

Introduced: 4/17/69
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 390

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Commission on Judicial
7 Qualifications; and providing for an effective date."

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

9 * Section 1. AS 22.30.010 is amended to read:

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

26 * Sec. 2. AS 22.30.015 is amended to read:

27 Sec. 22.30.015. TERM OF OFFICE. The term of office for a commis-
28 sion member is four years. Upon initial appointment, the justice of the
29 supreme court serves four years, one superior court judge serves three

1 years, one serves for two years and the other serves for one year
2 [TWO YEARS], the [ONE] district court judge serves for four years
3 [AND THE OTHER SERVES FOR THREE YEARS], one member of the bar serves
4 for four [TWO] years and the other serves for two years [ONE YEAR],
5 and one of the laymen serves for four years and the other serves for
6 two years [ONE YEAR].

7 * Sec. 3. AS 22.30.070(b) is amended to read:

8 (b) On recommendation of the commission or on its own motion,
9 the supreme court may suspend a judge from office without salary
10 when in the United States he pleads guilty or no contest or is
11 found guilty of a crime punishable as a felony under Alaska or fed-
12 eral law or of any other crime that involves moral turpitude under
13 that law. If his conviction is reversed, suspension terminates, and
14 he shall be paid his salary for the period of suspension. If he is
15 suspended and his conviction becomes final the supreme court shall
16 remove him from office. On recommendation of the commission or
17 on its own motion, the supreme court may suspend a judge from
18 office when he is charged with a serious offense involving moral
19 turpitude. The suspension shall be upon the conditions and for the
20 time the supreme court determines.

21 * Sec. 4. AS 22.30.070(d) is amended to read:

22 (d) A judge retired by the supreme court shall be considered
23 to have retired voluntarily. When a judge is removed by the
24 court his vested rights of retirement as of the time of removal
25 are in no way jeopardized. A judge removed by the supreme
26 court is ineligible for judicial office for a period of three
27 years.

28 * Sec. 5. AS 22.30 is amended by adding new sections to read:

29 Sec. 22.30.081. COOPERATION WITH COMMISSION. Agencies of

1 the state and its political subdivisions, officers and employees
2 of these agencies, and judicial officers of this state shall co-
3 operate with and give reasonable assistance and information to the
4 commission and any authorized representative of it, in connection with
5 investigations or proceedings within the jurisdiction of the commis-
6 sion.

7 Sec. 22.30.090. SERVICE OF PROCESS. It is the duty of the state
8 troopers, upon request of the commission or its authorized representa-
9 tive, to serve process and execute all lawful orders of the commission.

10 Sec. 22.30.100. GENERAL POWERS OF COMMISSION. In the conduct of
11 investigations and formal proceedings, the commission may (1) administer
12 oaths, (2) order and otherwise provide for the inspection of books and
13 records, and (3) issue subpoenas for the attendance of witnesses and
14 the production of papers, books, accounts, documents and testimony
15 relevant to such an investigation or formal proceeding. The power to
16 administer oaths, to issue subpoenas, or to make orders for or con-
17 cerning the inspection of books and records may be exercised by an
18 individual member of the commission, unless the commission determines
19 otherwise.

20 Sec. 22.30.110. EXTENT OF PROCESS. In an investigation or formal
21 proceeding in any part of the state the process extends to all parts of
22 the state.

23 Sec. 22.30.120. COMPELLING TESTIMONY OR PRODUCTION OF EVIDENCE.
24 If a person refuses to attend or testify or produce any writing or other
25 evidence required by a subpoena, the commission may petition the superi-
26 or court for an order compelling the person to comply with the subpoena.
27 The court shall order the person to appear before it at a specified time
28 and place to show cause why he has not attended or testified or produced
29 the writings or other evidence as required. A copy of the order to show

1 cause shall be served upon him, giving him at least five days notice be-
2 fore the hearing. If, after the hearing, it appears to the court that
3 the subpoena was regularly issued, the court shall order the person to
4 appear before the commission at the time and place fixed in the order and
5 testify or produce the required writings or other evidence. Upon failure
6 to obey the order, the person shall be dealt with as for contempt of court.

7 Sec. 22.30.130. DEPOSITIONS. In any pending investigation or formal
8 proceeding, the commission may order the deposition of a person residing
9 in or outside the state to be taken in the form and subject to the
10 limitations prescribed in the order. If the judge being investigated
11 or proceeded against or counsel for the commission object to the manner
12 of taking the deposition, either the judge or counsel may file in the
13 superior court a petition entitled "In the Matter of Proceeding of
14 Commission on Judicial Qualifications No. ___[state number]", and stating
15 generally, without identifying the judge, the nature of the pending
16 matter, the name and residence of the person whose testimony is desired,
17 the limitations and manner of taking, and directions, if any, of the
18 commission, asking that an order be made requiring the person to appear
19 and testify. A subpoena for the deposition shall be issued by the
20 clerk and the deposition shall be taken and returned in the manner pres-
21 cribed by rule for depositions in civil actions. If the deposition is
22 that of a person residing or present in the state, the petition shall
23 be filed in the superior court of the judicial district in which the
24 person resides or is present; otherwise, it shall be filed in the
25 superior court of the judicial district in which the judge being in-
26 vestigated or proceeded against resides.

27 Sec. 22.30.140. COMPENSATION OF WITNESSES. All witnesses are
28 entitled to the same mileage and expenses for subsistence as allowed
29 for witnesses by the rules for the administration of the courts. Each

1 witness, other than an officer or employee of the state or a political
2 subdivision, is entitled to receive for his attendance the same fees
3 as allowed for witnesses by the rules for the administration of the
4 courts.

5 Sec. 22.30.150. COSTS. No award of costs may be made in a pro-
6 ceeding before the commission.

7 Sec. 22.30.160. IMMUNITY. A person who refuses to testify or
8 produce documents or other evidence in any proceeding or deposition
9 in connection with judicial qualification upon the ground that his
10 testifying, his testimony or the production of the document or other
11 evidence may tend to incriminate him, shall nevertheless be required
12 to testify and to produce the document or other evidence. However, when
13 required by the commission, to testify or produce evidence over his
14 proper claim of privilege against self-incrimination or his right not
15 to testify, the person is not subject to indictment or prosecution for
16 any transaction, matter or evidence concerning which he truthfully test-
17 ified or produced evidence, documentary or otherwise.

18 Sec. 22.30.170. ADMINISTRATIVE PROCEDURE ACT. The Administrative
19 Procedure Act (AS 44.62) does not apply to the Commission on Judicial
20 Qualifications.

21 Sec. 22.30.200. DEFINITIONS. In this chapter

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

25 (2) "judge" means a justice of the supreme court, a judge
26 of the superior court, or a judge of the district court who is the
27 subject of an investigation or proceeding under sec. 10, art. IV, Con-
28 stitution of the State of Alaska and this chapter.

29 * Sec. 6. AS 22.30.080 is repealed.

1 * Sec. 7. This Act takes effect on the day after its passage and approval
2 or on the day it becomes law without approval.
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