A JOINT RESOLUTION

1 Proposing amendments to the Constitution of the Commonwealth of Pennsylvania, changing provisions relating to judicial discipline; and providing for financial disclosure, for budgeting and for the financial affairs of the judiciary.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendments to the Constitution of Pennsylvania are proposed in accordance with Article XI:

(1) That section 17 of Article V be amended to read:

§ 17. Prohibited activities and financial disclosure.

(a) Justices and judges shall devote full time to their judicial duties, and shall not engage in the practice of law, hold office in a political party or political organization, or hold an office or position of profit in the government of the United States, the Commonwealth or any municipal corporation or political subdivision thereof, except in the armed service of the United States or the Commonwealth.

(b) Justices and judges shall not engage in any activity
prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court. Justices of the peace shall be governed by rules or canons which shall be prescribed by the Supreme Court.

(c) No justice, judge or justice of the peace shall be paid or accept for the performance of any judicial duty or for any service connected with his office, any fee, emolument or perquisite other than the salary and expenses provided by law.

(d) No duties shall be imposed by law upon the Supreme Court or any of the justices thereof or the Superior Court or any of the judges thereof, except such as are judicial, nor shall any of them exercise any power of appointment except as provided in this Constitution.

(e) The Supreme Court shall promulgate financial disclosure requirements for all justices, judges, justices of the peace and other officers or employees of the unified judicial system which shall provide for no less financial disclosure than provided by law for members of the General Assembly. In addition, such disclosure shall include that information deemed necessary for the fair and impartial administration of justice. These requirements shall prohibit any justice, judge, justice of the peace or other officer or employee of the system from taking the oath of office or entering or continuing upon his or her duties or receiving compensation from public funds unless he or she has complied with such financial disclosure requirements.

(2) That section 18 of Article V be amended to read:

§ 18. Suspension, removal, discipline and compulsory retirement.

(a) There shall be a Judicial Inquiry and Review Board having nine members as follows: three judges of the courts of
§ 18. Judicial Conduct Board.

(a) There shall be a Judicial Conduct Board within the executive branch, which shall be composed of a total of 11 members as follows: two active judges of the court of common pleas appointed by the Supreme Court, one active judge of an appellate court appointed by the Supreme Court, one active justice of the peace appointed by the Supreme Court, two non-judge members of the bar of the Supreme Court appointed by the Governor and five non-lawyer electors appointed by the Governor. All members of the Judicial Conduct Board shall be appointed by the respective appointing authority, with the advice and consent of a majority of the members elected to the Senate in conformance with the provisions of section 8 of Article IV of this Constitution.

(b) Except for the initial appointees whose terms shall be provided by the schedule to this amendment, the members shall serve for terms of four years, provided that a member, rather than his or her successor, shall continue to participate in any hearing in progress at the end of [his term.] this term. All members shall be residents of this Commonwealth, and no more than six of the 11 members shall be registered in the same political party. Judicial Conduct Board membership by a judge shall terminate if the member ceases to hold the judicial position that qualified him or her for the appointment. Membership shall also terminate if a member attains a position
that would have rendered him or her ineligible for appointment
at the time of the appointment. A vacancy on the board shall be
filled by the respective appointing authority for the balance of
the term. The [respective appointing authority may remove a]
Governor may remove any member only for cause. No member shall
serve more than four consecutive years[; he] but may be
reappointed after a lapse of one year. [Annually] The Governor
shall convene the board for its first meeting, and, at that
meeting and annually thereafter, the members of the board shall
elect a chairman. The board shall act only with the concurrence
of a majority of its members.

(c) [A member shall not] No member of the Judicial Conduct
Board, during his or her term of service, shall hold office in a
political party or political organization. [Members, other than
judges, shall be compensated for their services as the Supreme
Court shall prescribe.] Except for a judicial member, no member
of the Judicial Conduct Board, during his or her term of
service, shall hold a public office or public appointment,
compensated or uncompensated. All members shall be reimbursed
for expenses necessarily incurred in the discharge of their
official duties.

