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**SENATE JOINT RESOLUTION 8209**

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**State of Washington                      58th Legislature                      2003 Regular Session**

**By** Senators Esser, Kline, Johnson, Thibaudeau, Eide, Brandland and Schmidt

Read first time 01/22/2003. Referred to Committee on Judiciary.

1            BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE  
2 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:

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

16            (2) Whenever the commission receives a complaint against a judge or  
17 justice, or otherwise has reason to believe that a judge or justice  
18 should be admonished, reprimanded, censured, suspended, removed, or  
19 retired, the commission shall first investigate the complaint or belief  
20 and then conduct initial proceedings for the purpose of determining

1 whether probable cause exists for conducting a public hearing or  
2 hearings to deal with the complaint or belief. The investigation and  
3 initial proceedings shall be confidential. Upon beginning an initial  
4 proceeding, the commission shall notify the judge or justice of the  
5 existence of and basis for the initial proceeding.

6 (3) Whenever the commission concludes, based on an initial  
7 proceeding, that there is probable cause to believe that a judge or  
8 justice has violated a rule of judicial conduct or that the judge or  
9 justice suffers from a disability which is permanent or likely to  
10 become permanent and which seriously interferes with the performance of  
11 judicial duties, the commission shall conduct a public hearing or  
12 hearings and shall make public all those records of the initial  
13 proceeding that provide the basis for its conclusion. If the  
14 commission concludes that there is not probable cause, it shall notify  
15 the judge or justice of its conclusion.

16 (4) Upon the completion of the hearing or hearings, the commission  
17 in open session shall either dismiss the case, or shall admonish,  
18 reprimand, or censure the judge or justice, or shall censure the judge  
19 or justice and recommend to the supreme court the suspension or removal  
20 of the judge or justice, or shall recommend to the supreme court the  
21 retirement of the judge or justice. The commission may not recommend  
22 suspension or removal unless it censures the judge or justice for the  
23 violation serving as the basis for the recommendation. The commission  
24 may recommend retirement of a judge or justice for a disability which  
25 is permanent or likely to become permanent and which seriously  
26 interferes with the performance of judicial duties.

27 (5) Upon the recommendation of the commission, the supreme court  
28 may suspend, remove, or retire a judge or justice. The office of a  
29 judge or justice retired or removed by the supreme court becomes  
30 vacant, and that person is ineligible for judicial office until  
31 eligibility is reinstated by the supreme court. The salary of a  
32 removed judge or justice shall cease. The supreme court shall specify  
33 the effect upon salary when it suspends a judge or justice. The  
34 supreme court may not suspend, remove, or retire a judge or justice  
35 until the commission, after notice and hearing, recommends that action  
36 be taken, and the supreme court conducts a hearing, after notice, to  
37 review commission proceedings and findings against the judge or  
38 justice.

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  
5 disposed of by a stipulation entered into in a public proceeding. The  
6 stipulation shall be signed by the judge or justice and the commission  
7 or court. The stipulation may impose any terms and conditions deemed  
8 appropriate by the commission or court. A stipulation shall set forth  
9 all material facts relating to the proceeding and the conduct of the  
10 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  
16 office and compensation. The commission shall employ one or more  
17 investigative officers with appropriate professional training and  
18 experience. The investigative officers of the commission shall report  
19 directly to the commission. The commission shall also employ such  
20 administrative or other staff as are necessary to manage the affairs of  
21 the commission.

22 (10) The commission shall, to the extent that compliance does not  
23 conflict with this section, comply with laws of general applicability  
24 to state agencies with respect to rule-making procedures, and with  
25 respect to public notice of and attendance at commission proceedings  
26 other than initial proceedings. The commission shall establish rules  
27 of procedure for commission proceedings including due process and  
28 confidentiality of proceedings.

29 BE IT FURTHER RESOLVED, That the secretary of state shall cause  
30 notice of this constitutional amendment to be published at least four  
31 times during the four weeks next preceding the election in every legal  
32 newspaper in the state.

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