



SUBSTITUTE HOUSE JOINT RESOLUTION 4221

PROPOSED CONSTITUTIONAL AMENDMENT

Note: The ballot title and explanatory statement were written by the Attorney General as required by law. The complete text of Substitute House Joint Resolution 4221 begins on page 33.

Vote cast by the 1991 Legislature on final passage:

House: Yeas, 96; Nays, 0; Absent or not voting, 2.

Senate: Yeas, 41; Nays, 0; Excused, 8; Absent or not voting, 0.

Statement for COURT CONGESTION AND DELAY ARE HARMFUL TO THE PUBLIC

The State Constitution allocates jurisdiction between the Superior Courts (our chief trial court) and the courts of limited jurisdiction, which include the District Court.

"EQUITY" CASES CAN ONLY BE BROUGHT IN SUPERIOR COURT

The Constitution creates jurisdiction only in the Superior Court for matters in "equity" as well as many other enumerated matters. Cases in "equity" would cover things not thought of as "black letter" law issues. They would include, among other things, actions or injunctions or restraining orders. Perhaps most significantly today, they would include the issuance of protective orders in the case of domestic violence or harassment cases.

DISTRICT COURTS SHOULD BE ALLOWED TO HANDLE CERTAIN CASES

A recommendation from the Washington Commission on Trial Courts appointed by the Washington State Supreme Court is that jurisdiction over the domestic violence and anti-harassment cases, the authority to grant name changes, and other more minor ministerial actions should be transferred to the District Courts. The Legislature considering these arguments concluded that it was appropriate that *both* District and Superior Courts should have jurisdiction. This change will assist in court congestion and court management. In some circumstances, this change will get the cases into courthouses that are closer to the public rather than only handled in the Superior Courts located in the county seat.

Official Ballot Title:

Shall the Constitution's description of the Superior Court's original jurisdiction be amended by deleting the reference to "cases in equity"?

The law as it now exists:

The Washington State Constitution describes the original jurisdiction of the state Superior Courts. The Superior Courts also have jurisdiction for other matters as designated by the Legislature. The Constitution's description of original

THIS AMENDMENT IS NECESSARY FOR COURT EFFICIENCY TO EASE COURT CONGESTION, AND FOR PUBLIC CONVENIENCE

This constitutional amendment is necessary to authorize the Legislature to allocate equity jurisdiction to *both* the Superior Court and the District Courts. This constitutional amendment is necessary for flexibility in dealing with court congestion and for efficiency in running the court system. It deserves your support.

Rebuttal of Statement against

Contrary to the opponents' statement, this constitutional amendment does *not* alter the "equity jurisdiction" of the Superior Courts, but merely extends this jurisdiction to District Courts. Citizens may therefore choose the court that is convenient for their needs.

Founders of the Constitution would *approve* dispersing this judicial choice to the people, particularly when noting the careful analysis and debate by the Legislature and the Washington Commission on Trial Courts in proposing this constitutional improvement.

Voters Pamphlet Statement Prepared by:

SENATOR GARY NELSON, Chair, Senate Law & Justice Committee; REPRESENTATIVE MARLIN APPELWICK, Chair, House Judiciary Committee.

Advisory Committee: THE HONORABLE FRED H. DORE, Chief Justice, Washington Supreme Court; THE HONORABLE TED KOLBABA, President, Association of Superior Court Judges; THE HONORABLE LARRY MOLLER, President, District & Municipal Court Judges Association; CHARLES J. KLARICH, President, Washington State Association of Counties; LOWELL K. HALVERSON, President, Washington State Bar Association.

jurisdiction provides that the following legal actions are to be initially commenced in the Superior Courts of this state: cases at law involving real property, legality of taxes, felony cases, probate, divorce, annulments, insolvencies, abatement of nuisances, and other special actions not specifically assigned by the Legislature. The description also refers to "cases in equity" which is not defined.

There is difficulty in precisely defining what is meant by "cases in equity." The distinction between "cases at law" and "cases in equity" dates back historically to England, where there were common law courts and separate chancery or "equity" courts. Historically "equity courts" were more innovative in creating remedies. Equity matters frequently involved injunctive relief and claims not related to money damages. However, in the United States and in Washington state we do not have separate court systems for "equity" and "law." Therefore, the historical distinctions have become blurred, and there is no precise definition of what is meant by the Constitution's reference to "cases in equity."

The effect of Substitute House Joint Resolution 4221, if approved into law:

The only change would be to delete the reference to "cases in equity" in the constitutional description of the Superior Courts' original jurisdiction. The Legislature could then authorize other courts, including the state District Courts, to exercise jurisdiction for various matters without having to be concerned whether those matters would or would not be characterized as being "cases in equity."

