more work.

Testified: PRO: Chief Justice Gerry Alexander, BJA; Judge James Murphy, Superior Court Judges Association; Judge Michael Roewe, District Court Judges Association; Mary McQueen, Administrator for the Courts; CON: Kirk Johns, WSBA.

House Amendment(s): The House amendment adds an additional requirement that the Supreme Court rule must take into consideration assignments of judges pro tempore based on the experience of such judges. The House amendment also clarifies that the right to change a judge pro tempore is in addition to the parties' existing right to file an affidavit of prejudice.