



SENATE JOINT RESOLUTION 138

PROPOSED CONSTITUTIONAL AMENDMENT

Note: The ballot title and explanatory statement were written by the Attorney General as required by law. The complete text of Senate Joint Resolution 138 begins on page 19.

Vote cast by the 1986 Legislature on final passage:
HOUSE: Yeas, 89; Nays, 9; Absent or not voting, 0.
SENATE: Yeas, 41; Nays, 4; Absent or not voting, 4.

Statement for

The objective of this amendment is to clarify the process for filling vacancies in state legislative and certain county offices.

For multi-county legislative districts, doubts raised by the present Constitution are removed in two ways. First, the amendment specifies that the collective votes to fill a vacancy are the same for each county. This avoids giving fewer votes to a county with only three commissioners than to a charter county with a larger council. Second, the weight of any county's votes is made proportional to the population of that county residing within the boundaries of the legislative district. For example, a county with 10 percent of the legislative district's population can no longer exercise the same influence in filling the vacancy as a county with 90 percent of the legislative district's population.

Requiring deadlines for action on filling a vacancy to be set in statute, instead of being fixed in the Constitution, allows greater equity in certain circumstances and more flexibility for the nominations and appointment, depending on when the vacancy occurs.

Procedures are spelled out to encourage precinct and state party officers to submit the list of nominees on time.

A county commissioner or council member is eligible for appointment to the vacant legislative position if that individual does not vote on the appointment. This removes the potential for both the exercise of undue influence, as well as the risk of that person not being selected after resigning from the county legislative body.

Official Ballot Title:

Shall the Constitution be amended to modify the process, timing and eligibility to fill vacancies in legislative and county offices?

The law as it now exists:

The Washington State Constitution provides for the filling of vacancies in partisan county and legislative offices. These vacancies are filled by county commissioners who choose from a list of three nominees submitted by the central committee of the party of the person vacating the office. If a majority of the commissioners do not agree within 60 days, the governor then fills the vacancy by

appointing, within 30 days, the successor from the same list of three party nominees.

When a legislative district extends into more than one county, the commissioners of those counties "jointly" choose the successor. By prior interpretation, each county has the same number of votes in such determination, divided between each county's commissioners.

Also by prior interpretation, a county commissioner may not be appointed to fill the vacancy unless the commissioner resigns in advance of the selection.

The effect of SJR 138, if approved into law:

The county legislative body (e.g., commissioners) and the Governor will continue to be empowered to fill vacancies from nominees supplied by the political parties.

When a vacancy occurs in a legislative district which extends into more than one county, the vacancy would continue to be filled

by the county commissioners. However, the collective vote of the commissioners of each county will be the same as the proportion that the population of the legislative district which is within the county bears to the total population of the legislative district.

The time period within which commissioners and the governor are to act in filling these vacancies would no longer be prescribed in the Constitution but will be set by statute.

If the political party of the person whose vacancy is being filled does not timely submit a list, the appointing authority may appoint any qualified person. A member of the county legislative body, e.g., a county commissioner, will be eligible for appointment so long as that member does not participate in the action to appoint.

Two new constitutional provisions are added. One is for filling vacancies in nonpartisan county offices by county commissioners. The other provides that if there are vacancies on the county legislative body leaving less than a majority, the governor is allowed to appoint a sufficient number of members to establish a majority of the county legislative body.

Statement against

IF IT ISN'T BROKEN, DON'T FIX IT

SJR 138 is ill conceived. As written it will affect twenty-one of the forty-nine legislative districts. How many more of you will be effected after new legislative boundaries are drawn in 1990 and how will the political redistricting process influence local control of the appointment process?

You haven't been told the whole story. If SJR 138 passes, Senate Bill 4639 becomes law and will grant more appointive power to the Governor and more power to the Legislature in determining how and when your Representatives will be chosen. The Legislature may change this law without your approval, but you will already have said this is proper if you approve SJR 138. Do you want to grant these additional powers to the Governor and the Legislature?

No law or court decision mandates these proposed changes. SJR 138 is a knee-jerk response to a political dispute in which local officials couldn't decide upon the appointment of a State Senator. Should our Constitution be amended every time local officials are unable or unwilling to resolve a problem?

PROTECTIONS ARE REMOVED

SJR 138 and Senate Bill 4639 would: allow county commissioners to appoint one of themselves to higher office without first resigning their commission office; and decree that population, not registered voters, will determine the influence of counties involved in the appointment process. Voter registration laws have proven to be the only effective safeguard against disruption of the political process. Consider Oregon's problems with an influx of groups seeking political control. Do you want to remove this safeguard?

Rebuttal of Statement against

Don't be misled. No additional appointive powers are granted to the Governor, Legislature, County Commissioners, or any other group.

