

COMMISSION ON JUDICIAL FITNESS AND DISABILITY

Agency Overview: The Commission has a critical role in government; holding unethical judges accountable. Created by legislative enactment at ORS 1.410-1.480, it investigates and prosecutes judges.

Each complaint is reviewed in detail by the only employee, a part-time Executive Director. Commission members then travel from all over the state six times a year to review each complaint. Investigations may entail reading transcripts; listening to CDs of hearings; viewing videos; querying the judge, the complainant, or lawyers involved in the case; or other investigative action.

The Commission has exceptional volunteers with unique experience and talents. Its three attorneys, three judges and three public members have demonstrated the willingness and ability to economically serve the interests of the public by quickly processing complaints and prosecutions to conclusion with a very small budget.

Only the Supreme Court can make the final decision. If a settlement is reached pre-trial, a stipulation is submitted to the Supreme Court for approval. After a hearing, the Commission may recommend censure, suspension or removal of the judge from office or dismissal of the case.

This biennium the Commission resolved three prosecutions through negotiated stipulations accepted by the Supreme Court. Only one required the Commission to retain an attorney and his compensation was only \$3000 (at the \$100 per hour rate that the Commission allows.) That case would have been costly to prosecute through an evidentiary hearing, and briefing and oral argument. The professionalism and skills of Commission members and reliance on its Executive Director to handle legal matters resulted in less expensive resolution of potentially expensive cases.

Attached are three letters of support from participants in one prosecution: former Chief Justice Paul DeMuniz, Judge Russell West, and James Mountain, Attorney at Law.

At this time, the Commission has one investigation for which it has retained counsel and the cost and use of its resources is, at this time, unknown.

Program Priorities: The administrative functions, such as disseminating information and reviewing all complaints, is the first priority. Without that day-to-day work, the Commission could not fulfill its principal function of prosecuting formal charges. The number of complaints reviewed by the Commission increased considerably in 2012. A total of 162 complaints were filed in 2012 compared to 113 in 2011, 139 in 2010, and 118 in 2009.

Current Budget Needs: The Commission functions in this exceptional manner with nine volunteers and one .5FTE staff member. The Commission cannot predict when or if a complaint requiring prosecution will be filed so an appropriate level of funding is required.

Forty percent of the increase in its requested budget is for \$10,800 for State Government Services. That amount represents a 227 percent increase over 2011-13 LAB. The Commission has no control over this increase in its budget.

Other increases are associated with PERS and health care.

A modest increase of \$6650 in the Executive Director's salary over two years is requested.. Since November 2000, the Executive Director has received only a small number of merit and COLA increases. This increase is warranted due to her years of experience as a lawyer and in this position combined with the increased caseload demands.

The Commission requests restoration of \$21,800 for extraordinary expenses. When \$21,800 was removed this biennium, only a little over \$6000 remained. As discussed above, the Commission was able to hold three judges accountable for ethical transgressions quickly and economically. However, this outcome cannot be guaranteed. The Commission has no control over whether a complaint will lead to a prosecution. The Commission needs sufficient funds to always move forward expeditiously to hold judges accountable for ethics violations and, thus, retain its credibility with the public, the bench and the Bar.

Respectfully submitted on the 18th day of March, 2013

by Susan D. Isaacs, Executive Director