

House Joint Resolution 8

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of former Representative Jeff Kropf)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Proposes amendment to Oregon Constitution to allow House of Representatives to impeach judges of Supreme Court, Court of Appeals, Oregon Tax Court and circuit courts. Specifies grounds for impeachment. Requires trial by Senate. Specifies effect of impeachment.

Refers proposed amendment to people for their approval or rejection at next regular general election.

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by repealing sections 19 and 20, Article VII (Original), by amending sections 6 and 8, Article VII (Amended), and by creating a new section 5 to be added to and made a part of Article III, such sections to read:

SECTION 5. (1) A judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court or any circuit court may be impeached by a vote of at least 31 members of the House of Representatives.

(2) A judge who is subject to this section may be impeached for malfeasance, crime, incapacity or negligence.

(3)(a) Any member of the House of Representatives who believes that a judge listed in subsection (1) of this section has committed an act for which the judge may be impeached may submit a complaint to the Speaker of the House of Representatives. A person who is a resident of this state and who believes that a judge listed in subsection (1) of this section has committed an act for which the judge may be impeached may submit a complaint to the Representative for the district in which the person resides. If the Representative believes that there is substantial evidence to support the complaint, the Representative shall deliver the complaint to the Speaker of the House of Representatives.

(b) Upon receiving a complaint under paragraph (a) of this subsection, the Speaker of the House of Representatives shall appoint a special prosecutor and a committee of members of the House of Representatives to investigate the complaint. The committee shall consist of three members from each of the two political parties with the greatest number of members in the House of Representatives. If a majority of the members of the committee believes that substantial evidence supports the complaint, and that the complaint alleges impeachable conduct, the committee shall direct the special prosecutor to prepare articles of impeachment and shall submit the articles to the House of Representatives.

(c) If the Legislative Assembly is in session when articles of impeachment are submitted under this subsection, the House of Representatives shall vote on the articles of impeachment before adjourning sine die. If the Legislative Assembly is not in session when

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 articles of impeachment are submitted under this subsection, the House of Representatives
2 must vote on the articles of impeachment before adjournment sine die of the next regular
3 or special session of the Legislative Assembly.

4 (4) Impeachment of a judge subject to this section shall be tried by the Senate. When the
5 Senate is sitting as a court of impeachment, the Senators shall be on oath to impartially try
6 the judge impeached, and a judge may not be convicted without the concurrence of two-
7 thirds of the members elected to the Senate.

8 (5) Upon conviction in the Senate, a judge subject to this section shall be removed from
9 office. In addition, the judgment of conviction may specify that the convicted judge be dis-
10 qualified from holding any public office in this state.

11 (6) Any judge impeached under this section shall be suspended from the exercise of judi-
12 cial duties during the pendency of the Senate proceedings. The suspension takes effect upon
13 the vote of impeachment by the House of Representatives and remains in effect until the
14 entry of a judgment of acquittal or conviction by the Senate.

15 (7) Nothing in this section prevents the indictment, trial and punishment of a judge, in
16 the manner provided by law, for any offense committed by the judge.

17 **Sec. 6.** Except as provided in section 5, Article III of this Constitution, [*Public*] public of-
18 ficers shall not be impeached; but incompetency, corruption, malfeasance or delinquency in office
19 may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from
20 office, and such further punishment as may have been prescribed by law.

21 **Sec. 8.** (1) In the manner provided by law, and notwithstanding section 1 of this Article, a judge
22 of any court may be removed or suspended from [*his*] judicial office by the Supreme Court, or
23 censured by the Supreme Court, for:

24 (a) Conviction in a court of this or any other state, or of the United States, of a crime
25 punishable as a felony or a crime involving moral turpitude; [*or*]

26 (b) Wilful misconduct in a judicial office where such misconduct bears a demonstrable relation-
27 ship to the effective performance of judicial duties; [*or*]

28 (c) Wilful or persistent failure to perform judicial duties; [*or*]

29 (d) Generally incompetent performance of judicial duties; [*or*]

30 (e) Wilful violation of any rule of judicial conduct as shall be established by the Supreme Court;

31 or

32 (f) Habitual drunkenness or illegal use of narcotic or dangerous drugs.

33 (2) [*Notwithstanding section 6 of this Article, the*] **The** methods provided in this section, section
34 1a of this Article, [*and in*] section 18, Article II, **and section 5, Article III** of this Constitution, are
35 the exclusive methods of the removal, suspension, or censure of a judge.

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37 **PARAGRAPH 2.** The amendment proposed by this resolution shall be submitted to the
38 people for their approval or rejection at the next regular general election held throughout
39 this state.

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