

BILL ANALYSIS

Senate Research Center

S.J.R. 42
By: Huffman; Nichols
Jurisprudence
7/23/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this joint resolution is to enact a recommendation of the Sunset Advisory Commission regarding the State Commission on Judicial Conduct (SCJC). The mission of SCJC is to protect the public from judicial misconduct; promote public confidence in the integrity, independence, competence, and impartiality of the judiciary; and encourage judges to maintain high standards of conduct both on and off the bench.

The Sunset Advisory Commission found that the Texas Constitution limits the ability of SCJC to hear major cases in open, formal proceedings. As such, the Sunset Commission recommends authorizing SCJC to use its full range of disciplinary actions following a formal proceeding.

The SCJC is governed by Chapter 33 (State Commission on Judicial Conduct) of the Government Code and Article V, Section 1-a of the Texas Constitution. This legislation addresses issues differently from current law by: amending Article V, Section 1-a(8) of the Texas Constitution by authorizing SCJC to issue an order of public admonition, warning, reprimand, or requirement for additional training or education following a formal hearing or after considering the record and report of a Master, in addition to its current authority to issue a public censure or recommend removal or retirement of a judge or justice to a Review Tribunal; and adding a temporary provision to the Texas Constitution that establishes the amendment's effective date as January 1, 2014, and clarifying that the amendment applies only to a formal proceeding instituted by SCJC on or after that date. The resolution also provides that the temporary provision expires January 1, 2016.

S.J.R. 42 proposes a constitutional amendment relating to expanding the types of sanctions that may be assessed against a judge or justice following a formal proceeding instituted by the State Commission on Judicial Conduct.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1-a(8), Article V, Texas Constitution, as follows:

(8) Requires the State Commission on Judicial Conduct (SCJC) if, after formal hearing, or after considering the record and report of a Master, SCJC finds good cause, to issue an order of public admonition, warning, reprimand, censure, or requirement that the person holding an office or position specified in Subsection (6) (relating to Justices or Judges established by this Constitution or created by the Legislature) of this Section obtain additional training or education, or SCJC to recommend to a review tribunal the removal or retirement, as the case may be, of the person and requires SCJC thereupon to file with the tribunal the entire record before SCJC. Deletes existing text authorizing SCJC, after such investigation as it deems necessary, to in its discretion issue a private or public admonition, warning, reprimand, or requirement that the person obtain additional training or education, or if SCJC determines that the situation merits such action, authorizing SCJC to institute formal proceedings and order a formal hearing to be held before it

concerning the public censure, removal, or retirement of a person holding an office or position specified in Subsection (6) of this Section, or it is authorized to in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Appeals, or retired Judge or Justice of the Court of Criminal Appeals or the Supreme Court, as a Master to hear and take evidence in any such matter, and to report thereon to SCJC.

SECTION 2. Adds the following temporary provision to the Texas Constitution:

TEMPORARY PROVISION. (a) Provides that this temporary provision applies to the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, relating to the sanctions that are authorized to be assessed against a judge or justice following a formal proceeding instituted by the State Commission on Judicial Conduct.

(b) Effective date, the amendment to Section 1-a(8), Article V, of this constitution: January 1, 2014, and applies only to a formal proceeding instituted by the SCJC on or after that date.

(c) Provides that this temporary provision expires January 1, 2016.

SECTION 3. Requires that the proposed constitutional amendment be submitted to the voters at an election to be held November 5, 2013. Sets forth the required language of the ballot.