
SUBSTITUTE SENATE BILL 5587

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Honeyford and Roach)

READ FIRST TIME 02/27/07.

1 AN ACT Relating to the judicial conduct commission; and amending
2 RCW 2.64.030, 2.64.060, 2.64.111, 2.64.115, and 2.64.120.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 2.64.030 and 1981 c 268 s 4 are each amended to read
5 as follows:

6 (1) Commission membership shall terminate if a member ceases to
7 hold the position that qualified him or her for appointment. Vacancies
8 caused by disqualification or resignation shall be filled by the
9 appointing authority for the remainder of the term. No person may
10 serve more than two consecutive four-year terms. A person may be
11 reappointed after a lapse of one year. A member, rather than his or
12 her successor, shall continue to participate in any hearing in progress
13 at the end of his or her term, or when the member ceases to hold the
14 position that qualified him or her for appointment. The appointing
15 authority shall appoint an alternate to serve during a member's
16 temporary disability, disqualification, or inability to serve. No
17 member may otherwise be removed from the commission before the end of
18 his or her term except upon good cause found by the appointing
19 authority.

1 (2) No commission member or alternate who participates in an
2 investigation or initial proceeding leading to a finding of probable
3 cause may participate in any further proceedings, including a public
4 hearing on that cause.

5 **Sec. 2.** RCW 2.64.060 and 1981 c 268 s 7 are each amended to read
6 as follows:

7 Each member of the commission, and any special master appointed by
8 the commission, may administer oaths. The commission may summon and
9 examine witnesses and compel the production and examination of papers,
10 books, accounts, documents, records, certificates, and other evidence
11 for the determination of any issue before or the discharge of any duty
12 of the commission. The commission shall also issue subpoenas at the
13 request and on behalf of any judge or justice under inquiry. All
14 subpoenas shall be signed by a member of the commission or a special
15 master appointed by the commission. Subpoenas shall be served and
16 witnesses reimbursed in the manner provided in civil cases in superior
17 court. All discovery prior to a public hearing shall be conducted
18 pursuant to the rules of civil procedure promulgated by the Washington
19 state supreme court. Any jurist subject to proceedings before the
20 commission shall be entitled to obtain discovery pursuant to these
21 rules from the commission, its staff, and other persons involved in the
22 investigation or analysis leading to a determination of probable cause.

23 **Sec. 3.** RCW 2.64.111 and 2005 c 274 s 201 are each amended to read
24 as follows:

25 All pleadings, papers, evidence records, and files of the
26 commission, including complaints and the identity of complainants,
27 compiled or obtained during the course of an investigation or initial
28 proceeding involving the discipline or retirement of a judge or
29 justice, are exempt from the public disclosure requirements of chapter
30 42.56 RCW during such investigation or initial proceeding, provided any
31 respondent jurist shall at all times be entitled to disclosure of the
32 information unless a superior court of competent jurisdiction shall
33 order otherwise upon a finding based on a preponderance of the evidence
34 that the public interest requires preventing such disclosure. As of
35 the date ((~~of a public hearing~~)) the commission makes a finding of
36 probable cause, all those records of the initial investigation and

1 initial commission proceeding (~~(that were the basis of a finding of~~
2 ~~probable cause)~~) are subject to the public disclosure requirements of
3 chapter 42.56 RCW.

4 **Sec. 4.** RCW 2.64.115 and 1989 c 367 s 8 are each amended to read
5 as follows:

6 The commission is subject to the open public meetings act, chapter
7 42.30 RCW. However, investigations, initial proceedings, public
8 hearings, and executive sessions involving the discipline or retirement
9 of a judge or justice are governed by this chapter and Article IV,
10 section 31 of the state Constitution and to the extent required by the
11 state Constitution are exempt from the provisions of chapter 42.30 RCW.

12 **Sec. 5.** RCW 2.64.120 and 1981 c 268 s 13 are each amended to read
13 as follows:

14 The commission shall for all purposes be considered an independent
15 part of the judicial branch of government and all members and
16 alternates shall be subject to the code of judicial conduct as
17 promulgated by the Washington state supreme court. For purposes of the
18 application of the code of judicial conduct, members and alternates of
19 the commission shall be subject to the exceptions pertaining to judges
20 pro tempore in the code of judicial conduct.

21 NEW SECTION. **Sec. 6.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

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