SENATE BILL 5353
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State of Washington   60th Legislature   2007 Regular Session

By Senators Kline, McCaslin, Swecker and Pridemore

Read first time 01/17/2007.   Referred to Committee on Judiciary.

1   AN ACT Relating to courts of limited jurisdiction; amending RCW
2   3.50.003, 3.50.005, 3.50.020, 3.50.040, 3.50.050, 3.50.057, 3.50.075,
3   3.50.805, 39.34.180, and 10.14.150; adding a new section to chapter
4   3.50 RCW; repealing RCW 3.50.055 and 3.50.070; providing an effective
5   date; and declaring an emergency.

6   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7   **Sec. 1.** RCW 3.50.003 and 1984 c 258 s 125 are each amended to read
8   as follows:
9   (("Mayor," as used in this chapter,)) (1) "City" means an
10   incorporated city or town.
11   (2) "Contracting city" means any city that contracts with a hosting
12   jurisdiction for the delivery of judicial services.
13   (3) "Mayor" means the chief administrative officer of the city.
14   (4) "Hosting jurisdiction" means a county or city designated in an
15   interlocal agreement as receiving compensation for providing judicial
16   services to a contracting city.

17   **Sec. 2.** RCW 3.50.005 and 1984 c 258 s 101 are each amended to read
18   as follows:

1 ((The legislature finds that there is a multitude of statutes
2 governing the municipal courts of the state. This situation is
3 confusing and misleading to attorneys, judges, court personnel, and
4 others who work with the municipal courts. The legislature therefore
5 finds that a reorganization of the municipal courts of the state would
6 allow those courts to operate in a more effective and efficient
7 manner)) The legislature finds that permitting cities to contract with
8 counties or other cities for judicial services will allow cities to
9 provide more cost-effective services and encourage the creation of
10 regional courts of limited jurisdiction that provide the full range of
11 judicial functions and that are open and accessible to the citizens of
12 the state of Washington. This chapter provides a court structure which
13 may be used by cities and towns with a population of four hundred
14 thousand or less which choose to operate under this chapter.

15   NEW SECTION. **Sec. 3.** A new section is added to chapter 3.50 RCW
16 to read as follows:
17   A city may meet the requirements of RCW 39.34.180 by entering into
18 an interlocal agreement with the county in which the city is located or
19 with one or more cities. The host jurisdiction in any such agreement
20 must be located within reasonable proximity to any contracting city or
21 cities. For purposes of this section, "reasonable proximity" shall be
22 determined after consideration of the factors set forth in RCW
23 39.34.010. The respective presiding judges from the host jurisdiction
24 and from any contracting city or cities shall be invited by the mayor
25 of each city and by any county to attend and participate in interlocal
26 agreement negotiations. The interlocal agreement shall provide that a
27 judge of the hosting jurisdiction sit as the municipal court judge for
28 the contracting city or cities and hear those cases specified in RCW
29 39.34.180.

30   **Sec. 4.** RCW 3.50.020 and 2005 c 282 s 14 are each amended to read
31 as follows:
32   The municipal court shall have exclusive original jurisdiction over
33 traffic infractions arising under city ordinances and exclusive
34 original criminal jurisdiction of all violations of city ordinances
35 duly adopted by the city ((in which the municipal court is located))
36 and shall have original jurisdiction of all other actions brought to

1   enforce or recover license penalties or forfeitures declared or given
2   by such ordinances or by state statutes. A hosting jurisdiction shall
3   have exclusive original criminal and other jurisdiction as described in
4   this section for all matters filed by a contracting city.   The
5   municipal court shall also have the jurisdiction as conferred by
6   statute. The municipal court is empowered to forfeit cash bail or bail
7   bonds and issue execution thereon; and in general to hear and determine
8   all causes, civil or criminal, including traffic infractions, arising
9   under such ordinances and to pronounce judgment in accordance
10   therewith. A municipal court participating in the program established
11   by the administrative office of the courts pursuant to RCW 2.56.160
12   shall have jurisdiction to take recognizance, approve bail, and arraign
13   defendants held within its jurisdiction on warrants issued by any court
14   of limited jurisdiction participating in the program.

