

JUSTICE COURT AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Brent H. Goodfellow

This act modifies the Judicial Code by eliminating the salary cap for Justice Court judges.

The act also changes who appoints Justice Court judges in municipalities with the council-manager form of government from the chair of the city council to the city manager.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-5-128, as last amended by Chapter 148, Laws of Utah 2000

78-5-134, as last amended by Chapter 313, Laws of Utah 1998

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-5-128** is amended to read:

78-5-128. Determination of compensation and limits -- Salary survey -- Limits on secondary employment.

(1) (a) Every justice court judge shall be paid a fixed compensation determined by the governing body of the respective municipality or county taking into consideration recommendations of the office of the state court administrator as provided in Subsection (2)~~], but in no case may the salary for a justice court judge be an amount greater than 72% of the salary of a district court judge].~~

(b) The compensation shall be comprised of a monthly salary and shall be computed upon the number of hours, days, or other periods of time that the justice court judge is to be available to perform all judicial functions.

(2) (a) The state court administrator with the approval of the Judicial Council shall survey areas of the state relating to the functions and activities of the justice courts, taking into consideration the diverse economic factors of the various localities of the justice courts, and develop recommended monthly salaries. These recommendations shall be furnished to the

28 governing bodies of the municipalities and the counties to assist them in determining salaries.

29 (b) The state court administrator may make studies concerned with the economic as well
30 as administrative feasibility to encourage the various political subdivisions to utilize the same
31 person or persons to act as justice court judges for their several jurisdictions and to assist political
32 subdivisions desiring to enter into agreements for that purpose.

33 (3) A justice court judge may not appear as an attorney in any criminal matter in a federal,
34 state, or justice court or appear as an attorney in any justice court or in any juvenile court case
35 involving conduct which would be criminal if committed by an adult.

36 (4) A justice court judge may not hold any office or employment including contracting for
37 services in any justice agency of state government or any political subdivision of the state
38 including law enforcement, prosecution, criminal defense, corrections, or court employment.

39 (5) A justice court judge may not hold any office in any political party or organization
40 engaged in any political activity or serve as an elected official in state government or any political
41 subdivision of the state.

42 (6) A justice court judge may not own or be employed by any business entity which
43 regularly litigates in small claims court.

44 (7) Any judge who violates this section is subject to removal by the Judicial Conduct
45 Commission under Title 78, Chapter 8, Judicial Conduct Commission and Supreme Court
46 Oversight of Judges.

47 Section 2. Section **78-5-134** is amended to read:

48 **78-5-134. Justice court judges to be appointed -- Procedure -- Report to Judicial**
49 **Council -- Retention election -- Vacancy.**

50 (1) As used in this section:

51 (a) "Appointing authority" means:

52 (i) the chair of the county commission in counties having the county commission form of
53 county government;

54 (ii) the county executive in counties having the county executive-council form of
55 government;

56 (iii) the chair of the city commission, city council, or town council in municipalities
57 having[~~-(A)~~] the traditional management arrangement established by Title 10, Chapter 3, Part 1,
58 Governing Body; [~~and~~]

59 ~~[(B)]~~ (iv) the city manager, in the council-manager optional form of government defined
60 in Section 10-3-1209; and

61 ~~[(iv)]~~ (v) the mayor, in the council-mayor optional form of government defined in Section
62 10-3-1209~~;~~~~and~~.

63 (b) "Local legislative body" means:

64 (i) the county commission or county council; and

65 (ii) the city commission, city council, or town council.

66 (2) Justice court judges shall be appointed by the appointing authority and confirmed by
67 a majority vote of the local legislative body.

68 (3) (a) After a newly appointed justice court judge has been confirmed, the local legislative
69 body shall report the confirmed judge's name to the Judicial Council.

70 (b) The Judicial Council shall certify the judge as qualified to hold office upon successful
71 completion of the orientation program and upon the written opinion of the county or municipal
72 attorney that the judge meets the statutory qualifications for office.

73 (c) A justice court judge may not perform judicial duties until certified by the Judicial
74 Council.

75 (4) Upon the expiration of a county justice court judge's term of office the judge shall be
76 subject to an unopposed retention election in accordance with the procedures set forth in Section
77 20A-12-201.

78 (5) Upon the expiration of a municipal justice court judge's term of office a municipal
79 justice court judge shall be reappointed absent a showing of good cause by the appointing
80 authority.

81 (a) If an appointing authority asserts good cause to not reappoint a municipal justice court
82 judge, at the request of the judge, the good cause shall be presented at a formal hearing of the local
83 legislative body.

84 (b) The local legislative body shall determine by majority vote whether good cause exists
85 not to reappoint the municipal justice court judge.

86 (c) The decision of the local legislative body is not subject to appeal.

87 (d) In determining whether good cause exists to not reappoint a municipal justice court
88 judge, the appointing authority and local legislative body shall consider:

89 (i) whether or not the judge has been certified as meeting the evaluation criteria for judicial

- 90 performance established by the Judicial Council; and
- 91 (ii) any other factors considered relevant by the appointing authority.
- 92 (6) Before reappointment or retention election, each justice court judge shall be evaluated
- 93 in accordance with the performance evaluation program established in Subsection 78-3-21(4).
- 94 (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of
- 95 justice court judge, the appointing authority may contract with a justice court judge in the county
- 96 or an adjacent county to serve as justice court judge.
- 97 (b) The contract shall be for the duration of the justice court judge's term of office.
- 98 (8) Vacancies in the office of justice court judge shall be filled as provided in Section
- 99 20A-1-506.

Legislative Review Note
as of 12-18-00 12:36 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel