

MUNICIPAL JUSTICE COURT JUDGE ELECTIONS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kenneth W. Sumsion

Senate Sponsor: Mark B. Madsen

LONG TITLE

General Description:

This bill changes the requirements for a retention election vote for justice court judges.

Highlighted Provisions:

This bill:

- ▶ changes the retention election requirements for municipal justice court judges in cities of the first, second, and third class from the entire county to the municipality where the judge sits;

- ▶ clarifies that a justice court judge standing for retention in more than one location who is retained in one location and not retained in another does not lose both offices; and

- ▶ makes a technical correction.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-12-201, as last amended by Laws of Utah 2008, Chapters 93 and 225

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

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

Section 1. Section **20A-12-201** is amended to read:

30 **20A-12-201. Judicial appointees -- Retention elections.**

31 (1) (a) Each judicial appointee to a court is subject to an unopposed retention election
32 at the first general election held more than three years after the judge or justice was appointed.

33 (b) After the first retention election:

34 (i) each Supreme Court justice shall be on the regular general election ballot for an
35 unopposed retention election every tenth year; and

36 (ii) each judge of other courts shall be on the regular general election ballot for an
37 unopposed retention election every sixth year.

38 (2) (a) Each justice or judge of a court of record who wishes to retain office shall, in
39 the year the justice or judge is subject to a retention election:

40 (i) file a declaration of candidacy as if a candidate for multi-county office in
41 accordance with Section 20A-9-202; and

42 (ii) pay a filing fee of \$50.

43 (b) Each justice court judge who wishes to retain office shall, in the year the justice
44 court judge is subject to a retention election:

45 (i) file a declaration of candidacy as if a candidate for county office in accordance with
46 Section 20A-9-202; and

47 (ii) pay a filing fee of \$25.

48 (3) (a) The lieutenant governor shall, no later than September 8 of each regular general
49 election year:

50 (i) transmit a certified list containing the names of the justices of the Supreme Court
51 and judges of the Court of Appeals declaring their candidacy to the county clerk of each
52 county; and

53 (ii) transmit a certified list containing the names of judges of other courts declaring
54 their candidacy to the county clerk of each county in the geographic division in which the judge
55 filing the declaration holds office.

56 (b) Each county clerk shall place the names of justices and judges standing for
57 retention election in the nonpartisan section of the ballot.

58 (4) At the general election, the ballots shall contain, as to each justice or judge of any
59 court to be voted on in the county, the following question:

60 "Shall _____(name of justice or judge) be retained in the
61 office of _____?" (name of office, such as "Justice of the Supreme
62 Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the
63 Third Judicial District;" "Judge of the Juvenile Court of the Fourth Juvenile Court District";
64 "Justice Court Judge of (name of county) County or (name of municipality)")

65 Yes ()

66 No ()."

67 (5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge
68 is retained for the term of office provided by law.

69 (b) If the justice or judge does not receive more yes votes than no votes, the justice or
70 judge is not retained, and a vacancy exists in the office on the first Monday in January after the
71 regular general election.

72 (6) A justice or judge not retained is ineligible for appointment to the office for which
73 the justice or judge was defeated until after the expiration of that term of office.

74 (7) If a justice court judge is standing for retention for more than one office, the county
75 clerk shall place the judge's name on the ballot separately for each office. If the justice court
76 judge receives more no votes than yes votes in one office, but more yes votes than no votes in
77 the other, the justice court judge shall be retained only in the office for which the judge
78 received more yes votes than no votes.

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

80 **78A-7-202. Justice court judges to be appointed -- Procedure -- Retention.**

81 (1) As used in this section:

82 (a) "Local government executive" means:

83 (i) for a county:

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

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

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

90 (ii) for a city or town:

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

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

94 (b) "Local legislative body" means:

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

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

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

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

102 (i) one member appointed by:

103 (A) the county commission if the county has a county commission form of
104 government; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

134 (7) Upon the expiration of a justice court judge's term of office, the judge shall be
135 subject to an unopposed retention election [~~in the county or counties in which the court to~~
136 ~~which the judge is appointed is located;~~] in accordance with the procedures set forth in Section
137 20A-12-201[-];

138 (a) in the county or counties in which the court to which the judge is appointed is
139 located if the judge is a county justice court judge or a municipal justice court judge in a town
140 or city of the fourth or fifth class; or

141 (b) in the municipality in which the court to which the judge is appointed is located if

142 the judge is a municipal justice court judge and Subsection (7)(a) does not apply.

143 (8) Before each retention election, each justice court judge shall be evaluated in

144 accordance with the performance evaluation program established in [~~Subsection 78A-2-104(5)~~]

145 Section 78A-12-203.