

JUDICIAL CONDUCT COMMISSION AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Gary F. Cox

AN ACT RELATING TO THE JUDICIAL CODE; ADDING A JUDGE TO THE MEMBERSHIP OF THE JUDICIAL CONDUCT COMMISSION; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-7-27, as last amended by Chapters 194 and 243, Laws of Utah 1996

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

Section 1. Section **78-7-27** is amended to read:

78-7-27. Judicial Conduct Commission -- Creation -- Members -- Terms -- Vacancies -- Voting -- Expenses.

(1) The membership of the Judicial Conduct Commission established by Article VIII, Section 13 of the Utah Constitution consists of:

(a) two members of the House of Representatives to be appointed by the speaker of the House of Representatives for a two-year term, not more than one of whom may be of the same political party as the speaker;

(b) two members of the Senate to be appointed by the president of the Senate for a two-year term, not more than one of whom may be of the same political party as the president;

(c) three members from the board of commissioners of the Utah State Bar, who shall be appointed by the board of commissioners of the Utah State Bar for a four-year term;

(d) two persons not members of the Utah State Bar, who shall be appointed by the governor, with the advice and consent of the Senate, for four-year terms, not more than one of whom may be of the same political party as the governor; and

(e) one judge, and one alternate judge, of a trial court of record, to be selected by the nonjudicial members of the Judicial Conduct Commission for [a] four-year [term] terms. The judge and the alternate judge shall coordinate attendance for meetings so that, if possible, at least

one is in attendance at each meeting. If both judges are in attendance at a meeting, the alternate judge shall not be counted for quorum purposes nor vote on any issue before the commission.

(2) The terms of the members shall be staggered so that approximately half of the commission expires every two years. The judges shall be appointed so that the terms expire in staggered two year increments.

(3) If ~~[the]~~ a judge serving on the commission is disqualified from participating in any proceeding, the Judicial Conduct Commission shall select a substitute judge of a trial court of record.

(4) The Judicial Conduct Commission shall establish guidelines and procedures for the disqualification of any member from consideration of any matter.

(5) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the appointing authority for the unexpired term.

(b) If the appointing authority fails to appoint a replacement, the commissioners who have been appointed may act as a commission under all the provisions of this section.

(6) Six members of the commission shall constitute a quorum. Any action of a majority of the quorum constitutes the action of the commission.

(7) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the commission at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) Legislators on the committee shall receive compensation and expenses as provided by law and legislative rule.

(d) The chair shall be allowed the actual expenses of secretarial services, the expenses of services for either a court reporter or a transcriber of electronic tape recordings, and other necessary administrative expenses incurred in the performance of the duties of the commission.

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

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

and

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