

2011 JOINT RESOLUTION

1 *To amend* section 11 of article VII of the constitution; **relating to:** a panel of court of
 2 appeals judges in disciplinary proceedings involving a supreme court justice (first
 3 consideration).

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft, relating to
 a panel of court of appeals judges in disciplinary proceedings involving
 a supreme court justice, was prepared for the Joint Legislative Council’s
 Special Committee on Judicial Discipline and Recusal.

4 Whereas,

5 ***Resolved by the assembly, the senate concurring, That:***

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

7 [Article VII] Section 11. Each ~~justice or~~ judge shall be subject to reprimand, censure,
 8 suspension, removal for cause or for disability, by the supreme court pursuant to procedures
 9 established by the legislature by law. Each justice shall be subject to reprimand, censure,
 10 suspension, removal for cause or for disability, by a panel of 3 judges of the court of appeals,
 11 pursuant to procedures established by the legislature by law. The supreme court shall appoint
 12 the panel of 3 judges of the court of appeals by seniority from all persons who are eligible to
 13 be appointed. No justice or judge removed for cause shall be eligible for reappointment or
 14 temporary service. This section is alternative to, and cumulative with, the methods of removal
 15 provided in sections 1 and 13 of this article and section 12 of article XIII.

NOTE: 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 three court of appeals judges or two 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, provides that a supreme court justice is subject to discipline by a panel of 3 court of appeals judges, rather than the supreme court. The supreme court appoints the panel of court of appeals judges by seniority.

A proposed constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

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

4

(END)