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SENATE JOINT RESOLUTION 8225

State of Washington 57th Legislature

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2002 Regular Session

By Senator Poulsen; by request of Board for Judicial Administration Read first time 01/22/2002. Referred to Committee on Judiciary.

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

3 THAT, At the next general election to be held in this state the 4 secretary of state shall submit to the qualified voters of the state 5 for their approval and ratification, or rejection, an amendment to 6 Article IV, section 31 of the Constitution of the state of Washington 7 to read as follows:

Article IV, section 31. (1) There shall be a commission on judicial conduct, existing as an independent agency of the judicial branch, and consisting of a judge selected by and from the court of appeals judges, a judge selected by and from the superior court judges, a judge selected by and from the ((district)) limited jurisdiction court judges, two persons admitted to the practice of law in this state selected by the state bar association, and six persons who are not attorneys appointed by the governor.

(2) Whenever the commission receives a complaint against a judge or justice, or otherwise has reason to believe that a judge or justice should be admonished, reprimanded, censured, suspended, removed, or retired, the commission shall first investigate the complaint or belief and then conduct initial proceedings for the purpose of determining whether probable cause exists for conducting a public hearing or

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- hearings to deal with the complaint or belief. The investigation and initial proceedings shall be confidential. Upon beginning an initial proceeding, the commission shall notify the judge or justice of the existence of and basis for the initial proceeding.
- 5 (3) Whenever the commission concludes, based on an initial proceeding, that there is probable cause to believe that a judge or 6 7 justice has violated a rule of judicial conduct or that the judge or 8 justice suffers from a disability which is permanent or likely to 9 become permanent and which seriously interferes with the performance of 10 judicial duties, the commission shall conduct a public hearing or hearings and shall make public all those records of the initial 11 proceeding that provide the basis for its conclusion. 12 commission concludes that there is not probable cause, it shall notify 13 the judge or justice of its conclusion. 14
- 15 (4) Upon the completion of the hearing or hearings, the commission in open session shall either dismiss the case, or shall admonish, 16 reprimand, or censure the judge or justice, or shall censure the judge 17 or justice and recommend to the supreme court the suspension or removal 18 19 of the judge or justice, or shall recommend to the supreme court the 20 retirement of the judge or justice. The commission may not recommend suspension or removal unless it censures the judge or justice for the 21 violation serving as the basis for the recommendation. The commission 22 may recommend retirement of a judge or justice for a disability which 23 24 is permanent or likely to become permanent and which seriously 25 interferes with the performance of judicial duties.
- 26 (5) Upon the recommendation of the commission, the supreme court may suspend, remove, or retire a judge or justice. The office of a 27 28 judge or justice retired or removed by the supreme court becomes 29 vacant, and that person is ineligible for judicial office until 30 eligibility is reinstated by the supreme court. The salary of a 31 removed judge or justice shall cease. The supreme court shall specify the effect upon salary when it suspends a judge or justice. 32 supreme court may not suspend, remove, or retire a judge or justice 33 34 until the commission, after notice and hearing, recommends that action 35 be taken, and the supreme court conducts a hearing, after notice, to review commission proceedings and findings against the judge or 36 37 justice.

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- 1 (6) Within thirty days after the commission admonishes, reprimands, 2 or censures a judge or justice, the judge or justice shall have a right 3 of appeal de novo to the supreme court.
- 4 (7) Any matter before the commission or supreme court may be disposed of by a stipulation entered into in a public proceeding. The stipulation shall be signed by the judge or justice and the commission or court. The stipulation may impose any terms and conditions deemed appropriate by the commission or court. A stipulation shall set forth all material facts relating to the proceeding and the conduct of the judge or justice.
- 11 (8) Whenever the commission adopts a recommendation that a judge or 12 justice be removed, the judge or justice shall be suspended 13 immediately, with salary, from his or her judicial position until a 14 final determination is made by the supreme court.
- 15 (9) The legislature shall provide for commissioners' terms of office and compensation. The commission shall employ one or more investigative officers with appropriate professional training and experience. The investigative officers of the commission shall report directly to the commission. The commission shall also employ such administrative or other staff as are necessary to manage the affairs of the commission.
- (10) The commission shall, to the extent that compliance does not conflict with this section, comply with laws of general applicability to state agencies with respect to rule-making procedures, and with respect to public notice of and attendance at commission proceedings other than initial proceedings. The commission shall establish rules of procedure for commission proceedings including due process and confidentiality of proceedings.
- BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

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