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Bill Analysis
Legislative Service Commission

H.B. 198

123rd General Assembly
(As Introduced)

**Reps. Trakas, Jerse, DePiero, Taylor, Hollister, Olman, Barrett, Terwilleger,
Padgett, Netzley**

BILL SUMMARY

- Increases from six to ten years the length of time a person must have practiced law in Ohio, served as a judge of a court of record in any United States jurisdiction, or both, before being qualified to be the Chief Justice or a justice of the Supreme Court or a judge of a court of appeals or court of common pleas.
- Permits the electors of a county with a population of less than 250,000 to vote at a special election to require instead that the county's court of common pleas judges have at least six years prior practice of law experience.

CONTENT AND OPERATION

Increase in the amount of prior legal practice required of certain judges

Current law

Under current law, the Chief Justice and each justice of the Supreme Court, each judge of a court of appeals, and each judge of a court of common pleas must have been admitted to practice as an attorney at law in Ohio and, for a total of at least *six years* preceding the person's appointment or the commencement of the person's term, must have engaged in the practice of law in Ohio or served as a judge of a court of record in any jurisdiction in the United States, or both. Current law also specifically requires that each judge of the Cuyahoga County Juvenile Court must have been admitted to practice as an attorney at law in Ohio for a period of at least six years immediately preceding the judge's appointment or the commencement of the judge's term. (Secs. 2153.02, 2301.01, 2501.02, and 2503.01.)

Changes proposed by the bill

The bill generally increases from six to *ten years* the amount of prior legal practice in Ohio, prior judicial service on any U.S. court of record, or both, as described in the immediately preceding paragraph, that is required of the justices and judges of the Supreme Court, the courts of appeals, and the courts of common pleas. The bill, however, provides that this ten-year practice or judicial service requirement does *not* apply to the Chief Justice, a justice, or a judge who is holding office on the bill's effective date and who subsequently is a candidate for that office.¹ (Secs. 2153.02, 2301.01, 2501.02, and 2503.01.) The bill also specifies that, if the electors of a county that has a population of less than 250,000 decide in an election held under the bill (see "**Elections on amount of prior legal practice required of court of common pleas judges in counties of less than 250,000,**" below) that judges of the court of common pleas of that county should be required to have at least six years of practice as an attorney at law prior to their election or appointment, the ten-year practice requirement does not apply to judges of the court of common pleas of that county, and these judges instead must have at least six years of practice as an attorney at law prior to their election or appointment (secs. 2301.01, 2301.07(D), and 2301.08(B), first paragraph).

Elections on amount of prior legal practice required of court of common pleas judges in counties of less than 250,000

Original election

Under the bill, whenever 10% of the number of electors voting for Governor at the most recent election in any county that has a population of less than 250,000 petition a judge of the court of common pleas of that county, not less than 75 days before any general election for county officers, for the submission to the electors of that county of the question of whether each judge of the court of common pleas of that county should be required to have at least six years of practice as an attorney at law prior to the judge's election or appointment, the judge with whom the petition is filed must place upon the journal of the court an order requiring the sheriff to make a proclamation that at the next general election this question will be submitted to the electors. Upon receipt of the petition, the judge also must deposit it with the clerk of the court. After the order is placed upon the court's journal, the clerk of the court must make and deliver a certified copy of the

¹ *The bill appears to use the phrase "the ten-year practice requirement" in two different ways: (1) to mean ten years practice as an attorney at law in Ohio, judicial service on any U.S. court of record, or both, and (2) to mean only ten years practice as an attorney at law in Ohio.*

order to the sheriff, and the sheriff must include notice of the submission of that question in the sheriff's proclamation of election for the next general election. (Sec. 2301.06(A) and (B).)

Each elector signing the petition must sign in the elector's own handwriting, unless the elector cannot write and the elector's signature is made by mark, and must add to the petition the township, precinct, or ward of which the elector is a resident. The petition may consist of one or more petition papers as are convenient. One of the signers to each separate petition paper must swear before an officer qualified to administer the oath that the petition is bona fide to the best of the signer's knowledge and belief. The oath must be part of or attached to the separate petition paper. (Sec. 2301.06(B).)

The bill prohibits any person from taking a signature from or adding it to a petition after it has been filed with the judge. After a petition is filed, all of the following apply: (1) the clerk must preserve the petition and make it available for public inspection, (2) if the petition conforms to the bill's requirements, it is considered to be valid unless a county elector makes a written objection to the petition within five days after the petition is filed with the judge, (3) the judge with whom the petition is filed must determine the validity of any objection filed with respect to the petition and any other questions arising in the course of the submission of the question, and (4) the judge's decision on the validity of the objections and other questions is final. (Sec. 2301.06(C).)

The election must be conducted as provided for the election of county officers, and the board of elections must provide separate ballots, ballot boxes, tally sheets, blanks, stationery, and all other supplies that may be necessary in the conduct of the election (sec. 2301.07(A)).

The ballots for the election must be printed with an "affirmative and negative" statement on the ballots as follows: (1) "Each judge of the court of common pleas shall be required to have at least six years of practice as an attorney at law prior to the judge's election or appointment" and (2) "Each judge of the court of common pleas shall be required to have at least ten years of practice as an attorney at law prior to the judge's election or appointment." The returns of the election must be made and canvassed at the same time and in the same manner as an election for county officers. The board of elections must certify the result of the election to the Secretary of State and the court of common pleas, and the result must be spread upon the court's journal. (Sec. 2301.07(B) and (C).)

Subsequent election

After the passage of three years from the date of the prior election on the length of legal practice required of a court of common pleas judge, the electors of the county that held the election may petition for another election on *one of the questions* described in the immediately preceding paragraph. The procedures for petitioning for the election and conducting it generally are the same as for the prior election. If the prior election did not result in a requirement that the court of common pleas judges must have at least six years of practice as an attorney at law prior to election or appointment, the question to be presented is whether each judge of the court must have at least six years of that practice prior to election or appointment.² If the prior election resulted in a requirement that the court of common pleas judges must have at least six years of practice as an attorney at law prior to election or appointment, the question to be presented is whether each judge of the court must have at least ten years of that practice prior to election or appointment. (Sec. 2301.08(A).)

If a subsequent election is held and if the results of the election require each judge to have at least ten years prior legal practice, this requirement applies to the judges of that court, except that the requirement does *not* apply to a judge who is holding office on the day of the subsequent election and who subsequently is a candidate for that office (sec. 2301.08(B)).

Increase in county population to 250,000 or more

If an election is held in a county on the question of the court of common pleas judges, if the election requires a judge to have at least six years of legal practice before appointment or election, if a subsequent decennial federal census shows that the county has a population of 250,000 or more, if the Secretary of State certifies this fact to the court of common pleas, and if it is entered upon the court's journal, the court's judges thereafter must have at least ten years legal practice before their appointment or election. This ten-year requirement, however, does *not* apply to a judge who is holding office on the day of the Secretary of State's certification and who subsequently is a candidate for that office (sec. 2301.09).

² Thus, the prior election resulted in the continued application of the statutory "10 year practice requirement."

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-17-99	p. 215

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