
SUBSTITUTE SENATE JOINT RESOLUTION 8209

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Esser, Kline, Johnson, Thibaudeau, Eide, Brandland and Schmidt)

READ FIRST TIME 02/13/03.

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)) an elected judge selected by and from the ((~~district~~)) limited
13 jurisdiction court judges, two persons admitted to the practice of law
14 in this state selected by the state bar association, and six persons
15 who are not 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

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

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

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

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

1 review commission proceedings and findings against the judge or
2 justice.

3 (6) Within thirty days after the commission admonishes, reprimands,
4 or censures a judge or justice, the judge or justice shall have a right
5 of appeal de novo to the supreme court.

6 (7) Any matter before the commission or supreme court may be
7 disposed of by a stipulation entered into in a public proceeding. The
8 stipulation shall be signed by the judge or justice and the commission
9 or court. The stipulation may impose any terms and conditions deemed
10 appropriate by the commission or court. A stipulation shall set forth
11 all material facts relating to the proceeding and the conduct of the
12 judge or justice.

13 (8) Whenever the commission adopts a recommendation that a judge or
14 justice be removed, the judge or justice shall be suspended
15 immediately, with salary, from his or her judicial position until a
16 final determination is made by the supreme court.

17 (9) The legislature shall provide for commissioners' terms of
18 office and compensation. The commission shall employ one or more
19 investigative officers with appropriate professional training and
20 experience. The investigative officers of the commission shall report
21 directly to the commission. The commission shall also employ such
22 administrative or other staff as are necessary to manage the affairs of
23 the commission.

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

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

--- END ---