

BILL ANALYSIS

S.B. 1436
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law allows a judge who has been sanctioned by the State Commission on Judicial Conduct (SCJC) to appeal from a sanction, but provides no right to appeal from a censure. In January 2003, SCJC issued a censure at the conclusion of a formal proceeding against former Dallas County Court at Law Judge Robert Jenevein. He attempted to appeal the decision the same way a judge would appeal a sanction. The Supreme Court appointed a Special Court of Review, which conducted a full day trial on the merits of the disciplinary case that had already been tried and decided for a cost of \$12,000. The Special Court of Review ultimately decided it had no jurisdiction over the case because there was no right to appeal a censure issued by SCJC. Judge Jenevin then went to federal court. The censure was upheld in July 2007, however, SCJC had to expunge references to the content of his speech. If appeals were allowed under state law, the state could avoid long, costly fights with former judges over censure.

S.B. 1436 entitles a judge who has been sanctioned or who receives censure under Section 1-a(8) (relating to a private or public admonition, warning, reprimand, or requirement of additional training or education, or formal hearing), Article V (Judicial Department), Texas Constitution, by SCJC to a review of SCJC's decision.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 33.001(11), Government Code, to redefine "special court of review."

SECTION 2. Amends Section 33.034, Government Code, by amending Subsections (a), (d), (e), (f), and (g) and adding Subsection (e-1), as follows:

(a) Entitles a judge who receives from the State Commission on Judicial Conduct (SCJC) any type of sanction, or a censure issued by SCJC under Section 1-a(8) (relating to a private or public admonition, warning, reprimand, or requirement of additional training or education, or formal hearing), Article V (Judicial Department), Texas Constitution, to a review of SCJC's decision as provided by this section.

(d) Requires SCJC, within 15 days after the appointment of the court review, to file with the clerk a charging document that includes, as applicable, a copy of the censure or sanction issued and any additional charges to be considered by the court of review, rather than in the de novo proceeding.

(e) Provides that the review by the court under this section of a censure is a review of the record of the proceedings that resulted in the censure and is based on the law and facts that were presented in the proceedings and any additional evidence that the court in its discretion may, for good cause shown, permit; and of a sanction is by trial de novo as that term is used in the appeal of cases from justice to county court.

(e-1) Creates this subsection from existing text.

(f) Provides that the procedure for the review of a sanction, except as otherwise provided by this section, is governed to the extent practicable by the rules of law, evidence, and procedure that apply to the trial of civil actions generally.

(g) Provides that a judge is not entitled to a trial by jury in a review of a sanction under this section.

SECTION 3. Provides that the change in law made by this Act applies only to a censure issued by SCJC under Section 1-a(8), Article V, Texas Constitution, on or after the effective date of this Act. Provides that a censure issued before the effective date of this Act is governed by the law in effect on the date the censure was issued, and the former law is continued in effect for that purpose.

SECTION 4. Effective date: upon passage or September 1, 2009.

EFFECTIVE DATE

Upon passage or September 1, 2009.