

## H.B. 157

### JUDICIAL NOMINATING COMMISSION AMENDMENTS

HOUSE FLOOR AMENDMENTS

FEBRUARY 23, 1998 9:57 AM

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Representative **Fox-Finlinson** proposes the following amendments:

1. Page 1, Line 10: After line 10, insert:  
"20A-12-102, as last amended by Chapter 249, Laws of Utah 1997"  
"20A-12-103, as last amended by Chapter 249, Laws of Utah 1997"
  
2. Page 1, Line 12: After line 12, insert:  
"Section 1. Section **20A-12-102 (Effective 07/01/98)** is amended to read:  
**20A-12-102 (Effective 07/01/98). Appellate Court Nominating Commission.**  
(1) (a) There is created an Appellate Court Nominating Commission.  
(b) The Appellate Court Nominating Commission shall nominate justices of the Supreme Court and judges of the Court of Appeals.  
(2) (a) The Appellate Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a single four-year term.  
(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.  
(c) Each commissioner shall:  
(i) be a United States citizen and a resident of Utah; and  
(ii) serve until the commissioner's successor is appointed.  
(d) The governor may not appoint:  
(i) a commissioner to serve successive terms;  
(ii) a member of the Legislature to serve as a member of the Appellate Court Nominating Commission; or  
(iii) more than four commissioners from the same political party to the Appellate Court Nominating Commission.  
(e) (i) The Utah State Bar shall submit to the governor a list of six nominees to serve as Appellate Court Nominating Commissioners.  
(ii) The governor shall appoint two commissioners from the list of

nominees provided by the Utah State Bar.

(iii) The governor may reject the list submitted by the Utah State Bar and request a new list of nominees.

(f) The governor may not appoint more than four persons who are members of the Utah State Bar to the Appellate Court Nominating Commission.

(g) (i) The chief justice of the Supreme Court is an ex officio, nonvoting member of the Appellate Court Nominating Commission, who may not be counted for the purpose of determining a quorum.

(ii) If the chief justice cannot serve on the commission, he shall appoint another justice of the Supreme Court to serve in his absence.

(h) The governor shall appoint the chair of the Appellate Court Nominating Commission from among the membership.

(3) (a) Except for the chief justice of the Supreme Court, each commissioner is a voting member of the Appellate Court Nominating Commission.

(b) [~~Four~~] Five commissioners are a quorum.

(c) The state court administrator shall serve as secretary to the Appellate Court Nominating Commission.

(d) The chief justice of the Supreme Court shall:

(i) ensure that the commission follows the rules promulgated by the Judicial Council; and

(ii) resolve any questions regarding those rules.

(e) A member of the commission who is also a member of the Utah State Bar may recuse himself if there is a conflict of interest that makes the member unable to serve.

(4) If an appellate court nominating commissioner is disqualified or is otherwise unable to serve, the governor shall appoint a new commissioner of the same political party as the unavailable commissioner.

(5) (a) The governor shall fill any vacancy in the office of Appellate Court Nominating Commission.

(b) If the vacancy occurs among commission members who are also members of the Utah State Bar, the governor shall replace that commissioner with a person from a list of nominees submitted by the Utah State Bar as provided in Subsection (2).

(c) The governor shall ensure that each person who is appointed to fill any vacancy in the Appellate Court Nominating Commission

other than a vacancy caused by expiration of term is a member of the same political party as the commissioner whom he replaces.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term and may not be reappointed.

(6) (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.

Section 2. Section **20A-12-103 (Effective 07/01/98)** is amended to read:

**20A-12-103 (Effective 07/01/98). Trial court nominating commission.**

(1) (a) There is created a trial court nominating commission for each geographical division of the trial courts of record.

(b) The trial court nominating commission shall nominate judges of the district court and the juvenile court within its geographical division.

(2) (a) The trial court nominating commission shall consist of seven commissioners, each appointed by the governor to serve a single four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) Each commissioner shall:

- (i) be a United States citizen, a resident of Utah, and a resident of the geographic division to be served by the commission to which he is appointed; and
- (ii) serve until the commissioner's successor is appointed.
- (d) The governor may not appoint:
  - (i) a commissioner to serve successive terms;
  - (ii) a member of the Legislature to serve as a member of a trial court nominating commission; or
  - (iii) more than four commissioners from the same political party to a trial court nominating commission.
- (e) (i) The governor shall appoint two commissioners from a list of nominees provided by the Utah State Bar.
- (ii) The Utah State Bar shall submit:
  - (A) six nominees from Districts 2, 3, and 4; and
  - (B) four nominees from Districts 1, 5, 6, 7, and 8.
- (iii) The governor may reject any list and request a new list of nominees.
- (f) The governor may not appoint more than four persons who are members of the Utah State Bar to a trial court nominating commission.
- (g) (i) The chief justice of the Supreme Court is an ex officio, nonvoting member of each trial court nominating commission, who may not be counted for the purpose of determining a quorum.
- (ii) If the chief justice cannot serve on the commission, he shall appoint another justice of the Supreme Court to serve in his absence.
- (h) The governor shall appoint the chair of each trial court nominating commission from among its membership.
- (3) (a) Except for the chief justice of the Supreme Court, each trial court nominating commissioner is a voting member of the commission.
- (b) [~~Four~~] Five commissioners are a quorum.
- (c) The state court administrator shall serve as secretary to each trial court nominating commission.
- (d) The chief justice of the Supreme Court shall:
  - (i) ensure that each trial court nominating commission follows the rules promulgated by the Judicial Council; and
  - (ii) resolve any questions regarding those rules.
- (e) A member of a trial court nominating commission who is also a

member of the Utah State Bar may recuse himself if there is a conflict of interest that makes the member unable to serve.

(4) If a commissioner is disqualified or otherwise unable to serve, the governor shall appoint a new commissioner of the same political party as the unavailable commissioner.

(5) (a) The governor shall fill any vacancy in the office of trial court nominating commissioner.

(b) If the vacancy occurs among commission members who are also members of the Utah State Bar, the governor shall replace that commissioner with a person from a list of nominees submitted by the Utah State Bar as provided in Subsection (2).

(c) The governor shall ensure that each person who is appointed to fill any vacancy in the office of commissioner other than a vacancy caused by expiration of term is a member of the same political party as the commissioner whom he replaces.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term under this Subsection (5) and may not be reappointed.

(6) (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) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service."

**Renumber remaining sections accordingly.**