

## Fiscal Highlights

### **What is the Judicial Conduct Commission and Where Can I Find Its Budget? - Gary K. Ricks**

The Judicial Conduct Commission is established by the State Constitution, Article VIII, Section 13. The commission is composed of 11 members. The constitution directs the Legislature to establish the composition and procedures of the commission. Per statute, the commission is comprised of the following:

- Two members of the House of Representatives to be appointed by the speaker of the House of Representatives for a four-year term, not more than one of whom may be of the same political party as the speaker;
- Two members of the Senate to be appointed by the president of the Senate for a four-year term, not more than one of whom may be of the same political party as the president;
- Two members of, and in good standing with, the Utah State Bar, who shall be appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may reside in the same judicial district;
- Three persons not members of the Utah State Bar, who shall be appointed by the governor, with the consent of the Senate, for four-year terms, not more than two of whom may be of the same political party as the governor; and
- Two judges to be appointed by a majority of the Utah Supreme Court for a four-year term, neither of whom may: (1) be a member of the Utah Supreme Court; (2) serve on the same level of court as the other; and (3) if trial judges, serve primarily in the same judicial district as the other.

Terms of commission members are staggered so that approximately half of the commission expires every two years. Members may not serve longer than eight years. Staff support is provided by an executive director (full-time), an investigative counsel, and an office technician (both part-time). Total staff support amounts to two FTEs.

As directed by the constitution, the commission investigates and conducts confidential hearings regarding complaints against any justice or judge. Following its investigations and hearings, the commission may order the reprimand, censure, suspension, removal, or involuntary retirement of any justice or judge for any action which constitutes willful misconduct in office; final conviction of a crime punishable as a felony under state or federal law; willful and persistent failure to perform judicial duties; disability that seriously interferes with the performance of judicial duties; or conduct prejudicial to the administration of justice which brings a judicial office into disrepute.

The commission may only begin an investigation when it receives a written complaint. Electronic complaint forms and submission instructions are provided on the commission website (see <http://jcc.utah.gov/index.html>). Generally, the majority of complaints are resolved within 90 days from the date the complaint is received by the commission.

The commission has stated that it cannot impose discipline; it can only recommend that the Utah Supreme Court impose discipline. Once the commission determines that a judge has committed judicial misconduct and should be publicly sanctioned for that misconduct, the commission will

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then recommend that the judge be reprimanded, censured, suspended, removed from office or involuntarily retired. Only the Utah Supreme Court can actually impose a reprimand, censure, suspension, removal or involuntary retirement. Prior to the implementation of any commission recommendation, the Utah Supreme Court reviews the commission's proceedings as to both law and fact. The Utah Supreme Court may then issue an order implementing, rejecting or modifying the commission's recommendation.

The commission holds approximately ten meetings each year. Portions of its meetings are closed to the public. The commission has stated that except in certain limited circumstances specified by statute, all complaints, papers and testimony received or maintained by the commission and the record of any confidential hearings conducted by the commission are confidential and cannot be disclosed. The commission does prepare an annual report along with other information that it can disclose and posts this information on its website for public review.

The Judicial Conduct Commission is established as a line item within the Department of Administrative Services budget. Its budget is heard in the Infrastructure and General Government Appropriations Subcommittee. In the 2014 General Session, the Legislature provided an ongoing appropriation of \$245,500 from the General Fund for FY 2015. Principal expenditures of the commission are for personnel and meetings costs.