Statement against

EQUITY IS THE SOUL AND THE SPIRIT OF THE LAW

SHJR 4221, if passed, would destroy the Equity Jurisdiction and the constitutional rights to "Equity" in our Superior Courts.

THE JUDICIARY IS THE GUARDIAN OF CONSTITUTIONAL AND PRIVATE RIGHTS

The judiciary is the guardian of the peoples' Constitutional and Private Rights. Most of our territorial rights and laws flowed from the Federalist thinking of Alexander Hamilton, James Madison and the Honorable John Jay (the first Chief Justice of the United States Supreme Court).

EQUITY JURISDICTION GUARANTEES IMPARTIALITY AND JUSTICE

Alexander Hamilton stated in the Federalist Papers LXXX (80): "The Courts of the United States were granted authority over all cases of Admiralty jurisdiction and granted the individual State Courts power in propriety of delegating 'Equity Jurisdiction'". This guaranteed justice and impartiality which means the giving or desiring to give each person their due. Taken broadly, Equity means to do to all persons as we would have them do unto us.

THIS AMENDMENT IS NOT NECESSARY FOR COURT EFFICIENCY

The citizens must vote **NO** on SHJR 4221 as a constitutional amendment to Article IV, section 6, and declare all

contrary acts such as this null and void in order to preserve our constitutional rights to our courts of Equity. The courts were designed to be an intermediate body between the citizens and the Legislature. Our Constitution is preferred to statutes, and the intention of the people is preferred to that of their agents, the Legislature. This does not mean the judiciary is superior to the Legislature; it only supposes that the power of the people is superior to all three branches of their government.

Rebuttal of Statement for

Beware, this amendment will remove "Equity" from our Superior Courts. The way this amendment is worded you will lose your Constitutional Rights to fairness.

This is a devious and deceitful solution under the pretense to relieve congestion. Sponsors would lead you to believe "Equity" would be in both courts; in reality, it will be in neither!

Vote No. Ask your legislature to put "Equity" in the District Courts like the sponsors said they would do!

For more information call, Equal Justice For All (206) 938-0234.

Voters Pamphlet Statement Prepared by:

GENE GOOSMAN, Equal Justice For All; RAY TERNES, The Family Preservation Alliance; THOMAS SKELLY, The Family Preservation Alliance.

Advisory Committee: MARY GOOSMAN, Equal Justice For All; LYDIA SHAYER and JAMES E. SHAYER, SR., Overseer, Santiago Seafarers Society.



COMPLETE TEXT OF Substitute House Joint Resolution 4221

BE IT RESOLVED, BY THE SENATE AND THE 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 6 of the Constitution of the state of Washington to read as follows:

Article IV, section 6. The superior court shall have original jurisdiction (~~in all cases in equity and~~) in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three thousand dollars or as otherwise determined by law, or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts, and in all criminal cases amounting to felony, and in all cases of misdemeanor not

otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall always be open, except on nonjudicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days.

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.

ELECTION DAY AND VOTING

Where to vote:

At your precinct's polling place. The name and number are on your registration card and the location is published in the newspaper sometime the week before the election. You may also call your county auditor.

When to vote:

Polls are open from 7:00 a.m. to 8:00 p.m.

How to vote:

Three methods of voting are used in Washington State: punchcard, lever machine, and paper ballot. Each county uses one or a combination of these methods. If you need assistance, you may ask an election worker to explain how to use your county's voting device or ballot.

Absentee voting:

1. **Regular Absentee Ballot:** If you cannot vote in person, you may vote by absentee ballot. You may request an absentee ballot, either in person or by mail, as early as 45 days before the election, but no later than the day before the election.

Exception: If you are confined to the hospital and were admitted no earlier than five days before the election, you may

apply for an absentee ballot up to and including the day of the election.

2. **Service Absentee Ballot:** Members of the military service may apply for an absentee ballot at any time. Such service voters will be mailed an absentee ballot for the next primary or general election, or special election to be held subsequent to the date of application.

3. **Special Absentee Ballot:** A voter who is working outside the continental United States and will be unable to return a regular absentee ballot by normal mail delivery may apply for a **special absentee ballot** 90 days before the primary or general election. The special absentee ballot will contain the offices and measures, if known, scheduled to appear on the ballot. The county auditor will include a list of candidates who have filed and a list of any issues that have been referred to the ballot before the application was filed.

The voter may use the special absentee ballot to write in the name of an eligible candidate for each office and vote on any measure.

4. **Ongoing Absentee Ballot:** If you are a disabled person or a person over the age of 65, you may apply for status as an ongoing absentee voter. This will entitle you to automatically receive an absentee ballot for each subsequent election through January of the next odd-numbered year. At that time, the county auditor will automatically notify you and permit you to renew your status as an ongoing absentee voter. Contact the county auditor for an application.