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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/05/2011	.	
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The Committee on Judiciary (Simmons) recommended the following:

Senate Amendment (with ballot amendment)

Delete lines 81 - 106

and insert:

2. A determination that formal charges will not be filed and the judge or justice agreeing to waive the confidentiality of the records or materials relating to the complaint; or

3. The entry of a stipulation or other settlement agreement before the investigative panel determines whether to file formal
against a justice or judge such charges, and

all further proceedings before the commission shall be open to the public and all records and materials of the commission



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14 relating to the complaint against the justice or judge shall be
15 open to the public for inspection or copying. However,
16 information that is otherwise confidential or exempt shall
17 retain its status. The records and materials shall be accessible
18 to the public regardless of whether they were received or
19 created while the proceedings were confidential or open to the
20 public.

21 (5) The commission shall have access to all information
22 from all executive, legislative and judicial agencies, including
23 grand juries, subject to the rules of the commission. At any
24 time, on request of the speaker of the house of representatives
25 or the governor, the commission shall make available all
26 information in the possession of the commission for use in
27 consideration of impeachment or suspension, respectively. Upon
28 request, the commission shall notify the speaker of the house of
29 representatives of all complaints received or initiated, all
30 investigations conducted, and all complaints dismissed, settled,
31 or otherwise concluded.

32
33 ===== B A L L O T S T A T E M E N T A M E N D M E N T =====

34 And the ballot statement is amended as follows:

35 Delete lines 229 - 373

36 and insert:

37 CONSTITUTIONAL AMENDMENT

38 ARTICLE V, SECTION 12

39 MEETINGS, RECORDS, AND ACTIONS OF THE JUDICIAL
40 QUALIFICATIONS COMMISSION.—The Judicial Qualifications
41 Commission is an independent commission created by the State
42 Constitution to investigate and prosecute before the Florida



43 Supreme Court alleged misconduct by a justice or judge.
44 Currently under the Constitution, commission proceedings are
45 confidential until formal charges are filed by the investigative
46 panel of the commission. Once formal charges are filed, the
47 formal charges and all further proceedings of the commission are
48 public. This proposed amendment provides that all records and
49 materials in the possession of the commission which are not
50 otherwise confidential or exempt from disclosure and which
51 relate to a complaint against a justice or judge shall be open
52 to the public once formal charges are filed, once a decision is
53 made not to pursue formal charges and the justice or judge
54 waives the confidentiality of the records and materials, or once
55 the commission and the justice or judge enter into a settlement
56 agreement before the commission's investigative panel determines
57 whether to pursue formal charges. Additionally, the amendment
58 provides that further proceedings of the commission are also
59 open to the public once a decision is made not to pursue formal
60 charges or once the commission and the justice or judge enter
61 into a settlement agreement before a decision is made on whether
62 to pursue formal charges.

63 Currently the State Constitution authorizes the House of
64 Representatives to impeach a justice or judge and authorizes the
65 Governor to suspend a justice or judge. Further, the Speaker of
66 the House of Representatives or the Governor may request, and
67 the Judicial Qualifications Commission must make available, all
68 information in the commission's possession for use in deciding
69 whether to impeach or suspend a justice or judge. This proposed
70 amendment requires the commission to notify the Speaker of the
71 House of Representatives of all complaints received or initiated



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72 against a justice or judge, all investigations conducted, and
73 all complaints dismissed, settled, or otherwise concluded.
74

75 BE IT FURTHER RESOLVED that the following statement be
76 placed on the ballot if a court declares the preceding statement
77 defective and the decision of the court is not reversed:

78 CONSTITUTIONAL AMENDMENT

79 ARTICLE V, SECTION 12

80 MAKING JUDICIAL QUALIFICATIONS COMMISSION MEETINGS AND
81 RECORDS PUBLIC AND REQUIRING NOTICE TO THE HOUSE SPEAKER.—
82 Proposing an amendment to the State Constitution to increase
83 public access to records and meetings of the Judicial
84 Qualifications Commission relating to complaints against
85 justices or judges in this state. The commission is responsible
86 for investigating and prosecuting allegations of alleged
87 misconduct by state justices and judges. Currently, the State
88 Constitution provides that until formal charges are filed by the
89 commission's investigative panel the proceedings of the
90 commission are confidential. However, once formal charges are
91 filed, the charges and all further proceedings are open to the
92 public. The initial complaint and other documents in possession
93 of the commission before the filing of formal charges do not
94 become public after the filing of formal charges. This proposed
95 amendment provides that all further proceedings shall be open to
96 the public and all records and materials in the possession of
97 the commission relating to a complaint against a justice or
98 judge shall be open to the public for inspection or copying once
99 one of the following events occurs: formal charges are filed; a
100 decision is made not to file formal charges and the justice or



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101 judge waives the confidentiality of the records and materials;
102 or, before a decision is made on whether to file formal charges,
103 the commission and the justice or judge enter into a settlement
104 agreement. The proposed amendment applies only to information
105 that is not otherwise confidential or exempt from disclosure.

