

SENATE BILL REPORT

SJR 8215

As Reported by Senate Committee On:
Law & Justice, February 5, 2014

Brief Description: Amending the state Constitution so that only persons who are qualified voters in a county are elected or appointed to the office of judge of the superior court for that county.

Sponsors: Senators Padden, O'Ban and Roach.

Brief History:

Committee Activity: Law & Justice: 1/31/14, 2/05/14 [DP, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Kline, Ranking Member; Darneille and Pedersen.

Staff: Tim Ford (786-7423)

Background: The Washington State Supreme Court case of *Parker v. Wyman* concerned the eligibility of a candidate for the position of Thurston County superior court judge. The candidate did not reside in Thurston County. The Washington State Constitution prohibits a person from eligibility to be a judge unless the person is admitted to practice in the courts of Washington. State law further restricts eligibility for any elective office of a county where the person is not an elector of the county. State law also requires that every elected office become vacant when an incumbent ceases to be a resident in the district or county for the elected office. The Supreme Court ruling was issued after the non-resident candidate won the election. The ruling held that the Constitution states the only lawful qualification for the position of superior court judge. The ruling did not address whether the position is legally vacant due to non-residency.

Summary of Bill: The state Constitution is amended to restrict the eligibility of any person to hold office as a superior court judge unless that person is a qualified voter of the county served by that superior court. The Legislature has the power, by appropriate legislation, to enforce the eligibility requirements for 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.

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 courts must stay open in times of natural disaster and civil unrest. In difficult times, judges must be physically capable of getting to the courthouse to keep the wheels of justice turning. The city of Los Angeles suffered during the riots of 1992 and the state of California suffered during the 1994 Northridge earthquake. In both cases, the court systems were able to meet deadlines, but without judges living in our communities and ready to serve, this would have been impossible. Under Washington's current system, a local judge does not need to live in the county where they serve as judge. The confidence in the government rests in part on the ability of the justice system to keep operating in normal times and also emergencies.

The Supreme Court held that the only qualification to be a superior court judge is admission to the state bar, but membership in the bar does not require U.S. citizenship, state citizenship, or residency in Washington. The concept of representative government is recognized by having a judge be subject to the same rules and laws of the community they serve. It is inconsistent to have a non-resident judge when that very judge will disqualify a potential juror for lack of residency.

CON: Voters are informed and able to elect the best qualified candidate. The travel time for a non-resident judge in an adjoining county may be quicker than a commute from Yelm to the Thurston County courthouse. An out-of-state ban would be fair. Candidates from adjoining counties should continue to be qualified for superior court judge. Judicial portability and flexibility is vital. One hundred twenty five years ago, not all counties had qualified judges, and judges rode circuits to make the court systems of different counties operate efficiently. Today budgets are shrinking. This bill would deprive voters of the opportunity to elect the most qualified candidate.

Persons Testifying: PRO: Victor Minjares, Vicki Parker, citizens.

CON: Paul Strophy, Richard Strophy, citizens.