

HOUSE BILL REPORT

HJR 4218

As Passed Legislature

Brief Description: Amending the Constitution as to the allowable number of county court commissioners.

Sponsor(s): Representative Appelwick.

Brief History:

Reported by House Committee on:
Judiciary, March 1, 1991, DP;
Passed House, March 19, 1991, 98-0;
Passed Legislature, 98-0.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *Do pass.* Signed by 13 members:
Representatives Appelwick, Chair; Ludwig, Vice Chair; Paris,
Assistant Ranking Minority Member; Belcher; Broback; Forner;
Inslee; Mielke; H. Myers; Scott; Tate; Vance; and Wineberry.

Minority Report: *Do not pass.* Signed by 2 members:
Representatives R. Meyers and Riley.

Staff: Bill Perry (786-7123).

Background: The state constitution sets the maximum number of superior court commissioners in each county at three. Court commissioners are authorized to perform many of the duties of a judge, but their actions are subject to revision by a judge. Statutes have given court commissioners explicit authority to perform duties such as conducting probate proceedings, issuing temporary restraining orders, and hearing ex parte and uncontested civil matters. Court commissioners are paid out of county funds, and their salaries are set by county legislative authorities.

The limit of three court commissioners per county was set at the time the state's constitution was adopted. The population of the State has increased many times over since then, and the population disparity between counties is very significant.

By statute, the Legislature has authorized the use of specialized commissioners. These commissioners have fairly narrowly defined authority to act in family law and mental

health proceedings. The number of these commissioners in each county is set by the county legislative authority. These commissioners are not considered "court commissioners" within the meaning of the constitution, and therefore are not subject to the three-commissioner limit. Their use has been upheld by the state Supreme Court.

Summary of Bill: The constitution is amended to remove the limit on the number of court commissioners in each county. County legislative authorities are authorized to set the number of court commissioners.

Fiscal Note: Not requested.

Effective Date: Upon approval by the voters at the next general election.

Testimony For: The restriction on the number of commissioners makes no sense given the differences in population between counties and the general increase in population since the limit was set. Using commissioners is an efficient way to deliver judicial services.

Testimony Against: Using nonelected commissioners reduces judicial accountability. Judges do not adequately oversee the decisions of commissioners who work for them.

Witnesses: William Gates, Commission on Washington Trial Courts (in favor); Kurt Sharar, Association of Washington Counties (in favor); Rick Wickman, Association of Washington Counties (in favor); David Kerruish, Seattle-King County Bar Association (in favor); Bill Harrington, Fathers' Rights (opposed); and Tom Chambers, Washington State Bar Association (in favor if implementation includes affidavit of prejudice provision - see HB 1782).