(d) Under the procedure prescribed herein, any justice or
judge may be suspended, removed from office or otherwise
disciplined for violation of section 17 of this article,
misconduct in office, neglect of duty, failure to perform his
duties, or conduct which prejudices the proper administration of
justice or brings the judicial office into disrepute, and may be
retired for disability seriously interfering with the
performance of his duties.

(e) The board shall keep informed as to matters relating to
grounds for suspension, removal, discipline, or compulsory
grounds for suspension, removal, discipline, or compulsory
retirement of justices or judges. It shall receive complaints or
reports, formal or informal, from any source pertaining to such
matters, and shall make such preliminary investigations as it
deems necessary.

(f) The board, after such investigation, may order a hearing
concerning the suspension, removal, discipline or compulsory
retirement of a justice or judge. The board's orders for
attendance of or testimony by witnesses or for the production of
documents at any hearing or investigation shall be enforceable
by contempt proceedings.

(g) If, after hearing, the board finds good cause therefor,
it shall recommend to the Supreme Court the suspension, removal,
discipline or compulsory retirement of the justice or judge.

(h) The Supreme Court shall review the record of the board's
proceedings on the law and facts and may permit the introduction
of additional evidence. It shall order suspension, removal,
discipline or compulsory retirement, or wholly reject the
recommendation, as it finds just and proper. Upon an order for
compulsory retirement, the justice or judge shall be retired
with the same rights and privileges were he retired under
section 16 of this article. Upon an order for suspension or
removal, the justice or judge shall be suspended or removed from
office, and his salary shall cease from the date of such order.
All papers filed with and proceedings before the board shall be
confidential but upon being filed by the board in the Supreme
Court, the record shall lose its confidential character. The
filing of papers with and the giving of testimony before the
board shall be privileged.

(i) No justice or judge shall participate as a member of the
board or of the Supreme Court in any proceeding involving his
suspension, removal, discipline or compulsory retirement.

(j) The Supreme Court shall prescribe rules of procedure
under this section.

(k) The Supreme Court shall prescribe rules of procedure for
the suspension, removal, discipline and compulsory retirement of
justices of the peace.

(l) A justice, judge or justice of the peace convicted of
misbehavior in office by a court, disbarred as a member of the
bar of the Supreme Court or removed under this section 18 shall
forfeit automatically his judicial office and thereafter be
ineligible for judicial office.

(m) A justice or judge who shall file for nomination for or
election to any public office other than a judicial office shall
forfeit automatically his judicial office.

(n) This section is in addition to and not in substitution
for the provisions for impeachment for misbehavior in office
contained in Article VI. No justice, judge or justice of the
peace against whom impeachment proceedings are pending in the
Senate shall exercise any of the duties of his office until he
has been acquitted.

(d) The Judicial Conduct Board shall receive and investigate
complaints regarding judicial conduct filed by individuals or
initiated by the Judicial Conduct Board; promulgate rules for
determining whether a complaint is reasonably based; issue
subpoenas to compel testimony under oath of witnesses, including
the subject of the investigation, and to compel the production
of documents, books, accounts and other records relevant to the
investigation; determine whether there is probable cause to file
formal charges against a justice, judge or justice of the peace.
for conduct proscribed in sections 17 and 20(a) of this article, a finding of which shall require approval by a majority vote of the Judicial Conduct Board; and present the case in support of the charges.

(e) The Judicial Conduct Board, by a majority vote, shall appoint a chief counsel and other staff, prepare and administer its own budget as provided by law, establish and promulgate its own rules of procedure; and do what is needed to ensure its efficient operation. The budget request of the Judicial Conduct Board shall be made as an item in the request of the Governor on behalf of the executive branch of government to the General Assembly. The Judicial Conduct Board shall promulgate rules for the provision of written advisory opinions to justices, judges or justices of the peace which shall not be binding on the Judicial Conduct Board, although the board may give weight as to whether the subject of an investigation acted in accordance with an advisory opinion.

