

2011 JOINT RESOLUTION

1 *To amend* section 11 of article VII and section 4 (3) of article VII of the constitution;
2 **relating to:** temporary service by a court of appeals judge in the supreme court in
3 judicial disciplinary proceedings (first consideration).

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft, relating to
 temporary service by a court of appeals judge in the supreme court in
 judicial disciplinary proceedings, 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. No justice or judge removed for cause shall be eligible
10 for reappointment or temporary service. This section is alternative to, and cumulative with,
11 the methods of removal provided in sections 1 and 13 of this article and section 12 of article
12 XIII. The supreme court shall assign on a temporary basis any person who has been elected
13 to and is serving as a judge of the court of appeals to aid in the proper disposition of judicial
14 business under this section in the supreme court to provide an odd number of justices for the
15 consideration of that business. The person assigned shall be the most senior judge of the court
16 of appeals, based upon days of service, who is eligible to be assigned.

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. Article VII,
 Section 4 (3) of the Wisconsin Constitution prohibits the temporary

appointment of a court of appeals judge or circuit court judge to the supreme court.

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.

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

1 **SECTION 2.** Section 4 (3) of article VII of the constitution is amended to read:

2 [Article VII] Section 4 (3). The chief justice of the supreme court shall be the
3 administrative head of the judicial system and shall exercise this administrative authority
4 pursuant to procedures adopted by the supreme court. The chief justice may assign any judge
5 of a court of record to aid in the proper disposition of judicial business in any court of record
6 except the supreme court unless assigned to the supreme court on a temporary basis under
7 section 11.

NOTE: See the NOTE following SECTION 1.

