

**JUDICIAL NOMINATING COMMISSIONS - AMENDMENTS**

2016 THIRD SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Peter C. Knudson**

House Sponsor: Mike K. McKell

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**LONG TITLE**

**General Description:**

This bill modifies the Judicial Selection Act regarding judicial nominating commissions.

**Highlighted Provisions:**

This bill:

- ▶ provides that if a judicial nominating commission is considering applicants for more than one vacancy existing in a court at the same time, the judicial nominating commission shall include in the list it sends to the governor one additional applicant for each additional vacancy.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**78A-10-103**, as last amended by Laws of Utah 2010, Chapter 134

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

Section 1. Section **78A-10-103** is amended to read:

**78A-10-103. Procedures governing meetings of judicial nominating commissions.**

(1) The Commission on Criminal and Juvenile Justice shall:

(a) in consultation with the Judicial Council, enact rules establishing procedures

30 governing the meetings of the judicial nominating commissions in accordance with Title 63G,  
31 Chapter 3, Utah Administrative Rulemaking Act; and

32 (b) ensure that those procedures include:

33 (i) a minimum recruitment period of at least 30 days but not more than 90 days, unless  
34 fewer than nine applications are received for a judicial vacancy, in which case the recruitment  
35 period may be extended up to 30 days;

36 (ii) standards for maintaining the confidentiality of the applications and related  
37 documents;

38 (iii) standards governing the release of applicant names before nomination;

39 (iv) standards for destroying the records of the names of applicants, applications, and  
40 related documents upon completion of the nominating process;

41 (v) an opportunity for public comment concerning the nominating process,  
42 qualifications for judicial office, and individual applicants;

43 (vi) evaluation criteria for the selection of judicial nominees;

44 (vii) procedures for taking summary minutes at nominating commission meetings;

45 (viii) procedures for simultaneously forwarding the names of nominees to the  
46 governor, the president of the Senate, and the Office of Legislative Research and General  
47 Counsel;

48 (ix) standards governing a nominating commissioner's disqualification and inability to  
49 serve; and

50 (x) procedures that require the Administrative Office of the Courts to immediately  
51 inform the governor when a judge is removed, resigns, or retires.

52 (2) In determining which of the applicants are the most qualified, the nominating  
53 commissions shall determine by a majority vote of the commissioners present which of the  
54 applicants best possess the ability, temperament, training, and experience that qualifies them  
55 for the office.

56 (3) (a) [~~The~~] Except as provided under Subsection (3)(b):

57 (i) the appellate court nominating commission shall certify to the governor a list of the

58 seven most qualified applicants per vacancy; and

59 ~~[(b)]~~ (ii) trial court nominating commissions shall certify to the governor a list of the  
60 five most qualified applicants per vacancy.

61 (b) If a nominating commission is considering applicants for more than one judicial  
62 vacancy existing at the same time and for the same court, the nominating commission shall  
63 include one additional applicant for each additional vacancy in the court in the list of applicants  
64 the commission certifies to the governor.

65 (4) Nominating commissions shall ensure that the list of applicants submitted to the  
66 governor:

67 (a) meet the qualifications required by law to fill the office; and

68 (b) are willing to serve.

69 (5) In determining which of the applicants are the most qualified, nominating  
70 commissions may not decline to submit a candidate's name to the governor merely because:

71 (a) the nominating commission had declined to submit that candidate's name to the  
72 governor to fill a previous vacancy;

73 (b) a previous nominating commission had declined to submit that candidate's name to  
74 the governor; or

75 (c) that nominating commission or a previous nominating commission had submitted  
76 the applicant's name to the governor and the governor selected someone else to fill the vacancy.

77 (6) A judicial nominating commission may not nominate a justice or judge who was  
78 not retained by the voters for the office for which the justice or judge was defeated until after  
79 the expiration of that term of office.

80 (7) Judicial nominating commissions are exempt from the requirements of Title 52,  
81 Chapter 4, Open and Public Meetings Act.

82 Section 2. **Effective date.**

83 If approved by two-thirds of all the members elected to each house, this bill takes effect  
84 upon approval by the governor, or the day following the constitutional time limit of Utah  
85 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

86 the date of veto override.