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by Rules Committee

1 IN THE SENATE

BY THE RULES COMMITTEE

2 CS FOR SENATE BILL NO. 330

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the disqualification, suspension,  
7 removal from office, retirement and censure of justices  
8 and judges, and providing for a Commission on Judicial  
9 Qualifications."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 \* Section 1. AS 22 is amended by adding a new chapter to read:

12 CHAPTER 30. JUDICIAL QUALIFICATIONS.

13 Sec. 22.30.010. COMMISSION ON JUDICIAL QUALIFICATIONS. The Com-  
14 mission on Judicial Qualifications shall consist of nine members as  
15 follows: one justice of the supreme court, elected by the justices  
16 of the supreme court; two judges of the superior court, elected by the  
17 judges of the superior court; two judges of the district court, elected  
18 by the judges of the district court; two members who have practiced  
19 law in this state for 10 years, appointed by the governing body of the  
20 organized bar; and two citizens who are not judges, retired judges, or  
21 members of the state bar, appointed by the governor and subject to  
22 confirmation by a majority of the members of the legislature in joint  
23 session. Commission membership terminates if a member ceases to hold  
24 the position that qualified him for appointment. No person may serve  
25 on the commission and on the Judicial Council simultaneously. The com-  
26 mission shall elect one of its members to serve as chairman for a term  
27 prescribed by the commission. A vacancy shall be filled by the appoint-  
28 ing power for the remainder of the term.

29 Sec. 22.30.015. TERM OF OFFICE. The term of office for a

1 commission member is four years. Upon initial appointment, the justice  
2 of the supreme court serves four years, one superior court judge serves  
3 three years and the other serves for two years, one district court judge  
4 serves for four years and the other serves for three years, one member  
5 of the bar serves for two years and the other serves for one year, and  
6 one of the laymen serves for four years and the other serves for one  
7 year.

8 Sec. 22.30.020. EMPLOYMENT AND COMPENSATION GENERALLY. The com-  
9 mission may employ officers, assistants and other employees which it  
10 considers necessary for the performance of the duties and exercise of  
11 the powers conferred upon the commission, may arrange for and compensate  
12 medical and other experts and reporters, may arrange for the attendance  
13 of witnesses, including witnesses not subject to subpoena, and may pay  
14 from funds available to it all expenses reasonably necessary for ef-  
15 fectuating the purposes of sec. 10, art. IV, Constitution of the State  
16 of Alaska. The attorney general shall, if requested by the commission,  
17 act as its counsel generally or in any particular investigation or  
18 proceeding. The commission may employ special counsel from time to  
19 time when it considers it necessary.

20 Sec. 22.30.030. TRAVEL EXPENSES AND PER DIEM. Each member of the  
21 commission shall be allowed travel expenses and per diem as provided  
22 by AS 39.20.180, but shall not receive compensation for his services.

23 Sec. 22.30.040. PREPARATION OF BUDGET. The Alaska court system  
24 shall be responsible for preparing and presenting to the legislature  
25 proposed annual budgets for the commission.

26 Sec. 22.30.050. VALIDITY OF ACTS OF THE COMMISSION. No act of  
27 the commission is valid unless concurred in by a majority of its  
28 members.

29 Sec. 22.30.060. RULES. The commission shall make rules

1 implementing this chapter and providing for confidentiality of proceed-  
2 ings.

3 Sec. 22.30.070. DISQUALIFICATION, SUSPENSION, REMOVAL, RETIREMENT  
4 AND CENSURE OF JUDGES. (a) A judge is disqualified from acting as a  
5 judge, without loss of salary, while there is pending (1) an indictment  
6 or an information charging him in the United States with a crime  
7 punishable as a felony under Alaska or federal law, or (2) a recommenda-  
8 tion to the supreme court by the commission for his removal or retire-  
9 ment.

10 (b) On recommendation of the commission or on its own motion, the  
11 supreme court may suspend a judge from office without salary when in  
12 the United States he pleads guilty or no contest or is found guilty of  
13 a crime punishable as a felony under Alaska or federal law or of any  
14 other crime that involves moral turpitude under that law. If his con-  
15 viction is reversed, suspension terminates, and he shall be paid his  
16 salary for the period of suspension. If he is suspended and his con-  
17 viction becomes final the supreme court shall remove him from office.

18 (c) On recommendation of the commission the supreme court may  
19 (1) retire a judge for disability that seriously interferes with the  
20 performance of his duties and is or is likely to become permanent, and  
21 (2) censure or remove a judge for action occurring not more than six  
22 years before the commencement of his current term which constitutes  
23 wilful misconduct in the office, wilful and persistent failure to perform  
24 his duties, habitual intemperance, or conduct prejudicial to the ad-  
25 ministration of justice that brings the judicial office into disrepute.

26 (d) A judge retired by the supreme court shall be considered to  
27 have retired voluntarily. A judge removed by the supreme court is in-  
28 eligible for judicial office for a period of three years.

29 (e) A supreme court justice who has participated in proceedings  
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1 involving a judge or justice of any court may not participate in an  
2 appeal involving that judge or justice in that particular matter.

3 Sec. 22.30.080. DEFINITIONS. In this chapter

4 (1) "commission" means the Commission on Judicial Qualifica-  
5 tions provided for in sec. 10, art. IV, Constitution of the State of  
6 Alaska and this chapter;

7 (2) "judge" means a justice of the supreme court, a judge  
8 of the superior court, or a judge of the district court who is the  
9 subject of an investigation or proceeding under sec. 10, art. IV,  
10 Constitution of the State of Alaska and this chapter.

11 \* Sec. 2. AS 22.15.200 is repealed.

12 \* Sec. 3. AS 22.05.110 and 22.10.160 are repealed upon the adoption of  
13 the amendment to sec. 10 of art. IV of the Constitution of the State of  
14 Alaska as proposed by the House Joint Resolution entitled "Proposing  
15 amendments to the Constitution of the State of Alaska providing for the  
16 disqualification, suspension, removal from office, retirement and censure  
17 of justices and judges, and providing for a Commission on Judicial  
18 Qualifications."

19 \* Sec. 4. The provisions of this Act shall apply to justices of the  
20 supreme court and judges of the superior court upon the adoption of the  
21 amendment to sec. 10 of art. IV of the Constitution of the State of Alaska  
22 as proposed by the House Joint Resolution entitled "Proposing amendments  
23 to the Constitution of the State of Alaska providing for the disqualification,  
24 suspension, removal from office, retirement and censure of justices and  
25 judges, and providing for a Commission on Judicial Qualifications."  
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