

By: Watson

S.B. No. 1436

A BILL TO BE ENTITLED

AN ACT

relating to the appeal of a censure issued by the State Commission on Judicial Conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (11), Section 33.001, Government Code, is amended to read as follows:

(11) "Special court of review" means a panel of three justices of the courts of appeal selected by lot by the chief justice of the supreme court on petition to review a censure or sanction issued by the commission under Section 1-a(8), Article V, Texas Constitution.

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

(a) A judge who receives from the commission any type of sanction, or a censure issued by the commission under Section 1-a(8), Article V, Texas Constitution, is entitled to a review of the commission's decision as provided by this section. This section does not apply to a decision by the commission to institute formal proceedings.

(d) Within 15 days after the appointment of the court of review, the commission shall 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

1 court of review [~~in the de novo proceeding~~]. The charging document  
2 is public on its filing with the clerk. On receipt of the filing of  
3 the charging document, the clerk shall send the charging document  
4 to the judge who is the subject of the document and to each justice  
5 on the court of review.

6 (e) The review by the court under this section:

7 (1) of a censure is a review of the record of the  
8 proceedings that resulted in the censure and is based on the law and  
9 facts that were presented in the proceedings and any additional  
10 evidence that the court in its discretion may, for good cause shown,  
11 permit; and

12 (2) of a sanction is by trial de novo as that term is  
13 used in the appeal of cases from justice to county court.

14 (e-1) Any hearings of the court shall be public and shall be  
15 held at the location determined by the court. Any evidence  
16 introduced during a hearing, including papers, records, documents,  
17 and pleadings filed with the clerk in the proceedings, is public.

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

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

24 SECTION 3. The change in law made by this Act applies only  
25 to a censure issued by the State Commission on Judicial Conduct  
26 under Subdivision (8), Section 1-a, Article V, Texas Constitution,  
27 on or after the effective date of this Act. A censure issued before

1 the effective date of this Act is governed by the law in effect on  
2 the date the censure was issued, and the former law is continued in  
3 effect for that purpose.

4 SECTION 4. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2009.