

SENATE BILL REPORT

SSB 5115

As Passed Senate, March 11, 2009

Title: An act relating to the judicial conduct commission.

Brief Description: Modifying the judicial conduct commission.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Honeyford, Kline and Roach).

Brief History:

Committee Activity: Judiciary: 2/17/09, 2/20/09 [DPS].

Passed Senate: 3/11/09, 45-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5115 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell, Hargrove, Kohl-Welles, Roach and Tom.

Staff: Brandon Roché (786-7405)

Background: Washington's Commission on Judicial Conduct (Commission) was constitutionally created when voters passed the amendment to Article IV, Section 31 of the Washington State Constitution in November 1980. In 1986 two additional citizen members increased the Commission from seven to nine. This amendment also provided for public fact-finding hearings after the Commission filed charges against a judge. In 1989 the Commission's authority was expanded, allowing it to impose all discipline except suspension or removal (for misconduct) and retirement (for disability). The Commission can recommend suspension, removal, or retirement of a judge to the Supreme Court.

The Commission is comprised of 11 members and 11 alternate members. The 11 members consist of six nonattorney citizens, two lawyers, and three judges. One judge is selected by and from the court of appeals, one selected by and from the superior court judges, one selected by and from the limited jurisdiction court judges, two attorneys selected by the State Bar Association, and six nonattorney citizens appointed by the Governor. The members serve four-year terms.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Commission currently investigates allegation of misconduct, determines whether there is probable cause for a hearing, and then conducts a hearing where any disciplinary steps are decided.

Summary of Substitute Bill: Three additional members are added to the Commission. One each from the court of appeals judges, superior court judges, and limited jurisdiction court judges.

No Commission member who participates in the stage of the process where probable cause for a hearing is determined may participate in any further hearings on that cause.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on December 3, 2009, if the proposed amendment to Article IV, section 31 of the state Constitution is approved by voters at the next general election.

Staff Summary of Public Testimony on Original Bill: PRO: This bill splits the panel so that there can be two panels allowing for more due process. This is essential to a good judicial system to have these checks and balances. We support this bill. Separating the investigative phase from the hearing phase is essential. We've talked about alternatives but could come up with none better.

OTHER: The Commission took the position that we are opposed to the change of the composition of the Commission when only judges are added. The representation of the citizenry in the Commission is part of the original impetus behind formation of the Commission which was to give some nonjudicial oversight to the judicial branch.

Persons Testifying: PRO: Senator Honeyford, prime sponsor; Mellani McAleenan, Board for Judicial Administration.

OTHER: Reiko Callner, Commission on Judicial Conduct.