15   **Sec. 5.** RCW 3.50.040 and 2002 c 136 s 2 are each amended to read
16   as follows:
17   Within thirty days after the effective date of the ordinance
18   creating the municipal court, the mayor of each city or town shall
19   appoint a municipal judge or judges of the municipal court ((for a term
20   of four years. The terms of judges serving on July 1, 1984, and
21   municipal judges who are appointed to terms commencing before January
22   1, 1986, shall expire January 1, 1986. The terms of their successors
23   shall commence on January 1, 1986, and on January 1 of each fourth year
24   thereafter, pursuant to appointment or election as provided in this
25   chapter. Appointments shall be made on or before December 1 of the
26   year next preceding the year in which the terms commence)) to serve
27   until January 1st of the year following the next election when other
28   city elected positions are normally elected.
29   The legislative authority of a city or town that has the general
30   power of confirmation over mayoral appointments shall have the power to
31   confirm the appointment of a municipal judge initially appointed under
32   this section.
33   A person appointed under this section as a full-time or part-time
34   municipal judge shall be a citizen of the United States of America and
35   a resident of the state of Washington; and an attorney admitted to
36   practice law before the courts of record of the state of Washington((:
37   PROVIDED, That in a municipality having a population less than five

1   ~~thousand persons, a person who has taken and passed by January 1, 2003,~~
2   ~~the qualifying examination for a lay candidate for judicial officer as~~
3   ~~provided by rule of the supreme court may be the judge. Any city or~~
4   ~~town shall have authority to appoint a district judge as its municipal~~
5   ~~judge when the municipal judge is not required to serve full time. In~~
6   ~~the event of the appointment of a district judge, the city or town~~
7   ~~shall pay a pro rata share of the salary~~)).

8   **Sec. 6.** RCW 3.50.050 and 1984 c 258 s 107 are each amended to read
9   as follows:
10   (1) The legislative authority of the city or town ((~~may~~)) <u>shall</u>, by
11 ordinance, provide ((~~that the position of municipal judge within the~~
12 ~~city or town shall be an elective position. The ordinance shall~~
13 ~~provide for the qualifications of the municipal judge which shall be~~
14 ~~the same as the qualifications necessary for the appointment thereof;~~
15 ~~and further, shall provide that the municipal judge shall be elected in~~
16 ~~the same manner as other elective city officials are elected to office,~~
17 ~~and that the term of the municipal judge shall be for a term of four~~
18 ~~years commencing on January 1, 1986, and every four years thereafter~~))
19 <u>for the number of full and part-time judges to be elected.</u>
20   <u>(2) Municipal court judge elections shall be held at the same time</u>
21 <u>as elections for other elected city offices.</u>
22   <u>(3) In cities or towns with more than one full or part-time judge</u>
23 <u>position, the county auditor or election official of the county, in</u>
24 <u>which the majority of city or town residents reside, shall, at least</u>
25 <u>ten days before the time of filing declarations of candidacy for the</u>
26 <u>election of municipal court judges, designate each such office of a</u>
27 <u>municipal court judge to be filled by a number, commencing with the</u>
28 <u>number one and numbering the remaining offices consecutively. At the</u>
29 <u>time of filing of the declaration of candidacy, each candidate shall</u>
30 <u>designate by number which one, and only one, of the numbered offices</u>
31 <u>for which he or she is a candidate. The name of the candidate shall</u>
32 <u>appear on the ballot for only the numbered office for which the</u>
33 <u>candidate filed a declaration of candidacy.</u>
34   <u>(4) Where a void in election or lapse of election occurs in a city</u>
35 <u>or town with a population of less than ten thousand, the filings for</u>
36 <u>office shall not be reopened and the mayor shall appoint a qualified</u>
37 <u>person to serve the entire term of office for the position for which</u>

the void in election or lapse of election occurred. The legislative
authority of a city or town that has the general power of confirmation
over mayoral appointments shall have the power to confirm the
appointment of a municipal judge appointed under this section.

(5) To be eligible to file a declaration of candidacy for and to
serve as a municipal court judge, a person must be a citizen of the
United States of America and a resident of the state of Washington, and
must be either:

(a) A lawyer admitted to practice law in the state of Washington;
or

(b) In those cities or towns having a population of less than five
thousand persons, a person who has taken and passed, by January 1,
2003, the qualifying examination for a lay candidate for judicial
officer as provided by rule of the supreme court.

(6) The terms of municipal court judges serving on July 1, 2006,
and municipal judges who are appointed to terms commencing before
January 1, 2010, shall expire January 1, 2010. The terms of their
successors shall commence on January 1, 2010, and on January 1st of
each fourth year thereafter, pursuant to appointment or election under
this chapter.

