



2011 ASSEMBLY JOINT RESOLUTION

- 1 **To amend** section 11 of article VII of the constitution; **relating to:** temporary service
2 by a court of appeals judge in the supreme court in judicial disciplinary
3 proceedings (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2011 legislature on first consideration, is explained in the PREFATORY NOTE provided by the Joint Legislative Council.

A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This proposed constitutional amendment was prepared for the Joint Legislative Council's Special Committee on Judicial Discipline and Recusal.

Article VII, Section 11 of the Wisconsin Constitution provides that justices and judges are subject to reprimand, censure, suspension, removal for cause or for disability, by the Wisconsin supreme court pursuant to procedures established by the legislature.

The judicial commission is charged with investigating the alleged misconduct or permanent disability of a judge. If the judicial commission finds probable cause that a judge is engaging or has engaged in misconduct, it files a formal complaint with the supreme court. If the judicial commission finds probable cause that a judge has a permanent disability, it files a petition with the supreme court. [s. 757.85, stats.] After the judicial commission finds probable cause of misconduct or permanent disability and before it files a complaint or petition, the matter is heard by a panel consisting of either 3 court of appeals judges or 2 court of appeals judges and one reserve judge or by a jury. The supreme court reviews the findings of fact, conclusions of law, and recommendations

submitted following the hearing and determines appropriate discipline or action. [ss. 757.87 and 757.91, stats.] This proposed constitutional amendment, proposed to the 2011 legislature on first consideration, requires that the supreme court assign on a temporary basis a court of appeals judge to aid in the proper disposition of judicial disciplinary proceedings in the supreme court to provide an odd number of justices for the consideration of the proceedings. The person assigned must be the most senior court of appeals judge eligible to be assigned.

Resolved by the assembly, the senate concurring, That:

SECTION 1. Section 11 of article VII of the constitution is amended to read:

[Article VII] Section 11. Each justice or judge shall be subject to reprimand, censure, suspension, removal for cause or for disability, by the supreme court pursuant to procedures established by the legislature by law. No justice or judge removed for cause shall be eligible for reappointment or temporary service. This section is alternative to, and cumulative with, the methods of removal provided in sections 1 and 13 of this article and section 12 of article XIII. The supreme court shall assign on a temporary basis any person who has been elected to and is serving as a judge of the court of appeals to aid in the proper disposition of judicial business under this section in the supreme court to provide an odd number of justices for the consideration of that business. The person assigned shall be the most senior judge of the court of appeals, based upon days of service, who is eligible to be assigned.

Be it further resolved, That this proposed amendment be referred to the legislature to be chosen at the next general election and that it be published for 3 months previous to the time of holding such election.

(END)