

1 HOUSE JOINT RESOLUTION 10

2 49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

3 INTRODUCED BY

4 W. Ken Martinez

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10 A JOINT RESOLUTION

11 PROPOSING AN AMENDMENT TO ARTICLE 6, SECTION 32 OF THE
12 CONSTITUTION OF NEW MEXICO TO PROVIDE FOR A MUNICIPAL JUDGE TO
13 SIT ON THE JUDICIAL STANDARDS COMMISSION AND TO PROVIDE FOR AN
14 ADDITIONAL PUBLIC MEMBER.

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16 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. It is proposed to amend Article 6, Section 32
18 of the constitution of New Mexico to read:

19 "There is created the "judicial standards commission",
20 consisting of two justices or judges, one magistrate, one
21 municipal judge and two lawyers selected as may be provided by
22 law to serve for terms of four years, and [~~six~~] seven citizens,
23 none of whom is a justice, judge or magistrate of any court or
24 licensed to practice law in this state, who shall be appointed
25 by the governor for five-year staggered terms as may be

.180715.1

underscored material = new
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1 provided by law. If a position on the commission becomes
2 vacant for any reason, the successor shall be selected by the
3 original appointing authority in the same manner as the
4 original appointment was made and shall serve for the remainder
5 of the term vacated. No act of the commission is valid unless
6 concurred in by a majority of its members. The commission
7 shall select one of the members appointed by the governor to
8 serve as [~~chairman~~] chair.

9 In accordance with this section, any justice, judge or
10 magistrate of any court may be disciplined or removed for
11 willful misconduct in office, persistent failure or inability
12 to perform a judge's duties, or habitual intemperance, or [~~he~~]
13 may be retired for disability seriously interfering with the
14 performance of [~~his~~] the justice's, judge's or magistrate's
15 duties that is, or is likely to become, of a permanent
16 character. The commission may, after investigation it deems
17 necessary, order a hearing to be held before it concerning the
18 discipline, removal or retirement of a justice, judge or
19 magistrate, or the commission may appoint three masters who are
20 justices or judges of courts of record to hear and take
21 evidence in the matter and to report their findings to the
22 commission. After hearing or after considering the record and
23 the findings and report of the masters, if the commission finds
24 good cause, it shall recommend to the supreme court the
25 discipline, removal or retirement of the justice, judge or

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1 magistrate.

2 The supreme court shall review the record of the
3 proceedings on the law and facts and may permit the
4 introduction of additional evidence, and it shall order the
5 discipline, removal or retirement as it finds just and proper
6 or wholly reject the recommendation. Upon an order for [~~his~~]
7 retirement, any justice, judge or magistrate participating in a
8 statutory retirement program shall be retired with the same
9 rights as if [~~he~~] the justice, judge or magistrate had retired
10 pursuant to the retirement program. Upon an order for removal,
11 the justice, judge or magistrate shall thereby be removed from
12 office, and [~~his~~] the justice's, judge's or magistrate's
13 salary shall cease from the date of the order.

14 All papers filed with the commission or its masters, and
15 proceedings before the commission or its masters, are
16 confidential. The filing of papers and giving of testimony
17 before the commission or its masters is privileged in any
18 action for defamation, except that the record filed by the
19 commission in the supreme court continues privileged but, upon
20 its filing, loses its confidential character, and a writing
21 [~~which~~] that was privileged prior to its filing with the
22 commission or its masters does not lose its privilege by the
23 filing. The commission shall promulgate regulations
24 establishing procedures for hearings under this section. No
25 justice, [~~or~~] judge or magistrate who is a member of the

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1 commission or supreme court shall participate in any proceeding
2 involving ~~[his]~~ the justice's, judge's or magistrate's own
3 discipline, removal or retirement.

4 This section is alternative to, and cumulative with, the
5 removal of justices, judges and magistrates by impeachment and
6 the original superintending control of the supreme court."

7 Section 2. The amendment proposed by this resolution
8 shall be submitted to the people for their approval or
9 rejection at the next general election or at any special
10 election prior to that date that may be called for that
11 purpose.