



Senate Joint Resolution 107

PROPOSED CONSTITUTIONAL AMENDMENT

Vote cast by the 1981 Legislature on final passage:
HOUSE: Yeas, 98; Nays, 0; Absent or Not Voting, 0.
SENATE: Yeas, 35; Nays, 11; Absent or Not Voting, 3.

Official Ballot Title:

Shall constitutional limitations on powers and numbers of superior court commissioners be removed, and limitations be established by legislation?

The law as it now exists:

The State Constitution now limits the number of superior court commissioners who can be appointed by the superior court judges in each county to a maximum of three commissioners. Such superior court commissioners are constitutionally limited in their functions and do not possess the full powers of a superior court judge. The commissioners have the authority to perform some judicial functions subject to revision by the superior court judge.

Statement for

SJR 107 is a proposed constitutional amendment dealing with the appointment and duties of court commissioners. The amendment would remove present language limiting the number of court commissioners to three per county and would allow the Legislature to set the number by law. The amendment would also remove archaic language relating to the commissioner's duties and would allow the Legislature to set the duties by law.

SJR 107 is beneficial for the administration of justice in our state because court commissioners will be allowed to do more of the routine judicial work, freeing judges to concentrate on the trial of lawsuits.

Commissioners are *not* judges, but they are important officers who have been essential in this and other states in reducing the congestion of the courts by expediting the processing of cases.

The existing limitation of three commissioners per county, regardless of the county's size, is a relic of 1889 and should be changed to permit the Legislature to allow the larger counties to have more than three commissioners.

SJR 107 will assist to improve the quality and efficiency of our state's judicial system. The amendment will permit the counties to streamline the handling of legal cases, realize some cost savings in handling legal actions, and permit judges to devote their complete attention to major decisions for which they were elected.

Rebuttal of Statement against

It is unfortunate that the opponents of SJR 107 do not understand how commissioners work. They DO NOT "handle general civil cases" or "major lawsuits" and CANNOT be given "full judicial powers" under our Constitution. They cannot try criminal cases or sentence offenders. SJR 107's legislative opponents have consistently opposed any new Superior Court judgeships. Court Commissioners will cost less than new judges and will help end the very long delays in having lawsuits heard.

Voters Pamphlet Statement Prepared by:

PHIL TALMADGE, State Senator; WILLIAM ELLIS, State Representative; MIKE PADDEN, State Representative.

The effect of Senate Joint Resolution No. 107, if approved into law:

The current constitutional maximum of three superior court commissioners in each county would be removed by this proposed constitutional amendment. In addition, the present constitutional limitation on the authority of superior court commissioners would be removed from the constitution and the legislature would thereby be empowered to prescribe the functions and duties of superior court commissioners by statute so long as those functions involve the performance of business connected with the administration of justice.

NOTE: The ballot title and explanatory statement were written by the Attorney General as required by state law. The complete text of Senate Joint Resolution 107 begins on page 17.

Statement against

SJR 107 TAKES AWAY VOTERS' RIGHTS

SJR 107 will severely jeopardize your rights as a voter. Currently, the constitution restricts the number of appointed court commissioners to a maximum of three and provides reasonable checks on their powers. SJR 107 will allow an unlimited number of appointed court commissioners and will greatly expand their potential powers. You – the voter – will be helpless to do anything about a bad court commissioner.

APPOINTED COURT COMMISSIONERS NOT ACCOUNTABLE TO THE PUBLIC

Citizens can always work to vote a bad judge out of office. But, court commissioners are appointed, not elected, and, hence, are not accountable to the public.

POTENTIAL POWER OF COURT COMMISSIONERS IS FRIGHTENING

Court commissioners are already powerful. Among many other duties, they can handle general civil cases, major lawsuits, juvenile offender sentencings, and commitments of individuals to institutions for the insane. If SJR 107 passes, the legislature by a mere majority vote can give court commissioners full judicial powers. If an overly lenient judge presently grants probation to a dangerous criminal convicted of violent crimes, the people have recourse to the ballot box and can express their displeasure there. But, if a court commissioner were given sentencing powers and proved to be too lenient, the public could do nothing.

SJR 107 WILL COST TAXPAYERS MONEY

SJR 107 will allow the appointment of an unlimited number of costly court commissioners. At a time when taxpayers are

revolting against big, costly government, SJR 107 is a step in the wrong direction.

VOTE "NO" ON SJR 107

Do you want to be governed by appointed judges, or do you want to continue to elect your judges? Vote against SJR 107.

Rebuttal of Statement for

The proponents' own arguments are compelling reasons for voting "no" on SJR 107. The proponents implicitly acknowledge the following: Unlimited numbers of costly court commissioners will be possible if SJR 107 passes; present constitutional protections will be eliminated; appointed court commissioners (answerable to no one) will assume many of the duties of elected judges (answerable to the voters).

Voters Pamphlet Statement Prepared by:

KENT PULLEN, State Senator; A. L. "SLIM" RASMUSSEN, State Senator; ELLEN CRASWELL, State Senator.

