

SENATE BILL REPORT

SJR 8212

As Reported by Senate Committee On:
Judiciary, February 20, 2009

Brief Description: Adding members to and revising procedures for investigation of complaints by the judicial conduct commission.

Sponsors: Senators Honeyford and Kline.

Brief History:

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

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Joint Resolution No. 8212 be substituted therefor, and the substitute joint resolution do pass.

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

Staff: Brandon Roche (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 Bill (Recommended Substitute): This is a joint resolution calling for an amendment to Article IV, section 31 of the Constitution of the state of Washington to be submitted to voters at the next general election.

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, or their alternate, 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.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute): The three additional members are to be one superior court judge, one attorney, and one nonattorney.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on December 3, 2009.

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.