

SENATE BILL REPORT

SHB 1782

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, APRIL 4, 1991

Brief Description: Affecting county court commissioners.

SPONSORS: House Committee on Judiciary (originally sponsored by Representative Appelwick).

HOUSE JUDICIARY COMMITTEE

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, and A. Smith.

Staff: Dick Armstrong (786-7460)

Hearing Dates: April 2, 1991; April 4, 1991

BACKGROUND:

The state Constitution limits the number of superior court commissioners in each county to 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:

Various statutes are amended to conform to the proposed constitutional amendment on court commissioners (HJR 4218). The limit of three on the number of court commissioners in each county is removed. County legislative authorities are authorized to set the number of court commissioners. References to specialized commissioners are removed.

Court commissioners are made subject to affidavits of prejudice to the same extent as superior court judges. A party to a lawsuit may file one such affidavit as a matter of right. Filing such an affidavit requires that the case be assigned to another commissioner or judge.

Appropriation: none

Revenue: none

Fiscal Note: none requested

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.

TESTIFIED: Rep. Appelwick (pro); Kurt Sharar, Washington State Association of Counties (pro); James McCutcheon, Superior Court Judges (pro); Ron Gould, WSBA (pro); Bill Gates, Gates Commission (pro); Bill Harrington, Fathers Rights (con)