It is broken. Our Constitution did not anticipate home rule counties having more than three commissioners. Also, the U.S. Supreme Court principle of equal representation based on population is violated. These problems must be fixed to avoid costly challenges and uncertainty. This crucial amendment was carefully developed with the help of *bipartisan* political party leadership.

Voters Pamphlet Statement Prepared by:

ALAN THOMPSON, State Senator; JUNE LEONARD, State Representative; HAL ZIMMERMAN, State Senator.

Rebuttal of Statement for

No "clarification" of the Constitution is needed. Present law states each county has three votes in filling a vacancy and each county is treated equally.

Any proposed appointee in parts of counties, or small counties within legislative districts, will receive second-class treatment if SJR 138 passes. SJR 138's problems could apply anywhere.

SJR 138 is deficient because it allows county commissioners or council members to be appointed by their peers without first relinquishing their county office.

Voters Pamphlet Statement Prepared by:

SCOTT BARR, State Senator.

The supreme court shall specify the effect upon salary when disciplinary action other than removal is taken. The supreme court may not discipline or retire a judge or justice until the ((*judicial qualifications*)) commission on judicial conduct recommends after notice and hearing that action be taken and the supreme court conducts a hearing, after notice, to review commission proceedings and findings against a judge or justice.

Whenever the commission receives a complaint against a judge or justice, it shall first conduct proceedings for the purpose of determining whether sufficient reason exists for conducting a hearing or hearings to deal with the accusations. These initial proceedings shall be confidential, unless confidentiality is waived by the judge or justice, but all subsequent hearings conducted by the commission shall be open to members of the public.

Whenever the commission adopts a recommendation that a judge or justice be removed, the judge or justice shall be suspended immediately, with salary, from his or her judicial position until a final determination is made by the supreme court.

The legislature shall provide for commissioners' terms of office and compensation. The commission shall establish rules of procedure for commission proceedings including due process and confidentiality of proceedings.

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.



COMPLETE TEXT OF Senate Joint Resolution 138

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, section 15, of the Constitution of the state of Washington to read as follows:

Article II, section 15. ((*Such*)) (1) Vacancies ((*as may*)) that occur in either house of the state legislature or in any partisan county elective office shall be filled by appointment by the ((*board of county commissioners*)) legislative authority of the county in which the vacancy occurs ((: *PROVIDED, That*)). The person appointed to fill the vacancy must be from the same legislative district, county, or county ((*commissioner*)) legislative authority district ((*and the same political party*)) as the legislator or partisan county elective officer whose office has been vacated ((, *and*)). The person appointed shall also be one of three persons ((*who shall be*)) nominated by the county central committee of ((*that*)) the political party((, *and*)) of the partisan officer whose office has been vacated if the nominations are received by the county legislative authority within the time prescribed by statute. In case of a majority of ((*said*)) the members of the county ((*commissioners*)) legislative authority do not agree upon the appointment within ((*sixty days after the vacancy occurs*)) the time prescribed by statute, the governor shall ((*within thirty days thereafter, and*)), from the list of nominees ((*provided for herein*)) submitted to the county legislative authority if the list was

timely received, appoint a person who shall be from the same legislative district, county, or county ((*commissioner*)) legislative authority district ((*and of the same political party*)) as the legislator or partisan county elective officer whose office has been vacated((, *and the person so appointed shall hold office until his successor is elected at the next general election, and shall have qualified: PRO-VIDED, That in case of a vacancy occurring in the office of joint senator, or joint representative, the vacancy shall be filled from a list of three nominees selected by the state central committee, by appointment by the joint action of the boards of county commissioners of the counties composing the joint senatorial or joint representative district, the person appointed to fill the vacancy must be from the same legislative district and of the same political party as the legislator whose office has been vacated, and in case a majority of said county commissioners do not agree upon the appointment within sixty days after the vacancy occurs, the governor shall within thirty days thereafter, and from the list of nominees provided for herein, appoint a person who shall be from the same legislative district and of the same political party as the legislator whose office has been vacated*)).

(2) If the majority of the positions of a county legislative authority are vacant, the governor shall appoint to the legislative authority that number of persons necessary to establish a majority of filled positions. A person appointed to fill such a vacancy shall be from the same county legislative authority district as the officer whose office has been vacated. If the positions are partisan elective offices, a person appointed to fill such a vacancy shall also be one of three persons nominated by the county central committee of the same political party as the officer whose office has been vacated if the nominations are received by the governor within the time prescribed by statute.

(3) In case of a vacancy occurring in a nonpartisan county elective office, other than a judicial office, the county legislative authority shall appoint a person to fill the vacancy from the same county or county legislative authority district as the officer whose office has been vacated. If a majority of the members of the county legislative authority do not agree upon the appointment within the time prescribed by statute, the governor shall appoint a person from the same county or county legislative authority district.