(f) The justice, judge or justice of the peace whose conduct is the subject of an investigation by the Judicial Conduct Board shall be given an opportunity to fully respond to the complaint and shall be afforded full discovery.

(g) Until a determination of probable cause has been made and formal charges have been filed, all proceedings shall be confidential except when the justice, judge or justice of the peace under investigation waives confidentiality, or in any case in which, independent of any action by the Judicial Conduct Board, the fact that an investigation is in process becomes public, in which case the Judicial Conduct Board may, at the direction of the justice, judge or justice of the peace under investigation, issue a statement to confirm the pendency of the
investigation, to clarify the procedural aspects of the
proceedings, to explain the right of the justice, judge or
justice of the peace to a fair hearing without prejudgment or to
state that the justice, judge or justice of the peace denies the
allegations.

(h) If on a complaint of mental or physical disability the
Judicial Conduct Board finds probable cause to file formal
charges against a justice, judge or justice of the peace, the
board shall present its findings to the justice, judge or
justice of the peace and provide him with the opportunity to
resign or, when appropriate, to enter a rehabilitation program
before the filing of formal charges.

(i) Members of the Judicial Conduct Board and its chief
counsel and staff shall be absolutely immune from suit for all
conduct in the course of their official duties. A complaint
submitted to the Judicial Conduct Board or testimony related to
the complaint shall be privileged, and no civil action or
disciplinary complaint predicated on the complaint or testimony
shall be maintained against any complainant or witness or his or
her counsel.

(3) That Article V be amended by adding sections to read:
§ 19. Court of Judicial Discipline.

(a) There shall be a Court of Judicial Discipline within the
judicial branch, which shall be composed of a total of seven
members as follows: two active judges of the court of common
pleas, one active judge of an appellate court, one active
justice of the peace, one non-judge member of the bar of the
Supreme Court and three non-lawyer electors. One judge of
the court of common pleas and the district justice member shall
be appointed by the Supreme Court. The remaining members of the
Court of Judicial Discipline shall be appointed by the Governor. All members of the court of Judicial Discipline shall be appointed with the advice and consent of a majority of the members elected to the Senate in conformance with the provisions of section 8 of Article IV of this Constitution.

(b) Except for the initial appointees whose terms shall be provided by the schedule to this amendment, the members shall serve for terms of four years, provided that a member, rather than his or her successor, shall continue to participate in any hearing in progress at the end of this term. All members shall be residents of this Commonwealth, and no more than four of the seven members shall be registered in the same political party.

Court of Judicial Discipline membership by a judge shall terminate if the judge ceases to hold the judicial position that qualified that judge for Court of Judicial Discipline appointment. Court of Judicial Discipline membership shall also terminate if a member attains a position that would have rendered him or her ineligible for appointment at the time of the appointment. A vacancy on the Court of Judicial Discipline shall be filled by the Governor for the balance of the term. The Governor may remove any member only for cause. No member of the Court of Judicial Discipline shall serve more than four consecutive years but may be reappointed after a lapse of one year.

(c) No member of the Court of Judicial Discipline, during his or her term of service, shall hold office in any political party or political organization. Except for a judicial member, no member of the Court of Judicial Discipline, during his or her term of service, shall hold a public office or public appointment, compensated or uncompensated. All members shall be
reimbursed for expenses necessarily incurred in the discharge of
their official duties.

