

**Representative Curtis Oda** proposes the following substitute bill:

**RETENTION ELECTIONS FOR JUSTICE COURT JUDGES**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis Oda**

Senate Sponsor: D. Chris Butters

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**LONG TITLE**

**General Description:**

This bill allows justice court judges to be evaluated for the ~~H~~→ 2012, 2014, and ←~~H~~ 2016 retention election under two different standards.

**Highlighted Provisions:**

This bill:

▶ for the ~~H~~→ 2012, 2014, and ←~~H~~ 2016 retention ~~H~~→ [election] elections ←~~H~~ only, authorizes the Judicial Performance Evaluation Commission to evaluate justice court judges under two different standards by allowing:

- justice court judges who are employed part-time on July 1, 2012 to be evaluated by the criteria established before the Judicial Performance Evaluation Commission was established; and

- justice court judges who are employed full-time on July 1, 2012 to be evaluated by the new criteria established when the Judicial Performance Evaluation Commission was created.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63I-2-278**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and  
29 amended by Laws of Utah 2008, Chapter 382

30 **78A-7-202**, as last amended by Laws of Utah 2009, Chapter 146



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

32 Section 1. Section **63I-2-278** is amended to read:

33 **63I-2-278. Repeal dates, Title 78A and Title 78B.**

34 (1) Subsection 78A-7-202(9) is repealed November 15, 2016.

35 ~~[(+) (2) Section 78A-9-103, Practicing law without a license, is repealed May 3, 2012.~~

36 ~~[(2) Subsections 78B-12-301(1) and 78B-12-302(1) are repealed January 1, 2010.]~~

37 Section 2. Section **78A-7-202** is amended to read:

38 **78A-7-202. Justice court judges to be appointed -- Procedure -- Retention.**

39 (1) As used in this section:

40 (a) "Local government executive" means:

41 (i) for a county:

42 (A) the chair of the county commission in a county operating under the county  
43 commission or expanded county commission form of county government;

44 (B) the county executive in a county operating under the county executive-council form  
45 of county government; and

46 (C) the county manager in a county operating under the council-manager form of  
47 county government; and

48 (ii) for a city or town:

49 (A) the mayor of the city or town; or

50 (B) the city manager, in the council-manager form of government described in  
51 Subsection 10-3b-103(6).

52 (b) "Local legislative body" means:

53 (i) for a county, the county commission or county council; and

54 (ii) for a city or town, the council of the city or town.

55 (2) There is created in each county a county justice court nominating commission to  
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57 review applicants and make recommendations to the appointing authority for a justice court  
58 position. The commission shall be convened when a new justice court judge position is created  
59 or when a vacancy in an existing court occurs for a justice court located within the county.

60 (a) Membership of the justice court nominating commission shall be as follows:

61 (i) one member appointed by:

62 (A) the county commission if the county has a county commission form of  
63 government; or

64 (B) the county executive if the county has an executive-council form of government;

65 (ii) one member appointed by the municipalities in the counties as follows:

66 (A) if the county has only one municipality, appointment shall be made by the  
67 governing authority of that municipality; or

68 (B) if the county has more than one municipality, appointment shall be made by a  
69 municipal selection committee composed of the mayors of each municipality in the county;

70 (iii) one member appointed by the county bar association; and

71 (iv) two members appointed by the governing authority of the jurisdiction where the  
72 judicial office is located.

73 (b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be  
74 appointed by the regional bar association. If no regional bar association exists, the state bar  
75 association shall make the appointment.

76 (c) Members appointed under Subsections (2)(a)(i) and (ii) may not be an elected  
77 official of the county or municipality.

78 (d) The nominating commission shall submit at least two names to the appointing  
79 authority of the jurisdiction expected to be served by the judge. The local government  
80 executive shall appoint a judge from the list submitted and the appointment ratified by the local  
81 legislative body.

82 (e) The state court administrator shall provide staff to the commission. The Judicial  
83 Council shall establish rules and procedures for the conduct of the commission.

84 (3) Judicial vacancies shall be advertised in a newspaper of general circulation, through  
85 the Utah State Bar, and other appropriate means.

86 (4) Selection of candidates shall be based on compliance with the requirements for  
87 office and competence to serve as a judge.

88 (5) Once selected, the Judicial Council shall certify the judge as qualified to hold office  
89 upon successful completion of the orientation program.

90 (6) The selection of a person to fill the office of justice court judge is effective upon  
91 certification of the judge by the Judicial Council. A justice court judge may not perform  
92 judicial duties until certified by the Judicial Council.

93 (7) Upon the expiration of a justice court judge's term of office, the judge shall be  
94 subject to an unopposed retention election in the county or counties in which the court to which  
95 the judge is appointed is located, in accordance with the procedures set forth in Section  
96 20A-12-201.

97 (8) Before each retention election, each justice court judge shall be evaluated in  
98 accordance with the performance evaluation program established in [~~Subsection 78A-2-104(5)~~]  
99 Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act.

100 (9) Notwithstanding Subsection (8), each justice court judge who is subject to a  
101 retention election in ~~H~~→ 2012, 2014, and ←~~H~~ 2016, and who is not a full-time justice court  
101a judge on July 1, 2012, shall

102 be evaluated by the Judicial Performance Evaluation Commission according to the following  
103 performance standards:

104 (a) have no less than 30 annual hours of continuing legal education for each year of the  
105 justice court judge's current term;

106 (b) have no more than one public reprimand issued by the Judicial Conduct  
107 Commission or the Supreme Court during the justice court judge's current term; and

108 (c) have no cases under advisement for more than two months.

# FISCAL NOTE

H.B. 392 1st Sub. (Buff)

SHORT TITLE: Retention Elections for Justice Court Judges

SPONSOR: Oda, C.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.