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| 1 | JUDICIAL CONDUCT COMMISSION |
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| 2 | AMENDMENTS |
| 3 | 1998 GENERAL SESSION |
| 4 | STATE OF UTAH |
| 5 | Sponsor: Gary F. Cox |
| 6 | AN ACT RELATING TO THE JUDICIAL CODE; ADDING A JUDGE TO THE |
| 7 | MEMBERSHIP OF THE JUDICIAL CONDUCT COMMISSION; AND MAKING |
| 8 | TECHNICAL CORRECTIONS. |
| 9 | This act affects sections of Utah Code Annotated 1953 as follows: |
| 10 | AMENDS: |
| 11 | 78-7-27, as last amended by Chapters 194 and 243, Laws of Utah 1996 |
| 12 | Be it enacted by the Legislature of the state of Utah: |
| 13 | Section 1. Section 78-7-27 is amended to read: |
| 14 | 78-7-27. Judicial Conduct Commission Creation Members Terms Vacancies |
| 15 | Voting Expenses. |
| 16 | (1) The membership of the Judicial Conduct Commission established by Article VIII, |
| 17 | Section 13 of the Utah Constitution consists of: |
| 18 | (a) two members of the House of Representatives to be appointed by the speaker of the |
| 19 | House of Representatives for a two-year term, not more than one of whom may be of the same |
| 20 | political party as the speaker; |
| 21 | (b) two members of the Senate to be appointed by the president of the Senate for a |
| 22 | two-year term, not more than one of whom may be of the same political party as the president; |
| 23 | (c) three members from the board of commissioners of the Utah State Bar, who shall be |
| 24 | appointed by the board of commissioners of the Utah State Bar for a four-year term; |
| 25 | (d) two persons not members of the Utah State Bar, who shall be appointed by the |
| 26 | governor, with the advice and consent of the Senate, for four-year terms, not more than one of |
| 27 | whom may be of the same political party as the governor; and |

| 1 | (e) § [+] one judge § [-] <u>two judges</u>] , AND ONE ALTERNATE JUDGE, of a trial court of |
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| 1a | record, to be selected by the <u>nonjudicial</u> |
| 2 | <u>members of the</u> Judicial Conduct Commission for $\[\mathbf{a}\]$ four-year $\[\mathbf{b}\]$ TERMS $\[\mathbf{c}\]$. $\[\mathbf{c}\]$ THE |
| 2a | JUDGES SHALL COORDINATE ATTENDANCE FOR MEETINGS SO THAT, IF POSSIBLE, AT LEAST ONE |
| 2b | <u>IS IN ATTENDANCE AT EACH MEETING. IF BOTH JUDGES ARE IN ATTENDANCE AT A MEETING,</u> |
| 2c | ONLY ONE MAY BE COUNTED FOR QUORUM PURPOSES AND VOTE ON EACH ISSUE BEFORE THE |
| 2d | <u>COMMISSION.</u>] THE JUDGE AND THE ALTERNATE JUDGE SHALL COORDINATE ATTENDANCE |
| 2e | FOR MEETINGS SO THAT, IF POSSIBLE, AT LEAST ONE IS IN ATTENDANCE AT EACH MEETING. IF |
| 2f | BOTH JUDGES ARE IN ATTENDANCE AT A MEETING, THE ALTERNATE JUDGE SHALL NOT BE |
| 2g | COUNTED FOR QUORUM PURPOSES NOR VOTE ON ANY ISSUE BEFORE THE COMMISSION. |
| 3 | (2) The terms of the members shall be staggered so that approximately half of the |
| 4 | commission expires every two years. § THE JUDGES SHALL BE APPOINTED SO THAT THE TERMS |
| 4a | EXPIRE IN STAGGERED TWO YEAR INCREMENTS. |
| 5 | (3) If [the] <u>a</u> judge serving on the commission is disqualified from participating in any |
| 6 | proceeding, the Judicial Conduct Commission shall select a substitute judge of a trial court of |
| 7 | record. |
| 8 | (4) The Judicial Conduct Commission shall establish guidelines and procedures for the |
| 9 | disqualification of any member from consideration of any matter. |
| 10 | (5) (a) When a vacancy occurs in the membership for any reason, the replacement shall |
| 11 | be appointed by the appointing authority for the unexpired term. |
| 12 | (b) If the appointing authority fails to appoint a replacement, the commissioners who have |
| 13 | been appointed may act as a commission under all the provisions of this section. |
| 14 | (6) Six members of the commission shall constitute a quorum. Any action of a majority |
| 15 | of the quorum constitutes the action of the commission. |
| 16 | (7) (a) (i) Members who are not government employees shall receive no compensation or |
| 17 | benefits for their services, but may receive per diem and expenses incurred in the performance of |
| 18 | the member's official duties at the rates established by the Division of Finance under Sections |
| 19 | 63A-3-106 and 63A-3-107. |
| 20 | (ii) Members may decline to receive per diem and expenses for their service. |
| 21 | (b) (i) State government officer and employee members who do not receive salary, per |
| 22 | diem, or expenses from their agency for their service may receive per diem and expenses incurred |
| 23 | in the performance of their official duties from the commission at the rates established by the |
| 24 | Division of Finance under Sections 63A-3-106 and 63A-3-107. |
| 25 | (ii) State government officer and employee members may decline to receive per diem and |
| 26 | expenses for their service. |

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- (c) Legislators on the committee shall receive compensation and expenses as provided bylaw and legislative rule.
- 29 (d) The chair shall be allowed the actual expenses of secretarial services, the expenses of
- 30 services for either a court reporter or a transcriber of electronic tape recordings, and other
- 31 necessary administrative expenses incurred in the performance of the duties of the commission.

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1 (8) Upon a majority vote of the quorum, the commission may:

2 (a) employ a director, legal counsel, investigators, and other staff to assist the commission;

3 and

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- (b) incur other reasonable and necessary expenses within the authorized budget of the
- 5 commission and consistent with the duties of the commission.

Legislative Review Note as of 12-22-97 12:31 PM

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

Office of Legislative Research and General Counsel

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