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State of Misconsin 2011 - 2012 LEGISLATURE



2011 SENATE JOINT RESOLUTION 41

September 29, 2011 – Introduced by Senators Vinehout, Carpenter, S. Coggs, Hansen, Holperin, C. Larson and Lassa, cosponsored by Representatives Richards, Barca, Berceau, Bernard Schaber, Bewley, E. Coggs, D. Cullen, Doyle, Fields, Hebl, Hintz, Hulsey, Mason, Molepske Jr, Pasch, Pocan, Radcliffe, Ringhand and Roys. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

To renumber section 10 of article IV; and to create section 10 (2) of article IV of the constitution; relating to: requiring the legislature to enact laws requiring reasonable notice of and public access to meetings of governmental bodies, including the legislature, and making members of the legislature subject to citations and civil penalties for violations of such laws (first consideration).

Analysis by the Legislative Reference Bureau

On June 14, 2011, in *Ozanne v. Fitzgerald*, the Wisconsin Supreme Court held that under the constitutional separation of powers, the courts will not apply the notice and public access requirements of the open meetings law to meetings of legislative bodies.

The constitution also prohibits arrest of members of the legislature except for treason, felony, or breach of the peace and exempts members from civil process during the legislative session and for 15 days before and after the session.

This constitutional amendment, proposed to the 2011 legislature on first consideration, requires the legislature to enact laws requiring reasonable notice of and public access to meetings of governmental bodies, including the legislature, and making members of the legislature subject to citations and civil penalties for violations of such laws.

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A constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

Resolved by the senate, the assembly concurring, That:

Section 1. Section 10 of article IV of the constitution is renumbered section 10 (1) of article IV.

Section 2. Section 10 (2) of article IV of the constitution is created to read:

[Article IV] Section 10 (2) The legislature shall enact laws requiring governmental bodies to conduct business in meetings that are held with reasonable prior notice and accessible to the public and make these laws applicable to the legislature. Notwithstanding section 8 of this article, courts of law may apply these laws to the senate, the assembly, and other legislative bodies. Notwithstanding section 15 of this article, members of the legislature are subject to citation and civil penalties during a legislative session while a house is in recess for violations of such laws.

SECTION 3. Numbering of new provisions. If another constitutional amendment ratified by the people creates the number of any provision created in this joint resolution, the chief of the legislative reference bureau shall determine the sequencing and the numbering of the provisions whose numbers conflict.

Be it further resolved, That this proposed amendment be referred to the legislature to be chosen at the next general election and that it be published for three months previous to the time of holding such election.

(END)