(d) The Court of Judicial Discipline shall be a court of
record with all the attendant duties and powers appropriate to
its function, and shall hold public proceedings, conducted
pursuant to rules adopted by the Court of Judicial Discipline
consistent with the Pennsylvania Rules of Civil Procedure, and
consistent with the principles of due process and the law of
evidence; enable parties appearing before it to subpoena
witnesses and to compel the production of documents, books,
accounts and other records as relevant; render its decision in
writing, each decision to include its findings of fact,
conclusions of law and discussion of reasons; have its
proceedings transcribed; order removal from office, suspension,
censure or other discipline as authorized by section 20 of this
article and as warranted by the record; appoint staff and
prepare and administer its own budget as provided by law. All
actions of the Court of Judicial Discipline, including
disciplinary action, shall require approval by a majority vote
of the Court. The budget request of the Court of Judicial
Discipline shall be made as a separate item in the request by
the Supreme Court on behalf of the judicial system to the
General Assembly.

(e) Upon the filing of formal charges by the Judicial
Conduct Board, the Court of Judicial Discipline shall schedule a
prompt hearing to determine whether a sanction pursuant to the
provisions of section 20 of this article should be imposed. The
Court of Judicial Discipline shall afford the justice, judge or
justice of the peace full discovery and a fair opportunity to
prepare for the hearing. The Judicial Conduct Board shall have
the burden of proving the conduct complained of by clear and
convincing evidence.

(f) Members of the Court of Judicial Discipline and the
Court's staff shall be absolutely immune from suit for all
conduct in the course of their official duties, and no civil
action or disciplinary complaint predicated on testimony before
the Court of Judicial Discipline shall be maintained against any
witness or his or her counsel.

§ 20. Proscribed conduct and sanctions.

(a) Under the procedures prescribed in this section, any
justice, judge or justice of the peace may be suspended, removed
from office or otherwise disciplined for violation of section 17
of this article, misconduct in office, neglect or failure to
perform the duties of office, or conduct which prejudices the
proper administration of justice or brings the judicial office
into disrepute, whether or not such conduct occurred while
acting in a judicial capacity or is prohibited by law, and for
conduct in violation of a canon or rule prescribed by the
Supreme Court.

(b) The Court of Judicial Discipline may, until there is an
acquittal or conviction for the felony offense, order suspended
with or without pay any justice, judge or justice of the peace
against whom there has been filed an indictment or information
charging a felony. An interim order of suspension, with or
without pay, may be entered against a justice, judge or justice
of the peace against whom formal charges have been filed with
the Court of Judicial Discipline by the Judicial Conduct Board.
Such order shall not be immediately appealable.

(c) In the case of a mentally or physically disabled
justice, judge or justice of the peace, the Court of Judicial
Discipline may enter an order of removal from office, retirement, suspension or other limitations on the activities of the justice, judge or justice of the peace as warranted by the record.

(d) The Court of Judicial Discipline may order suspended, with or without pay, any justice, judge or justice of the peace after a determination that the continued service of the justice, judge or justice of the peace poses a substantial or imminent threat to the fair and impartial administration of justice.

(e) Upon an order of the Court of Judicial Discipline for suspension without pay or removal, the justice, judge or justice of the peace shall be suspended or removed from office, and his or her salary shall cease from the date of such order.

(f) A justice, judge or justice of the peace convicted of misbehavior in office by a court, disbarred as a member of the bar of the Supreme Court or removed under this section shall forfeit automatically his or her judicial office and thereafter be ineligible for judicial office.

(g) A justice, judge or justice of the peace who files for nomination for or election to any public office other than a judicial office shall forfeit automatically his or her judicial office.

(h) This section is in addition to and not in substitution for the provisions for impeachment for misbehavior in office contained in Article VI. No justice, judge or justice of the peace against whom impeachment proceedings are pending in the Senate shall exercise any of the duties of the office until he or she has been acquitted.

§ 21. Review of Court of Judicial Discipline.

(a) A justice, judge or justice of the peace, other than a
justice of the Supreme Court, in a manner consistent with the
rules of the Supreme Court, may appeal to the Supreme Court a
final adverse order of the Court of Judicial Discipline.

