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SENATE BILL 5587

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Honeyford and Roach

Read first time 01/24/2007. Referred to Committee on Judiciary.

1            AN ACT Relating to the judicial conduct commission; and amending  
2 RCW 2.64.030, 2.64.060, 2.64.111, 2.64.115, and 2.64.120.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 2.64.030 and 1981 c 268 s 4 are each amended to read  
5 as follows:

6            (1) Commission membership shall terminate if a member ceases to  
7 hold the position that qualified him or her for appointment. Vacancies  
8 caused by disqualification or resignation shall be filled by the  
9 appointing authority for the remainder of the term. No person may  
10 serve more than two consecutive four-year terms. A person may be  
11 reappointed after a lapse of one year. A member, rather than his or  
12 her successor, shall continue to participate in any hearing in progress  
13 at the end of his or her term, or when the member ceases to hold the  
14 position that qualified him or her for appointment. The appointing  
15 authority shall appoint an alternate to serve during a member's  
16 temporary disability, disqualification, or inability to serve. No  
17 member may otherwise be removed from the commission before the end of  
18 his or her term except upon good cause found by the appointing  
19 authority.

1       (2) No commission member or alternate who participates in an  
2 investigation or initial proceeding leading to a finding of probable  
3 cause may participate in any further proceedings, including a public  
4 hearing on that cause.

5       **Sec. 2.** RCW 2.64.060 and 1981 c 268 s 7 are each amended to read  
6 as follows:

7       Each member of the commission, and any special master appointed by  
8 the commission, may administer oaths. The commission may summon and  
9 examine witnesses and compel the production and examination of papers,  
10 books, accounts, documents, records, certificates, and other evidence  
11 for the determination of any issue before or the discharge of any duty  
12 of the commission. The commission shall also issue subpoenas at the  
13 request and on behalf of any judge or justice under inquiry. All  
14 subpoenas shall be signed by a member of the commission or a special  
15 master appointed by the commission. Subpoenas shall be served and  
16 witnesses reimbursed in the manner provided in civil cases in superior  
17 court. All discovery prior to a public hearing shall be conducted  
18 pursuant to the rules of civil procedure promulgated by the Washington  
19 state supreme court. Any jurist subject to proceedings before the  
20 commission shall be entitled to obtain discovery pursuant to these  
21 rules from the commission, its staff, and other persons involved in the  
22 investigation or analysis leading to a determination of probable cause.

23       **Sec. 3.** RCW 2.64.111 and 2005 c 274 s 201 are each amended to read  
24 as follows:

25       All pleadings, papers, evidence records, and files of the  
26 commission, including complaints and the identity of complainants,  
27 compiled or obtained during the course of an investigation or initial  
28 proceeding involving the discipline or retirement of a judge or  
29 justice, are exempt from the public disclosure requirements of chapter  
30 42.56 RCW during such investigation or initial proceeding, provided any  
31 respondent jurist shall at all times be entitled to disclosure of the  
32 information unless a superior court of competent jurisdiction shall  
33 order otherwise upon a finding beyond a reasonable doubt that the  
34 public interest requires preventing such disclosure. As of the date  
35 (~~of a public hearing~~) the commission makes a finding of probable  
36 cause, all those records of the initial investigation and initial

1 commission proceeding (~~(that were the basis of a finding of probable~~  
2 ~~cause))~~ are subject to the public disclosure requirements of chapter  
3 42.56 RCW.

4 **Sec. 4.** RCW 2.64.115 and 1989 c 367 s 8 are each amended to read  
5 as follows:

6 The commission is subject to the open public meetings act, chapter  
7 42.30 RCW. However, investigations, initial proceedings, public  
8 hearings, and executive sessions involving the discipline or retirement  
9 of a judge or justice are governed by this chapter and Article IV,  
10 section 31 of the state Constitution and to the extent required by the  
11 state Constitution are exempt from the provisions of chapter 42.30 RCW.

12 **Sec. 5.** RCW 2.64.120 and 1981 c 268 s 13 are each amended to read  
13 as follows:

14 The commission shall for all purposes be considered an independent  
15 part of the judicial branch of government and all members and  
16 alternates shall be subject to the code of judicial conduct as  
17 promulgated by the Washington state supreme court.

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