Sec. 7. RCW 3.50.057 and 1993 c 317 s 6 are each amended to read
as follows:

A judge of a municipal court need not be a resident of the city in
which the court is created, but must be a resident of the county in
which the city is located. In cities or towns where a court
commissioner has not been appointed and the municipal court is presided
over by a part-time judge, the judge need not be a resident of the city
or county in which the municipal court is created.

Sec. 8. RCW 3.50.075 and 1994 c 10 s 1 are each amended to read as
follows:

One or more court commissioners may be appointed by a judge of the
municipal court. Each commissioner holds office at the pleasure of the
appointing judge. A commissioner authorized to hear or dispose of
cases must be a lawyer who is admitted to practice law in the state of
Washington or a nonlawyer who has passed, by January 1, 2003, the

1 qualifying examination for lay judges for courts of limited
2 jurisdiction under RCW 3.34.060.

3   A commissioner need not be a resident of the city or of the county
4 in which the municipal court is created. ((When a court commissioner
5 has not been appointed and the municipal court is presided over by a
6 part-time appointed judge, the judge need not be a resident of the city
7 or of the county in which the municipal court is created.))

8   **Sec. 9.** RCW 3.50.805 and 2005 c 433 s 35 are each amended to read
9 as follows:
10   (1) A ((municipality)) city operating a municipal court under this
11 chapter shall not terminate that court or terminate an interlocal
12 agreement entered into under section 3 of this act unless the
13 ((municipality)) city has reached an agreement with the appropriate
14 county or another ((municipality)) city under chapter 39.34 RCW under
15 which the county or ((municipality)) city is to be paid a reasonable
16 amount for costs associated with prosecution, adjudication, and
17 sentencing in criminal cases, traffic infractions, or protective orders
18 as defined in RCW 39.34.180 that are filed in district or municipal
19 court as a result of the termination. The agreement shall provide for
20 periodic review and renewal of the terms of the agreement. If the
21 ((municipality)) city and the county or ((municipality)) city are
22 unable to agree on the terms for renewal of the agreement, they shall
23 be deemed to have entered into an agreement to submit the issue to
24 arbitration under chapter 7.04A RCW. Pending conclusion of the
25 arbitration proceeding, the terms of the agreement shall remain in
26 effect. The ((municipality)) city and the county or ((municipality))
27 city have the same rights and are subject to the same duties as other
28 parties who have agreed to submit to arbitration under chapter 7.04A
29 RCW. A ((municipality)) city that has entered into agreements with
30 other ((municipalities)) cities that have terminated their municipal
31 courts may not thereafter terminate its court unless each
32 ((municipality)) city has reached an agreement with the appropriate
33 county or city in accordance with this section.
34   (2) A ((municipality)) city operating a municipal court under this
35 chapter may not repeal in its entirety that portion of its municipal
36 code defining crimes while retaining the court's authority to hear and
37 determine traffic infractions under chapter 46.63 RCW unless the

1 ((municipality)) city has reached an agreement with the county under
2 chapter 39.34 RCW under which the county is to be paid a reasonable
3 amount for costs associated with prosecution, adjudication, and
4 sentencing in criminal cases, traffic infractions, or protective orders
5 as defined in RCW 39.34.180 that are filed in district court as a
6 result of the repeal. The agreement shall provide for periodic review
7 and renewal of the terms of the agreement. If the ((municipality))
8 city and the county are unable to agree on the terms for renewal of the
9 agreement, they shall be deemed to have entered into an agreement to
10 submit the issue to arbitration under chapter 7.04A RCW. Pending
11 conclusion of the arbitration proceeding, the terms of the agreement
12 shall remain in effect. The ((municipality)) city and the county have
13 the same rights and are subject to the same duties as other parties who
14 have agreed to submit to arbitration under chapter 7.04A RCW.

15   (3) A ((municipality)) city operating a municipal court under this
16 chapter may not repeal a provision of its municipal code which defines
17 a crime equivalent to an offense listed in RCW 46.63.020 unless the
18 ((municipality)) city has reached an agreement with the county under
19 chapter 39.34 RCW under which the county is to be paid a reasonable
20 amount for costs associated with prosecution, adjudication, and
21 sentencing in criminal cases, traffic infractions, or protective orders
22 as defined in RCW 39.34.180 that are filed in district court as a
23 result of the repeal. The agreement shall provide for periodic review
24 and renewal of the terms of the agreement. If the ((municipality))
25 city and the county are unable to agree on the terms for renewal of the
26 agreement, they shall be deemed to have entered into an agreement to
27 submit the issue to arbitration under chapter 7.04A RCW. Pending
28 conclusion of the arbitration proceeding, the terms of the agreement
29 shall remain in effect. The ((municipality)) city and the county have
30 the same rights and are subject to the same duties as other parties who
31 have agreed to submit to arbitration under chapter 7.04A RCW.