(b) A justice of the Supreme Court, in a manner consistent
with the rules of the Supreme Court, may appeal a final adverse
order of the Court of Judicial Discipline to a special review
panel consisting of seven judges to be chosen by lot from the
judges of the Superior Court and the Commonwealth Court, other
than senior judges, and who do not themselves sit on the Court
of Judicial Discipline. The appeal shall in all other respects
conform with the requirements of this section.

(c) No justice, judge or justice of the peace shall
participate as a member of the Judicial Conduct Board, the Court
of Judicial Discipline, a special review panel or the Supreme
Court in any proceeding involving his or her suspension,
removal, discipline or compulsory retirement.

(d) On appeal, the reviewing court or special tribunal shall
review the record of the Court of Judicial Discipline
proceedings as follows: As to matters of law, the scope of
review shall be plenary. As to matters of fact, the scope of
review shall be whether the findings below were clearly
erroneous. As to the propriety of the sanctions imposed, the
scope of review shall be whether the sanctions imposed were
lawful. The Supreme Court or special tribunal may revise or
reject the order of the Court of Judicial Discipline upon a
determination the order did not sustain this standard of review;
otherwise the Supreme Court shall affirm the order of the Court
of Judicial Discipline.

(e) An order of the Court of Judicial Discipline dismissing
a complaint against a judge or justice of the peace may be
appealed by the Judicial Conduct Board to the Supreme Court but
the appeal shall be limited to questions of law. An order of the
Court of Judicial Discipline dismissing a complaint against a
justice of the Supreme Court may be appealed by the Judicial
Conduct Board to a special tribunal composed of seven judges,
not senior judges, chosen by lot from the judges of the Superior
Court and Commonwealth Court, but the appeal shall be limited to
questions of law.

Section 2. (a) The members of the Judicial Inquiry and
Review Board appointed heretofore shall vacate their office 90
days after the issuance of the proclamation certifying voter
approval of the amendments to section 18 of Article V contained
herein and all proceedings pending before the board and all
records shall be transferred to the Judicial Conduct Board.
(b) Of the members initially appointed to the Judicial
Conduct Board, the appellate court judge and the common pleas
court judge first appointed shall serve four-year terms. The
second common pleas court judge and the justice of the peace
first appointed shall serve three-year terms. The non-judge
member of the bar of the Supreme Court first appointed by the
Governor shall serve a four-year term, and the second non-judge
member shall serve a two-year term. Of the non-lawyer electors
appointed by the Governor, the first two appointed shall serve
four-year terms; the next one appointed shall serve a three-year
term; and the final two appointed shall serve two-year terms.
(c) Of the members initially appointed to the Court of
Judicial Discipline, the common pleas court judges and the
appellate court judge shall serve four-year terms. The non-
lawyer elector first appointed and the district justice member
shall serve three-year terms. The non-judge member of the bar of
the Supreme Court and the second non-lawyer elector shall serve
two-year terms.

Section 3. Upon passage by the General Assembly of this
proposed constitutional amendment, the Secretary of the
Commonwealth shall proceed immediately to comply with the
advertising requirements of section 1 of Article XI of the
Constitution of Pennsylvania and shall transmit the required
advertisements to two newspapers in every county in which such
newspapers shall be published in sufficient time after passage
of this proposed constitutional amendment. Upon the second
passage of this proposed constitutional amendment by the General
Assembly, the Secretary of the Commonwealth shall proceed
immediately to comply with the advertising requirements of
section 1 of Article XI of the Constitution of Pennsylvania and
shall transmit the required advertisements to two newspapers in
every county in which such newspapers shall be published in
sufficient time after passage of this proposed constitutional
amendment. The Secretary of the Commonwealth shall submit this
proposed constitutional amendment to the qualified electors of
this Commonwealth at the first primary, general or municipal
election after the proposed constitutional amendment is passed
by the General Assembly which meets the requirements of and is
in conformance with section 1 of Article XI of the Constitution
of Pennsylvania.