

## Elect justices by district; give Eastern Washington a voice

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By Jason Mercier

Now that the 2014 election is in the books, we know that only one of the nine justices on the state Supreme Court will be from Eastern Washington, Justice Debra Stephens. Had she not won her election, all of the state's Supreme Court justices would be from the Puget Sound region.

When a vacancy recently came open on the court, several newspapers called on Gov. Inslee to bring more regional balance to the court and select a justice from Eastern Washington. Instead he appointed Justice Mary Yu from King County.

In recent years, any Supreme Court Justices from Eastern Washington have gotten their start on the court via an appointment. Justice Stephens was appointed by Gov. Gregoire and the last justice prior to her, Justice Richard P. Guy was appointed by Gov. Gardner.

Under the current system, all of the state Supreme Court justices are elected statewide. This increases the costs of these races and realistically means that most challengers hail from the Puget Sound. Is this the best way to provide geographic and cultural sensitivity on the state Supreme Court?

Another approach would be to elect the State Supreme Court based on broad regional districts, like several other states do. Whether by direct election or via retention votes, Supreme Court Justices are elected by districts in the following states: Florida, Illinois, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, Oklahoma, South Dakota and Tennessee.

Washington could follow the examples of these states and base our districts on the state's three appellate divisions. People living in each district would then elect three justices from within the boundaries of the district. This would mean that Eastern Washington we have three justices while Western Washington would have the remaining six, which roughly reflects the population distribution in our state. Making the switch to district based elections would require a constitutional amendment since under Article 4, Section 3 of the state Constitution justices are to be elected at-large statewide.

This reform would provide more geographic diversity and allow for more targeted races to help reduce the cost of running, while providing candidates more time to focus on voter outreach, debates and forums within the boundary of their district.

Electing justices by district even when population isn't exactly equally distributed has been upheld by the U.S. Supreme Court as a constitutional way to elect judges. The reason for this is that Justices are not representatives in the traditional sense like lawmakers are. As noted by the U.S. Supreme Court: "Judges do not represent people,

they serve people. Thus, the rationale behind the one-man, one-vote principle, which evolved out of efforts to preserve a truly representative form of government, is simply not relevant to the makeup of the judiciary.”

Although justices are not representatives, but instead are charged with making impartial decisions based on matters of law, the life experiences of those that serve us on the court are important in helping them make their decisions. This is why along with the court having diversity of gender and ethnicity among its ranks it should also have diversity of geography and cultural experiences from across the state.

As noted by Gov. Gregoire when she appointed Stephens:

“She is the first person from Division 3 to be elevated to the high court. I’m pleased that such an outstanding person as Judge Stephens also happens to be from Eastern Washington which brings geographic diversity to the court ... . The last Justice from Eastern Washington to serve on this high court was Justice Richard Guy who retired in the year 2000. An appointment from Eastern Washington really fundamentally lets our citizens know that we are one Washington and that people in Eastern Washington are represented on this court as well. So to them I say your geographic diversity is now well represented on this court.”

Gregoire also told the Seattle Times:

“People in Eastern Washington feel that there ought to be some representation on the high court.”

Former Supreme Court Justice Guy agreed:

“It is very important that the Washington State Supreme Court have the diversity of viewpoint that a justice from Eastern Washington brings to the bench. Important issues, including water rights, land development and the cleanup of Hanford, come before the court. Issues arising in employment and business cases require an understanding of the unique types of business activities that make the eastern part of our state great.”

By changing the way we elect Supreme Court Justices to district based election we work toward a court that is truly reflective of “One Washington” and not just the Puget Sound, while also facilitating more choices for voters, fewer cost barriers to running and increasing the opportunity for voter engagement.

As noted by former State Supreme Court Justice Jim Johnson, it is important that the votes needed for electing our Supreme Court Justices extend beyond the shadow of the Space Needle.