32   **Sec. 10.** RCW 39.34.180 and 2001 c 68 s 4 are each amended to read
33 as follows:
34   (1) Each county, city, and town is responsible for the prosecution,
35 adjudication, sentencing, and incarceration of misdemeanor and gross
36 misdemeanor offenses and traffic infractions committed by adults in
37 their respective jurisdictions, and referred from their respective law

1   enforcement agencies, whether filed under state law or city ordinance,
2   and for issuing and enforcing protective orders, and must carry out
3   these responsibilities through the use of their own courts, staff, and
4   facilities, or by entering into contracts or interlocal agreements
5   under this chapter to provide these services. Nothing in this section
6   is intended to alter the statutory responsibilities of each county for
7   the prosecution, adjudication, sentencing, and incarceration for not
8   more than one year of felony offenders, nor shall this section apply to
9   any offense initially filed by the prosecuting attorney as a felony
10 offense or an attempt to commit a felony offense. For purposes of this
11 section, a "protective order" is any domestic violence no-contact order
12 under chapter 10.99 RCW, domestic violence protection order under
13 chapter 26.50 RCW, antiharassment order under chapter 10.14 RCW, or
14 sexual assault protection order under chapter 7.90 RCW, over which a
15 district or municipal court has jurisdiction.
16   (2) The following principles must be followed in negotiating
17 interlocal agreements or contracts: Cities and counties must consider
18 (a) anticipated costs of services; and (b) anticipated and potential
19 revenues to fund the services, including fines and fees, criminal
20 justice funding, and state-authorized sales tax funding levied for
21 criminal justice purposes.
22   (3) If an agreement as to the levels of compensation within an
23 interlocal agreement or contract for gross misdemeanor and misdemeanor
24 services cannot be reached between ((a city and county)) the parties,
25 then either party may invoke binding arbitration on the compensation
26 issued by notice to the other party. In the case of establishing
27 initial compensation, the notice shall request arbitration within
28 thirty days. In the case of nonrenewal of an existing contract or
29 interlocal agreement, the notice must be given one hundred twenty days
30 prior to the expiration of the existing contract or agreement and the
31 existing contract or agreement remains in effect until a new agreement
32 is reached or until an arbitration award on the matter of fees is made.
33 The ((city and county)) parties each select one arbitrator, and the
34 initial two arbitrators pick a third arbitrator.
35   (4) A city or county that wishes to terminate an agreement for the
36 provision of court services must provide written notice of the intent
37 to terminate the agreement in accordance with RCW 3.50.810 and
38 35.20.010.

1   (5) For cities or towns that have not adopted, in whole or in part,
2   criminal code or ordinance provisions related to misdemeanor and gross
3   misdemeanor crimes as defined by state law, this section shall have no
4   application until July 1, 1998.

5   **Sec. 11.** RCW 10.14.150 and 2005 c 196 s 1 are each amended to read
6   as follows:
7   (1) The district courts shall have jurisdiction and cognizance of
8   any civil actions and proceedings brought under this chapter, except
9   the district court shall transfer such actions and proceedings to the
10 superior court when it is shown that the respondent to the petition is
11 under eighteen years of age.
12   (2) Municipal courts ((may exercise)) shall have jurisdiction and
13 cognizance of any civil actions and proceedings brought under this
14 chapter ((by adoption of local court rule)), except the municipal court
15 shall transfer such actions and proceedings to the superior court when
16 it is shown that the respondent to the petition is under eighteen years
17 of age.
18   (3) Superior courts shall have concurrent jurisdiction to receive
19 transfer of antiharassment petitions in cases where a district or
20 municipal court judge makes findings of fact and conclusions of law
21 showing that meritorious reasons exist for the transfer. The municipal
22 and district courts shall have jurisdiction and cognizance of any
23 criminal actions brought under RCW 10.14.120 and 10.14.170.

24   NEW SECTION. **Sec. 12.** The following acts or parts of acts are
25 each repealed:
26   (1) RCW 3.50.055 (Judicial positions--Filling--Circumstances
27 permitted) and 1993 c 317 s 4; and
28   (2) RCW 3.50.070 (Additional judges--Appointment, election) and
29 1984 c 258 s 109 & 1961 c 299 s 56.

30   NEW SECTION. **Sec. 13.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 July 1, 2007.

--- **END** ---