

Public Hearing

before

ASSEMBLY JUDICIARY COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION No. 81

*(Proposes constitutional amendment removing gubernatorial
appointment of certain municipal court judges)*

LOCATION: Committee Room 12
State House Annex
Trenton, New Jersey

DATE: December 12, 2011
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Peter J. Barnes III, Chair
Assemblywoman Annette Quijano, Vice Chair
Assemblyman Ralph R. Caputo
Assemblyman Louis D. Greenwald
Assemblyman Michael Patrick Carroll



ALSO PRESENT:

Rafaela Garcia
Miriam Bavati
*Office of Legislative Services
Committee Aides*

Kate McDonnell
*Assembly Majority
Committee Aide*

John Cascarano
*Assembly Republican
Committee Aide*

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey



PETER J. BARNES, III
Chair

ANNETTE QUIJANO
Vice-Chair

RALPH CAPUTO
LOUIS GREENWALD
REED GUSCORA
MICHAEL PATRICK CARROLL
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New Jersey State Legislature
ASSEMBLY JUDICIARY COMMITTEE
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PUBLIC HEARING NOTICE

The Assembly Judiciary Committee will hold a public hearing on Monday, December 12, 2011 at 10:00 AM in Committee Room 12, 4th Floor, State House Annex, Trenton, New Jersey.

The public may address comments and questions to Rafaela Garcia, Miriam Bavati, Committee Aides, or make bill status and scheduling inquiries to Miriam Torres, Secretary, at (609)847-3865, fax (609)292-6510, or e-mail: OLSAideAJU@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The public hearing will be held in accordance with Article IX, paragraph 1 and Rule 19:3 of the New Jersey General Assembly on the following Assembly Concurrent Resolution:

ACR-81 (1R)
Wisniewski/Malone/
Watson Coleman/
Burzichelli/
Lampitt/Greenwald

Proposes constitutional amendment removing gubernatorial appointment of certain municipal court judges.

Issued 12/2/11

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ASSEMBLYMAN PETER J. BARNES III (Chair): The last order of business for today is a public hearing on ACR-81. It proposes a constitutional amendment removing gubernatorial appointment of certain municipal court judges.

We have one person, Lori Buckelew from the League of Municipalities, in favor; no need to testify. But we have one person who would like to testify: Dan Phillips from the AOC.

ASSEMBLYMAN CARROLL: Mr. Chairman, if I am wrong, this is just a hearing; it's not a vote (indiscernible).

ASSEMBLYMAN BARNES: Correct, sir.

ASSEMBLYMAN CARROLL: Thank you.

DANIEL PHILLIPS: Good morning.

Dan Phillips, from the Administrative Office of the Courts.

I'd just like to take the opportunity to make the Committee aware of what the issues are surrounding this Assembly Concurrent Resolution.

In our justice system we have different forms of courts. We have, of course, the Supreme Court, we have the Superior Court, we have the Statutory Tax Court, and we have courts of inferior jurisdiction which handle the largest volume of our cases -- about 6 million a year -- which are our municipal courts. They're very important components of our court system. As I've told this Committee before, they handle indictable offenses, traffic matters, penalty enforcement actions, ordinance violations. They're very, very important courts. The Superior Court could come nowhere close to handling the volume of cases they handle.

The judges in those courts are, of course, appointed -- in most of those courts are appointed by the municipal governing body. The judges serve for three-year terms and are paid by the municipalities. The exception to that is special forms of court, which is a joint court. And pursuant to our Constitution Article 6, paragraph -- Section 6, paragraph 1, the Governor appoints all the judges and justices. But when there is an inferior court that has jurisdiction extending into more than one municipality, the Governor has to nominate and appoint, with the advice and consent of the Senate, those judges. And those judges, as I said, are mostly judges within what we call *joint courts*. There are different forms of municipal courts. We have 526 municipal courts at the present time.

Under Title 2b, municipalities can share courts, and they can also form joint courts. A shared court, to give you an example, would be if you had Court A and Court B deciding to share a facility. They would retain their identity as Court A and Court B, but they would share a building, and they would save some money by sharing that building. In a joint court we would have, perhaps, Courts A, B, and C forming Court D. They'd lose their individual identities and form a new court. And as far as the savings go from doing that, the savings are far greater in a joint court because you're forming one court and sharing everything. You're sharing letterhead, you're sharing computers, you're sharing a judge, you're sharing a building. It's much more efficient than a shared court.

