

1-1 By: Watson S.B. No. 1436
1-2 (In the Senate - Filed March 6, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 6, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 6, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1436 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the appeal of a censure issued by the State Commission
1-11 on Judicial Conduct.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subdivision (11), Section 33.001, Government
1-14 Code, is amended to read as follows:

1-15 (11) "Special court of review" means a panel of three
1-16 justices of the courts of appeal selected by lot by the chief
1-17 justice of the supreme court on petition to review a censure or
1-18 sanction issued by the commission under Section 1-a(8), Article V,
1-19 Texas Constitution.

1-20 SECTION 2. Section 33.034, Government Code, is amended by
1-21 amending Subsections (a), (d), (e), (f), and (g) and adding
1-22 Subsection (e-1) to read as follows:

1-23 (a) A judge who receives from the commission any type of
1-24 sanction, or a censure issued by the commission under Section
1-25 1-a(8), Article V, Texas Constitution, is entitled to a review of
1-26 the commission's decision as provided by this section. This
1-27 section does not apply to a decision by the commission to institute
1-28 formal proceedings.

1-29 (d) Within 15 days after the appointment of the court of
1-30 review, the commission shall file with the clerk a charging
1-31 document that includes, as applicable, a copy of the censure or
1-32 sanction issued and any additional charges to be considered by the
1-33 court of review [in the de novo proceeding]. The charging document
1-34 is public on its filing with the clerk. On receipt of the filing of
1-35 the charging document, the clerk shall send the charging document
1-36 to the judge who is the subject of the document and to each justice
1-37 on the court of review.

1-38 (e) The review by the court under this section:

1-39 (1) of a censure is a review of the record of the
1-40 proceedings that resulted in the censure and is based on the law and
1-41 facts that were presented in the proceedings and any additional
1-42 evidence that the court in its discretion may, for good cause shown,
1-43 permit; and

1-44 (2) of a sanction is by trial de novo as that term is
1-45 used in the appeal of cases from justice to county court.

1-46 (e-1) Any hearings of the court shall be public and shall be
1-47 held at the location determined by the court. Any evidence
1-48 introduced during a hearing, including papers, records, documents,
1-49 and pleadings filed with the clerk in the proceedings, is public.

1-50 (f) Except as otherwise provided by this section, the
1-51 procedure for the review of a sanction is governed to the extent
1-52 practicable by the rules of law, evidence, and procedure that apply
1-53 to the trial of civil actions generally.

1-54 (g) A judge is not entitled to a trial by jury in a review of
1-55 a sanction under this section.

1-56 SECTION 3. The change in law made by this Act applies only
1-57 to a censure issued by the State Commission on Judicial Conduct
1-58 under Subdivision (8), Section 1-a, Article V, Texas Constitution,
1-59 on or after the effective date of this Act. A censure issued before
1-60 the effective date of this Act is governed by the law in effect on
1-61 the date the censure was issued, and the former law is continued in
1-62 effect for that purpose.

1-63 SECTION 4. This Act takes effect immediately if it receives

2-1 a vote of two-thirds of all the members elected to each house, as
2-2 provided by Section 39, Article III, Texas Constitution. If this
2-3 Act does not receive the vote necessary for immediate effect, this
2-4 Act takes effect September 1, 2009.

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