(4) Vacancies that occur in the office of senator or representative of a state legislative district comprising more than one county shall be filled by appointment by the joint action of the legislative authorities of the counties within the district. The person appointed to fill the vacancy shall be from the same legislative district as the legislator whose office has been vacated. The person appointed shall also be one of three persons nominated by the state central committee of the political party of the legislator whose office has been vacated if the nominations are received by the county legislative authorities within the time prescribed by statute. In joint action, the individual vote of each county legislative authority member, not disqualified from voting under subsection (5) of this section, shall collectively amount to the percentage, rounded to the nearest whole number, that the population of the county or portion of the county within the legislative district bears to the population of the entire district. The population shall be determined by the most recent federal census and shall exclude nonresident military personnel. The vacancy shall be filled if one person receives a majority percentage of the votes of the county legislative authorities. If the members of the jointly meeting county legislative authorities do not agree upon an appointment to fill the vacancy within the time prescribed by statute, the governor shall, from the list of nominees submitted to the county legislative authorities if the list was timely

received, make the appointment within the time prescribed by statute.

(5) An otherwise qualified member of a county legislative authority is eligible to be appointed to fill a vacancy governed by this section only if the member does not vote in an action or joint action to fill the vacancy.

(6) The legislature shall prescribe the time limits within which the state and county central committees must submit lists of nominees, within which a county legislative authority or county legislative authorities must agree upon an appointment, and within which the governor must make appointments under the terms of this section. If lists of nominees are not timely received, the appointing authority may appoint any qualified person to fill the vacancy.

(7) A person appointed to fill a vacancy in a partisan office under this section shall hold office until a successor is elected at the next state general election as specified by statute and has been qualified.

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.



COMPLETE TEXT OF House Joint Resolution 49

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 XXVIII, section 1 of the Constitution of the state of Washington to read as follows:

Article XXVIII, section 1. (*All elected state officials shall each severally receive such compensation as the legislature may direct. The compensation of any state officer shall not be increased or diminished during his term of office, except that the legislature, at its thirty-first regular session, may increase or diminish the compensation of all state officers whose terms exist on the Thursday after the second Monday in January, 1949.*)

Salaries for members of the legislature, elected officials of the executive branch of state government, and judges of the state's supreme court, court of appeals, superior courts, and district courts shall be fixed by an independent commission created and directed by law to that purpose. No state official, public employee, or person required by law to register with a state agency as a lobbyist, or immediate family member of the official, employee, or lobbyist, may be a member of that commission.

As used in this section the phrase "immediate family" has the meaning that is defined by law.

Any change of salary shall be filed with the secretary of state and shall become law ninety days thereafter without action of the legislature or governor, but shall be subject to referendum petition by the people, filed within the ninety-day period. Referendum measures under this section shall be submitted to the people at the next following general election, and shall be otherwise governed by the provisions of this Constitution generally applicable to referendum

measures. The salaries fixed pursuant to this section shall supersede any other provision for the salaries of members of the legislature, elected officials of the executive branch of state government, and judges of the state's supreme court, court of appeals, superior courts, and district courts. The salaries for such officials in effect on January 12, 1987, shall remain in effect until changed pursuant to this section.

After the initial adoption of a law by the legislature creating the independent commission, no amendment to such act which alters the composition of the commission shall be valid unless the amendment is enacted by a favorable vote of two-thirds of the members elected to each house of the legislature and is subject to referendum petition.

The provisions of section 14 of Article IV, sections 14, 16, 17, 19, 20, 21, and 22 of Article III, and section 23 of Article II, insofar as they are inconsistent herewith, are hereby (*repealed*) superseded. The provisions of section 1 of Article II relating to referendum procedures, insofar as they are inconsistent herewith, are hereby superseded with regard to the salaries governed by this section.

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.



COMPLETE TEXT OF House Joint Resolution 55

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 VII, section 2 of the Constitution of the state of Washington to read as follows:

Article 7, section 2. Except as hereinafter provided and notwithstanding any other provision of this Constitution, the aggregate of all tax levies upon real and personal property by the state and all taxing districts now existing or hereafter created, shall not in any year exceed one per centum of the true and fair value of such property in money: PROVIDED, HOWEVER, That nothing herein shall prevent levies at the rates now provided by law by or for any port or public utility district. The term "taxing district" for the purposes of this section shall mean any political subdivision, municipal corporation, district, or other governmental agency authorized by law to levy, or have levied for it, ad valorem taxes on property, other than a port or public utility district. Such aggregate limitation or any specific limitation imposed by law in conformity therewith may be exceeded only

(a) By any taxing district when specifically authorized so to do by a majority of at least three-fifths of the electors thereof voting on the proposition to levy such additional tax submitted not more than twelve months prior to the date on which the proposed levy is to be made and not oftener than twice in such twelve month period, either at a special election or at the regular election of such taxing district, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the total votes cast in such taxing