

the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 13, 1980.

Passed the House March 12, 1980.

Approved by the Governor April 4, 1980.

Filed in Office of Secretary of State April 4, 1980.

CHAPTER 183

[Substitute Senate Bill No. 3207]

KING COUNTY SUPERIOR COURT JUDGES

AN ACT Relating to superior court judges; and amending section 3, chapter 125, Laws of 1951 as last amended by section 1, chapter 202, Laws of 1979 ex. sess. and RCW 2.08.061.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 125, Laws of 1951 as last amended by section 1, chapter 202, Laws of 1979 ex. sess. and RCW 2.08.061 are each amended to read as follows:

There shall be in the county of King (~~thirty-four~~) no more than thirty-nine judges of the superior court; in the county of Spokane ten judges of the superior court; in the county of Pierce thirteen judges of the superior court: **PROVIDED**, That the additional offices herein created for the county of Pierce shall be effective January 1, 1981: **PROVIDED FURTHER**, That the additional judicial positions created by the 1980 amendment of this section for the county of King shall become effective only if prior to July 1, 1980, the county through its duly constituted legislative authority has documented its approval thereof and has agreed to pay out of county funds without reimbursement from the state, the same portion of all expenses of such additional positions as it provides for the positions presently existing, in which case such positions shall become effective on January 1, 1981, **and shall be filled by persons elected and qualified at the general election immediately preceding January 1, 1981, and in which case the secretary of state and appropriate county election officials shall accept declarations of candidacy for such positions during the filing period specified by RCW 29.18.030.*

*Section 1 was partially vetoed, see message at end of chapter.

Passed the Senate March 13, 1980.

Passed the House March 12, 1980.

Approved by the Governor April 4, 1980, with the exception of the following: Beginning with and including the word "and" on line 22 and continuing to and including "RCW 29.18.030." on line 27 which is vetoed.

Filed in Office of Secretary of State April 4, 1980.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to part of Substitute Senate Bill No. 3207 entitled:

"AN ACT Relating to superior court judges."

Substitute Senate Bill No. 3207 creates five additional superior court judgeships in King County which have been made dependent upon county approval. I have no problem with the creation of the judgeships or the county approval conditions. However, the last five lines of the bill, added as a House amendment to the original Senate bill, provide an elective procedure for the selection of judges to the newly created positions. I cannot support this provision for the reason that such procedure destroys the Governor's historic right to appoint judges to the newly created positions.

The State Supreme Court in Fain v Chapman 89 Wn.2d 48, 569 P.2d 1135 (1977) said the following about new judgeships:

"The provisions of Article 4, Section 5 of the constitution provide the framework within which newly created judgeships must be filled. The applicable provision provides:

If a vacancy occurs in the office of judge of the superior court, the governor shall appoint a person to hold the office until the election and qualification of the judge to fill the vacancy, which election shall be at the next succeeding general election."

Since the governor has had this power in the past I am bound by the commands of my office to protect this historic authority so that it may remain a viable power for this and subsequent administrations.

I have given due consideration to the technical issue involved with this veto and am satisfied that the veto is within my authority. The issue that I mention is of course veto of less than a physical section. During the 1979 legislative session, a similar bill creating new judgeships was passed. It also provided for election procedures but the procedures were set out in a separate section. There was no question, at that time that I could separately veto the election procedures without invalidating the whole bill. There is no substantive change in the circumstances this time. Although the election procedures and judgeships creation have been placed together within one physical section, the subject matters remain separable. The State Supreme Court in Apartment Ass'ns v Evans 88 Wn.2d 563, 564 P.2d 788 (1977) indicates that as long as the subject matter is separable, a veto may affect one part without the other.

For these reasons, I have determined to veto the last five lines of Substitute Senate Bill No. 3207."

CHAPTER 184

[Engrossed Substitute Senate Bill No. 3636]

NURSING HOME STANDARDS—APPROPRIATION

AN ACT Relating to nursing homes; amending section 63, chapter 211, Laws of 1979, 1st ex. sess. and RCW 18.51.091; amending section 6, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.210; amending section 9, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.290; amending section 1, chapter 244, Laws of 1977 ex. sess. as amended by section 67, chapter 211, Laws of 1979 ex. sess. and RCW 18.51.310; amending section 4, chapter 260, Laws of 1977 ex. sess. and RCW 74.09.580; amending section 2, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.020; amending section 15, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.150; amending section 20, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.200; amending section 22, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.220; amending section 31, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.310; amending section 34, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.340; amending section 43, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.430; amending section 49, chapter 211, Laws of 1979 ex. sess. and RCW 74.42.490; amending section 57, chapter