Advisory Committee: LLOYD GARDNER, Citizen Taxpayers Association; GLADYS E. EDWARDS, Property Owners Protection Association; MARGARET SHOTT, Information Please; W. H. PHILIPP, Washington Institute for Judicial Review.

(2) Any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent outside Washington without first paying, securing another's payment of, or furnishing security for payment of the taxes due under this chapter is liable for the taxes due under this chapter to the extent of the value of the property delivered. Security for payment of the taxes due under this chapter shall be in an amount equal to or greater than the value of all property delivered to the personal representative or legal representative of the decedent outside Washington by such a person.

(3) For the purposes of this section, persons who do not have possession of a decedent's property include anyone not responsible primarily for paying the tax due under this section or their transferees, which includes but is not limited to mortgagees or pledgees, stockbrokers or stock transfer agents, banks and other depositories of checking and savings accounts, safe-deposit companies, and life insurance companies.

(4) For the purposes of this section, any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent may rely upon the release certificate or the release of nonliability certificate, furnished by the department to the personal representative, as evidence of compliance with the requirements of this chapter, and make such deliveries and transfers as the personal representative may direct without being liable for any taxes due under this chapter.

NEW SECTION. Sec. 83.100.130. REFUND FOR OVERPAYMENT. Whenever it is determined that a personal representative has overpaid the tax due under this chapter, the department may refund the amount of the overpayment, together with interest at the then existing statutory rate of interest. No claim for refund may be initiated more than one year after the date of the federal tax has been first paid.

NEW SECTION. Sec. 83.100.140. CRIMINAL ACTS RELATING TO ESTATE TAX RETURNS. Any person who wilfully fails to file a Washington estate tax return when required by this chapter or who wilfully files a false return commits a gross misdemeanor as defined in chapter 9A RCW and shall be punished as provided in Title 9A RCW for the perpetration of a gross misdemeanor.

NEW SECTION. Sec. 83.100.150. ADMINISTRATION BY DEPARTMENT—ACTION FOR COLLECTION OF TAX—APPEAL. (1) The department may collect the tax provided for in this chapter, including applicable interest and penalties, and shall represent this state in all matters pertaining to the same, either before courts or in any other manner. The department, through the attorney general, may institute proceedings for the collection of this tax and any interest and penalties on the tax. The superior court for any county which has assumed lawful jurisdiction over the property of the decedent for general probate or administration purposes under the laws of Washington shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this chapter. If no probate or administration proceedings have been taken out in any court of this state, the superior court for the county in which the decedent was a resident, if the decedent was a domiciliary, or, if the decedent was a nondomiciliary, any court which has sufficient jurisdiction over the property of the decedent, the transfer of which is taxable, to issue probate or administration proceedings thereon, had the same been justified by the legal status of the property or had the same been applied for, shall have jurisdiction. Any such court first acquiring jurisdiction shall retain the same to the exclusion of every other.

(2) Nothing in this chapter denies the right of appellate review as provided by law and the Washington appellate rules.

NEW SECTION. Sec. 83.100.160. (1) The following chapters and their session law bases are each repealed: Chapters 83.01, 83.04, 83.05, 83.08, 83.12, 83.14, 83.16, 83.20, 83.24, 83.28, 83.32, 83.36, 83.40, 83.44, 83.48, 83.52, 83.58, 83.60, and 83.98 RCW.

(2) These repeals shall not be construed as affecting any existing right acquired under the statutes repealed or under any rule, regulation, or order adopted pursuant thereto; nor as affecting any proceeding instituted thereunder.

NEW SECTION. Sec. 83.100.170. As used in this act, section captions constitute no part of the law.

NEW SECTION. Sec. 83.100.180. Sections 83.100.010 through 83.100.150 of this act shall constitute a new chapter in Title 83 RCW to be designated chapter 83.100 RCW.

NEW SECTION. Sec. 83.100.190. This act shall take effect January 1, 1982.

Senate Joint Resolution 107

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article IV, section 23 of the Constitution of the state of Washington to read as follows:

Article IV, section 23. There may be appointed in each county, by the judge of the superior court having jurisdiction therein, one or more court commissioners(~~not exceeding three in number,~~) as provided by law who shall have authority to perform (like duties as a judge of the superior court at chambers, subject to revision by such judge, to take depositions and to perform) such (other) business connected with the administration of justice as may be prescribed by law.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

Senate Joint Resolution 133

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article II, sections 1 and 1(a) of the state Constitution to read as follows:

Article II, section 1. The legislative authority of the state of Washington shall be vested in the legislature, consisting of a senate and house of representatives, which shall be called the legislature of the state of Washington, but the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by the legislature.

(a) Initiative: The first power reserved by the people is the initiative. (~~Ten per centum, but in no case more than fifty thousand, of the legal voters shall be required to propose any measure by such petition, and~~) Every such petition shall include the full text of the measure so proposed. In the case of initiatives to the legislature and initiatives to the people, the number of valid signatures of legal voters required shall be equal to eight percent of the votes cast for the office of governor at the last gubernatorial election preceding the initial filing of the text of the initiative measure with the secretary of state.

Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon, or not less than ten days before any regular session of the legislature. If filed at least four months before the election at which