

1 **REAPPOINTMENT OF COUNTY JUSTICE**
2 **COURT JUDGES**

3 2003 GENERAL SESSION
4 STATE OF UTAH

5 **Sponsor: Thomas V. Hatch**

6 **This act modifies the Judicial Code as it pertains to county justice court judges. It**
7 **eliminates the retention election for county justice court judges and requires their**
8 **reappointment by the county legislative body.**

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

10 AMENDS:

11 **78-3-21**, as last amended by Chapter 221, Laws of Utah 2000

12 **78-5-134**, as last amended by Chapter 71, Laws of Utah 2001

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

14 Section 1. Section **78-3-21** is amended to read:

15 **78-3-21. Judicial Council -- Creation -- Members -- Terms and election --**
16 **Responsibilities -- Reports.**

17 (1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution,
18 shall be composed of:

19 (a) the chief justice of the Supreme Court;

20 (b) one member elected by the justices of the Supreme Court;

21 (c) one member elected by the judges of the Court of Appeals;

22 (d) five members elected by the judges of the district courts;

23 (e) two members elected by the judges of the juvenile courts;

24 (f) three members elected by the justice court judges; and

25 (g) a member or ex officio member of the Board of Commissioners of the Utah State
26 Bar who is an active member of the Bar in good standing elected by the Board of
27 Commissioners.



28 (2) (a) The chief justice of the Supreme Court shall act as presiding officer of the
29 council and chief administrative officer for the courts. The chief justice shall vote only in the
30 case of a tie.

31 (b) All members of the council shall serve for three-year terms. If a council member
32 should die, resign, retire, or otherwise fail to complete a term of office, the appropriate
33 constituent group shall elect a member to complete the term of office. In courts having more
34 than one member, the members shall be elected to staggered terms. The person elected to the
35 Judicial Council by the Board of Commissioners shall be a member or ex officio member of
36 the Board of Commissioners and an active member of the Bar in good standing at the time the
37 person is elected. The person may complete a three-year term of office on the Judicial Council
38 even though the person ceases to be a member or ex officio member of the Board of
39 Commissioners. The person shall be an active member of the Bar in good standing for the
40 entire term of the Judicial Council.

41 (c) Elections shall be held under rules made by the Judicial Council.

42 (3) The council is responsible for the development of uniform administrative policy for
43 the courts throughout the state. The presiding officer of the Judicial Council is responsible for
44 the implementation of the policies developed by the council and for the general management of
45 the courts, with the aid of the administrator. The council has authority and responsibility to:

46 (a) establish and assure compliance with policies for the operation of the courts,
47 including uniform rules and forms; and

48 (b) publish and submit to the governor, the chief justice of the Supreme Court, and the
49 Legislature an annual report of the operations of the courts, which shall include financial and
50 statistical data and may include suggestions and recommendations for legislation.

51 (4) (a) The Judicial Council shall make rules establishing:

52 (i) standards for judicial competence; and

53 (ii) a formal program for the evaluation of judicial performance containing the
54 elements of and meeting the requirements of this Subsection (4).

55 (b) The Judicial Council shall ensure that the formal judicial performance evaluation
56 program has improvement in the performance of individual judges, court commissioners, and
57 the judiciary as its goal.

58 (c) The Judicial Council shall ensure that the formal judicial performance evaluation

59 program includes at least all of the following elements:

60 (i) a requirement that judges complete a certain number of hours of approved judicial
61 education each year;

62 (ii) a requirement that each judge certify that he is:

63 (A) physically and mentally competent to serve; and

64 (B) in compliance with the Codes of Judicial Conduct and Judicial Administration; and

65 (iii) a requirement that the judge receive a satisfactory score on questions identified by

66 the Judicial Council as relating to judicial certification on a survey of members of the Bar

67 developed by the Judicial Council in conjunction with the American Bar Association.

68 (d) The Judicial Council shall ensure that the formal judicial performance evaluation

69 program considers at least the following criteria:

70 (i) integrity;

71 (ii) knowledge;

72 (iii) understanding of the law;

73 (iv) ability to communicate;

74 (v) punctuality;

75 (vi) preparation;

76 (vii) attentiveness;

77 (viii) dignity;

78 (ix) control over proceedings; and

79 (x) skills as a manager.

80 (e) (i) The Judicial Council shall provide the judicial performance evaluation

81 information and the disciplinary data required by Subsection 20A-7-702(2) to the Lieutenant

82 Governor for publication in the voter information pamphlet.

83 (ii) Not later than August 1 of the year before the expiration of the term of office of a

84 [municipal] justice court judge, the Judicial Council shall provide the judicial performance

85 evaluation information required by Subsection 20A-7-702(2) to the appointing authority of a

86 [municipal] justice court judge.

87 (5) The council shall establish standards for the operation of the courts of the state

88 including, but not limited to, facilities, court security, support services, and staff levels for

89 judicial and support personnel.

90 (6) The council shall by rule establish the time and manner for destroying court
91 records, including computer records, and shall establish retention periods for these records.

92 (7) (a) Consistent with the requirements of judicial office and security policies, the
93 council shall establish procedures to govern the assignment of state vehicles to public officers
94 of the judicial branch.

95 (b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and
96 may be assigned for unlimited use, within the state only.

97 (8) (a) The council shall advise judicial officers and employees concerning ethical
98 issues and shall establish procedures for issuing informal and formal advisory opinions on
99 these issues.

100 (b) Compliance with an informal opinion is evidence of good faith compliance with the
101 Code of Judicial Conduct.

102 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial
103 Conduct.