106 The State Constitution currently authorizes the House of
107 Representatives to impeach a justice or judge and authorizes the
108 Governor to suspend a justice or judge. The Constitution also
109 authorizes the Speaker of the House of Representatives or the
110 Governor to request from the Judicial Qualifications Commission
111 all information in the commission's possession for use in
112 deciding whether to impeach or suspend. The commission must make
113 the information available to the Governor and the Speaker of the
114 House of Representatives. This proposed amendment to the State
115 Constitution requires the commission to notify the Speaker of
116 the House of Representatives of all complaints received or
117 initiated against a justice or judge, all investigations
118 conducted, and all complaints dismissed, settled, or otherwise
119 concluded.

120
121 BE IT FURTHER RESOLVED that the following statement be
122 placed on the ballot if a court declares the preceding statement
123 defective and the decision of the court is not reversed:

124 CONSTITUTIONAL AMENDMENT

125 ARTICLE V, SECTION 12

126 COMPLAINTS AGAINST AND INVESTIGATIONS OF JUSTICES AND
127 JUDGES.—Proposing an amendment to the State Constitution to
128 provide that all records, materials, and proceedings related to
129 complaints and investigations of the Judicial Qualifications



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130 Commission which are not otherwise exempt from disclosure shall
131 be open to the public for inspection and copying upon the filing
132 of formal charges against the justice or judge, upon a
133 determination that formal charges will not be filed and the
134 justice or judge waives the confidentiality of the records or
135 materials, or upon the commission and the justice or judge
136 entering into a settlement before a decision is made about
137 whether to file formal charges. This provision applies to all
138 records and materials in the possession of the commission
139 relating to that complaint against the justice or judge. The
140 commission is responsible for investigating and prosecuting
141 allegations of misconduct by state justices and judges.
142 Currently, after formal charges are filed, all further
143 proceedings conducted are open to the public and records and
144 materials thereafter created or acquired by the commission are
145 open to the public.

146 The State Constitution also provides currently that the
147 House of Representatives may investigate a justice or judge for
148 misconduct and may initiate impeachment proceedings against a
149 justice or judge for the misconduct. This proposed amendment
150 requires the Judicial Qualifications Commission to notify the
151 Speaker of the House of Representatives of all complaints
152 received or initiated against justices and judges, of all
153 investigations conducted against justices and judges, and of all
154 complaints against justices and judges which are dismissed,
155 settled, or otherwise concluded.

156
157 BE IT FURTHER RESOLVED that the following statement be
158 placed on the ballot if a court declares the preceding statement



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159 defective and the decision of the court is not reversed:

160 CONSTITUTIONAL AMENDMENT

161 ARTICLE V, SECTION 12

162 REVISING DISCLOSURE REQUIREMENTS FOR THE JUDICIAL
163 QUALIFICATIONS COMMISSION.—The State Constitution provides for
164 the Judicial Qualifications Commission to investigate and
165 recommend to the Supreme Court of Florida the discipline of any
166 justice or judge whose conduct warrants discipline. The State
167 Constitution also provides that commission proceedings are
168 confidential until formal charges are filed, at which point
169 further proceedings are open to the public. This proposed
170 amendment maintains the requirement for those proceedings to be
171 open to the public, but also provides for increased public
172 access to proceedings of the commission and its records and
173 materials. Specifically, under the amendment, the proceedings of
174 the commission must be open to the public upon a determination
175 by the commission that formal charges will not be filed and the
176 justice or judge waives the confidentiality of the records and
177 materials or upon the entry into a settlement agreement with
178 the justice or judge before the commission makes a decision on
179 whether to file formal charges. Also under the amendment, all
180 records and materials of the commission related to a complaint
181 must be accessible to the public, excluding information that is
182 otherwise confidential or exempt from disclosure, once the
183 proceedings relating to the complaint are open to the public.
184 The proposed amendment additionally requires the commission to
185 notify the Speaker of the House of Representatives of all
186 complaints received, initiated, or concluded and of all
187 investigations conducted.