The other issue we see within the Administrative Office of the Courts with the shared courts is that once we have more than two courts, it becomes a little unwieldy to share because it's very complicated to share a

facility or share a judge when we have more than one court. And the joint court offers a better option in many courts.

The issue that ACR-81 is trying to resolve is whether courts would be more -- municipalities would be encouraged to consolidate more, form more joint courts, if they had the authority to appoint their judges. As I said, they -- the judges still are municipal employees, they are still appointed; they're still paid by the municipalities, but the Governor has the authority to appoint them.

Anecdotally, when municipalities contact us about consolidating courts -- and, again, that's a local decision, that's not a State decision -- we do a system, and we aid them in doing that, and the Supreme Court has to approve it. But it's their decision to create a shared or joint court.

We have, anecdotally, heard from a number of court administrators and mayors that were considering doing this, and they're considering forming a joint court with other municipalities. When we tell them that the appointment of the judge is within the Governor's purview, they back off and, perhaps, form a shared court.

So the ACR is an attempt to encourage more consolidation. I can't say whether that would happen or not, but it would, of course, facilitate the development of more joint courts, which are more efficient than shared courts.

In the past, governors have been reticent to appoint these judges for some reason or another. We have never been able to find out why. In the Christie Administration, they have -- it's been a little bit different. They have appointed 17-- By the way, there are currently --

there's presently 21 joint courts, and we have 46 shared courts around the state. But Governor Christie has taken the bull by the horns on this one and he has appointed, I believe, 17 of the judges, which is unfounded in recent history, and he has two appointments pending. But the past history has been that these appointments of the joint municipal court judges have been -- the judges have not been reappointed or appointed after their terms have ended. And what that causes is the assignment judge to extend those appointments under an emergency clause within our statute, and we don't like to see that. That's a constitutional responsibility of the Governor and the Legislature, and we would prefer that they would do that rather than extending those judgeships.

So this ACR would put the hands of the judicial appointments back in the municipalities' power and, perhaps, encourage more joint courts around the state. So that's what the ACR is about.

And I'd be happy to answer any questions.

ASSEMBLYMAN BARNES: Any questions? (no response)

Mr. Phillips, thank you very much for testifying today.

MR. PHILLIPS: You're welcome.

ASSEMBLYMAN BARNES: I believe that is the end of our business for today.

May we have a motion to adjourn?

ASSEMBLYWOMAN QUIJANO: Motion to adjourn.

ASSEMBLYMAN BARNES: All in favor? (affirmative responses)

Thank you.

(HEARING CONCLUDED)

APPENDIX



NEW JERSEY STATE BAR ASSOCIATION

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NEW JERSEY STATE BAR ASSOCIATION POSITION ON ACR-81 WHICH PROPOSES A CONSTITUTIONAL AMENDMENT REMOVING GUBERNATORIAL APPOINTMENT OF CERTAIN MUNICIPAL COURT JUDGES

The New Jersey State Bar Association supports ACR-81 (Wisniewski), which proposes a constitutional amendment to remove gubernatorial appointment of certain municipal court judges.

The NJSBA's Board of Trustees and Legislative Committee voted to support this constitutional amendment because we believe that it will streamline court administration in New Jersey's municipal courts. First, the bill will provide a process to appoint inter-municipal court judges which takes into account the concerns of the municipalities. This could have the impact of getting municipal court judges appointed more quickly. Second, given recent efforts to regionalize municipal services, this constitutional amendment allows municipalities to retain the judicial appointment authority that they have with a single municipal court in an inter-municipal court situation. We firmly believe that New Jersey voters rejected this legislation because they did not understand how the legislation would benefit their communities by promoting the consolidation of services while allowing municipalities to continue to provide input into the jurist selected to hear municipal court matters.

Again, the NJSBA supports ACR-81 for the reason above. For further information or questions on this matter please contact D. Todd Sidor at (732) 937-7544 or tsidor@njsba.com.