104 (9) (a) The council shall establish written procedures authorizing the presiding officer
105 of the council to appoint judges of courts of record by special or general assignment to serve
106 temporarily in another level of court in a specific court or generally within that level. The
107 appointment shall be for a specific period and shall be reported to the council.

108 (b) These procedures shall be developed in accordance with Subsection 78-3-24(10)
109 regarding temporary appointment of judges.

110 (10) The Judicial Council may by rule designate municipalities in addition to those
111 designated by statute as a location of a trial court of record. There shall be at least one court
112 clerk's office open during regular court hours in each county. Any trial court of record may
113 hold court in any municipality designated as a location of a court of record. Designations by
114 the Judicial Council may not be made between July 1, 1997, and July 1, 1998.

115 (11) The Judicial Council shall by rule determine whether the administration of a court
116 shall be the obligation of the administrative office of the courts or whether the administrative
117 office of the courts should contract with local government for court support services.

118 (12) The Judicial Council may by rule direct that a district court location be
119 administered from another court location within the county.

120 (13) The Judicial Council shall establish and supervise the Office of Guardian Ad

121 Litem Director, in accordance with the provisions of Sections 78-3a-911 and 78-3a-912, and
122 assure compliance of the guardian ad litem program with state and federal law, regulation, and
123 policy, and court rules.

124 (14) The Judicial Council shall establish and maintain, in cooperation with the Office of
125 Recovery Services within the Department of Human Services, the part of the state case registry
126 that contains records of each support order established or modified in the state on or after
127 October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

128 Section 2. Section **78-5-134** is amended to read:

129 **78-5-134. Justice court judges to be appointed -- Procedure -- Report to Judicial**
130 **Council -- Vacancy.**

131 (1) As used in this section:

132 (a) "Appointing authority" means:

133 (i) the chair of the county commission in counties having the county commission form
134 of county government;

135 (ii) the county executive in counties having the county executive-council form of
136 government;

137 (iii) the chair of the city commission, city council, or town council in municipalities
138 having the traditional management arrangement established by Title 10, Chapter 3, Part 1,
139 Governing Body;

140 (iv) the city manager, in the council-manager optional form of government defined in
141 Section 10-3-1209; and

142 (v) the mayor, in the council-mayor optional form of government defined in Section
143 10-3-1209.

144 (b) "Local legislative body" means:

145 (i) the county commission or county council; and

146 (ii) the city commission, city council, or town council.

147 (2) Justice court judges shall be appointed by the appointing authority and confirmed
148 by a majority vote of the local legislative body.

149 (3) (a) After a newly appointed justice court judge has been confirmed, the local
150 legislative body shall report the confirmed judge's name to the Judicial Council.

151 (b) The Judicial Council shall certify the judge as qualified to hold office upon

152 successful completion of the orientation program and upon the written opinion of the county or
153 municipal attorney that the judge meets the statutory qualifications for office.

154 (c) A justice court judge may not perform judicial duties until certified by the Judicial
155 Council.

156 (4) Upon the expiration of a county justice court judge's term of office [~~the judge shall~~
157 ~~be subject to an unopposed retention election in accordance with the procedures set forth in~~
158 ~~Section 20A-12-201~~], a county justice court judge may be reappointed by the appointing
159 authority.

160 (a) If the appointing authority declines to reappoint a county justice court judge, the
161 judge may request a formal hearing before the local legislative body, which shall be granted.

162 (b) The local legislative body shall determine by majority vote whether there is good
163 cause not to reappoint the county justice court judge.

164 (c) The decision of the local legislative body is final and not subject to appeal.

165 (d) In determining whether good cause exists not to reappoint a county justice court
166 judge, the appointing authority and local legislative body shall consider:

167 (i) whether the judge has been certified as meeting the evaluation criteria for judicial
168 performance established by the Judicial Council; and

169 (ii) any other factors considered relevant by the appointing authority.

170 (5) Upon the expiration of a municipal justice court judge's term of office a municipal
171 justice court judge shall be reappointed absent a showing of good cause by the appointing
172 authority.

173 (a) If an appointing authority asserts good cause to not reappoint a municipal justice
174 court judge, at the request of the judge, the good cause shall be presented at a formal hearing of
175 the local legislative body.

176 (b) The local legislative body shall determine by majority vote whether good cause
177 exists not to reappoint the municipal justice court judge.

178 (c) The decision of the local legislative body is not subject to appeal.

179 (d) In determining whether good cause exists to not reappoint a municipal justice court
180 judge, the appointing authority and local legislative body shall consider:

181 (i) whether or not the judge has been certified as meeting the evaluation criteria for
182 judicial performance established by the Judicial Council; and

- 183 (ii) any other factors considered relevant by the appointing authority.
- 184 (6) Before reappointment [~~or retention election~~], each justice court judge shall be
185 evaluated in accordance with the performance evaluation program established in Subsection
186 78-3-21(4).
- 187 (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of
188 justice court judge, the appointing authority may contract with a justice court judge in the
189 county or an adjacent county to serve as justice court judge.
- 190 (b) The contract shall be for the duration of the justice court judge's term of office.
- 191 (8) Vacancies in the office of justice court judge shall be filled as provided in Section
192 20A-1-506.

Legislative Review Note
as of 10-18-02 9:33 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0093

Reappointment of County Justice Courts Judges

20-Jan-03

3:01 PM

State Impact

There will be some minor savings to county governments since county justice court judges will no longer be subject to retention elections. There could be some additional costs if the county appointing authority declines to reappoint judges as often as they would have been retained under the election process. There would be expenses for hiring and training the new judge(s). The county authorities would decide whether to incur these costs or not.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst