



ENGROSSED SENATE JOINT RESOLUTION 8208

PROPOSED CONSTITUTIONAL AMENDMENT

Vote cast by the 2001 Legislature on final passage:

Senate: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

House: Yeas, 91; Nays, 5; Absent, 2; Excused, 0.

Official Ballot Title:

The Legislature has proposed a constitutional amendment on the use of temporary superior court judges (judges pro tempore). This amendment would allow superior courts to bring in elected Washington judges from other court levels to hear cases on a temporary basis, subject to certain restrictions, as implemented by supreme court rules.

Should this constitutional amendment be:

Approved [] Rejected []

Note: The ballot title and explanatory statement were written by the Attorney General as required by law. The complete text of Engrossed Senate Joint Resolution 8208 begins on page 20.

Argument For

COURT CONGESTION COSTS US ALL TIME AND MONEY

Court cases take too long and cost too much. That's bad for taxpayers and bad for those seeking justice in Washington courts. ESJR 8208 addresses these concerns.

JUSTICE DELAYED IS JUSTICE DENIED

Court congestion is a problem. When cases come up for a hearing, superior court judges are often unavailable because they are already busy hearing other cases. As a result, cases have to be postponed.

Postponement of civil cases is a costly inconvenience. And postponement of criminal cases may result in dismissal of all charges because the "speedy trial" rule requires criminal cases to be heard within 60 or 90 days.

ESJR 8208 PROVIDES MORE JUDGES WHERE AND WHEN WE NEED THEM – AT NO ADDITIONAL COST

ESJR 8208 provides a common-sense alternative to relieve court congestion, makes efficient use of judges and courtrooms, and saves tax dollars.

ESJR 8208 simply allows superior courts to use elected Washington judges from other court levels to hear cases on a temporary basis as needed. The result – more effective use of existing judges at no additional cost to taxpayers.

VOTE "YES" ON ESJR 8208

Judges, lawyers, prosecutors, legislators, concerned citizens, business and civic leaders throughout the state support this sensible approach to making our courts more efficient and getting cases heard on time. Please vote "yes" on ESJR 8208!

Rebuttal of Argument Against

Don't be misled by the opposition statement. With ESJR 8208, only an elected judge can be assigned to a case. And each side can reject up to two assigned judges. ESJR 8208 also requires that judges have demonstrated ability and experience.

These judges will be used when cases would otherwise be delayed or dismissed – an expensive and unjust result.

Without additional cost to taxpayers, this proposal improves court efficiency. Vote yes on ESJR 8208.

Voters Pamphlet Argument Prepared by:

GERRY L. ALEXANDER, Chief Justice, Washington Supreme Court; JAN ERIC PETERSON, President, Washington State Bar Association; ADAM KLINE, State Senator; IDA BALLASIOTES, State Representative; STEPHEN JOHNSON, State Senator; PATRICIA LANTZ, State Representative.

The constitutional provision as it presently exists:

Article IV, section 7 of the state Constitution now defines who can serve as a judge to hear cases in state superior court. Cases are ordinarily heard by the judges elected to serve the county in which the case is filed. A visiting superior court judge from another county may hear a case at the request of the presiding judge in the “host” county, or at the request of the governor.

A case may also be heard by a temporary judge (“judge pro tempore”) who may be a judge from another court level, a lawyer who is a member of the Washington state bar, or a retired judge. Under the existing constitutional language, a temporary judge may serve only with the written agreement of all parties to the case, except that a retiring judge may continue, after retiring, to complete a pending case as a judge pro tempore without written agreement.

The effect of the proposed amendment, if it is approved:

The proposed amendment would permit the expanded use of temporary judges. The amendment would permit the use of an elected Washington judge from another court level (such as an appellate court, or district or other local court) to hear superior court cases as a judge pro tempore without the agreement of the parties, as allowed by a new supreme court rule. The amendment would require that judges be assigned to cases based on their experience. A party to a case would have the right to one change of temporary judge, in addition to a similar right available under current law.

The amendment would not change the provision requiring the agreement of the parties for a lawyer or retired judge to serve as a judge pro tempore, or the provision allowing a retired judge to complete pending cases.

Argument Against

ESJR 8208 MAKES IT HARDER TO GET RID OF BAD JUDGES

“We, The People” have a right to elect judges from the communities we live in and in which they serve. This is an important right because those we elect sit in judgment over our lives, property and freedoms. This right ensures judges we may face in court someday live in our midst and share our values. Thus we elect judges who are accountable directly to us. If they prove to be incompetent, if they show favoritism, or if they are corrupt we can vote them out at the next election.

ESJR 8208 TAKES AWAY OUR CONSTITUTIONAL RIGHTS

“Pro tempore” judges are “judges” who are appointed temporarily to hear cases. Most “pro tem” judges are attorneys who have never been elected by the people. Currently, our state constitution provides that a case in the superior court may be tried by a “judge pro tempore” but only if the parties before the court agree in writing. This protects the parties and gives them the right to choose a capable and fair person to be their judge.

ESJR 8208 RESTRICTS ACCOUNTABILITY TO VOTERS

This is a bad referendum. Even though it attempts to provide some protections, it still allows a judge pro tem ultimately to be appointed even if the parties strongly oppose the person being appointed. This person may not be elected from the area in which the parties live and therefore is wholly unaccountable to the voters. The people should maintain their control over who their judges will be.

It is difficult enough now to remove bad judges who sit on the courts.

PLEASE VOTE “NO” ON ESJR 8208

Rebuttal of Argument For

Most people know how frustrating the legal system is – from attorneys who don’t return phone calls to judges who don’t spend enough time in the courtroom. These are things that clog the system and waste taxpayer money.

Inefficiencies and incompetency aren’t solved by bringing in judges who aren’t accountable to the people. ESJR-8208 only enhances the same “good-old-boy” network – with all its problems – at our expense.

Protect your right to elect judges. Please vote “No.”

Voters Pamphlet Argument Prepared by:

JOYCE MULLIKEN, State Representative, 13th District; VAL STEVENS, State Senator, 39th District; DON BENTON, State Senator, 17th District.



COMPLETE TEXT OF Initiative Measure 775 (cont.)

accordance with the plan of care.

(3) Each area agency on aging shall retain a record of each waiver of services included in a plan of care under this section.

(4) Each consumer has the right to direct and participate in the development of their plan of care to the maximum practicable extent of their abilities and desires, and to be provided with the time and support necessary to facilitate that participation.

(5) A copy of the plan of care must be distributed to the consumer's primary care provider, individual provider, and other relevant providers with whom the consumer has frequent contact, as authorized by the consumer.

(6) The consumer's plan of care shall be an attachment to the contract between the department, or their designee, and the individual provider.

(7) If the department or area agency on aging case manager finds that an individual provider's inadequate performance or inability to deliver quality care is jeopardizing the health, safety, or well-being of a consumer receiving service under this section, the department or the area agency on aging may take action to terminate the contract between the department and the individual provider. If the department or the area agency on aging has a reasonable, good faith belief that the health, safety, or well-being of a consumer is in imminent jeopardy, the department or area agency on aging may summarily suspend the contract pending a fair hearing. The consumer may request a fair hearing to contest the planned action of the case manager, as provided in chapter 34.05 RCW. When the department or area agency on aging terminates or summarily suspends a contract under this subsection, it must provide oral and written notice of the action taken to the authority. The department may by rule adopt guidelines for implementing this subsection.

(8) The department or area agency on aging may reject a request by a consumer receiving services under this section to have a family member or other person serve as his or her individual provider if the case manager has a reasonable, good faith belief that the family member or other person will be unable to appropriately meet the care needs of the consumer. The consumer may request a fair hearing to contest the decision of the case manager, as provided in chapter 34.05 RCW. The department may by rule adopt guidelines for implementing this subsection.

NEW SECTION. Sec. 12. In addition to the entities listed in RCW 41.56.020, this chapter applies to individual providers under sections 6 and 9 of this act.

NEW SECTION. Sec. 13. The authority established by this act is not subject to regulation for purposes of this chapter.

NEW SECTION. Sec. 14. The department must seek approval from the federal health care financing administration of any amendments to the existing state plan or waivers necessary to ensure federal financial participation in the provision of services to consumers under Title XIX of the federal social security act.

NEW SECTION. Sec. 15. CODIFICATION. Sections 1 through 9 of this act are each added to chapter 74.39A RCW. Section 12 of this act is added to chapter 41.56 RCW. Section 13 of this act is added to chapter 70.127 RCW. Section 14 of this act is added to chapter 74.09 RCW.

NEW SECTION. Sec. 16. CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 17. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.



COMPLETE TEXT OF Engrossed Senate Joint Resolution 8208

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 the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article IV, section 7 of the Constitution of the state of Washington to read as follows:

Article IV, section 7. The judge of any superior court may hold a superior court in any county at the request of the judge of the superior court thereof, and upon the request of the governor it shall be his or her duty to do so. A case in the superior court may be tried by a judge(;) pro tempore(~~(; who must be)~~) either with the agreement of the parties if the judge pro tempore is a member of the bar, is agreed upon in writing by the parties litigant(;) or their attorneys of record, and is approved by the court and sworn to try the case; or without the agreement of the parties if the judge pro tempore is a sitting elected judge and is acting as a judge pro tempore pursuant to supreme court rule. The supreme court rule must require assignments of judges pro tempore based on the judges' experience and must provide for the right, exercisable once during a case, to a change of judge pro tempore. Such right shall be in addition to any other right provided by law. However, if a previously elected judge of the superior court retires leaving a pending case in which the judge has made discretionary rulings, the judge is entitled to hear the pending case as a judge pro tempore without any written agreement.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this 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 4202

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 the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article XXIX, section 1 of the Constitution of the state of Washington to read as follows:

Article XXIX, section 1. Notwithstanding the provisions of sections 5, and 7 of Article VIII and section 9 of Article XII or any other section or article of the Constitution of the state of Washington, the moneys of any public pension or retirement fund, industrial insurance trust fund, (~~(or)~~) fund held in trust for the benefit of persons with developmental disabilities, or any other fund or account placed by law under the investment authority of the state investment board may be invested as authorized by law.

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