Representative Kenneth W. Sumsion proposes the following substitute bill:

1   # MUNICIPAL JUSTICE COURT JUDGE ELECTIONS

2   ## 2011 GENERAL SESSION

3   ## STATE OF UTAH

4   **Chief Sponsor: Kenneth W. Sumsion**

5   Senate Sponsor: Mark B. Madsen

6

7   **LONG TITLE**

8   **General Description:**

9   This bill changes the requirements for a retention election vote for municipal justice

10   court judges and the length of the terms of justice court judges.

11   **Highlighted Provisions:**

12   This bill:

13   ▸   changes the retention election requirements for municipal justice court judges from

14   the entire county to the municipality where the judge sits;

15   ▸   clarifies that a justice court judge standing for retention in more than one location

16   who is retained in one location and not retained in another does not lose both

17   offices; and

18   ▸   makes a technical correction.

19   **Money Appropriated in this Bill:**

20   None

21   **Other Special Clauses:**

22   None

23   **Utah Code Sections Affected:**

24   AMENDS:

25   **20A-12-201**, as last amended by Laws of Utah 2008, Chapters 93 and 225

26   **78A-7-202**, as last amended by Laws of Utah 2009, Chapter 146

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

29   Section 1. Section **20A-12-201** is amended to read:

30   **20A-12-201.   Judicial appointees -- Retention elections.**

31   (1) (a) Each judicial appointee to a court is subject to an unopposed retention election

32   at the first general election held more than three years after the judge or justice was appointed.

33   (b) After the first retention election:

34   (i) each Supreme Court justice shall be on the regular general election ballot for an

35   unopposed retention election every tenth year; and

36   (ii) each judge of other courts shall be on the regular general election ballot for an

37   unopposed retention election every sixth year.

38   (2) (a) Each justice or judge of a court of record who wishes to retain office shall, in

39   the year the justice or judge is subject to a retention election:

40   (i) file a declaration of candidacy as if a candidate for multi-county office in

41   accordance with Section 20A-9-202; and

42   (ii) pay a filing fee of $50.

43   (b) Each justice court judge who wishes to retain office shall, in the year the justice

44   court judge is subject to a retention election:

45   (i) file a declaration of candidacy as if a candidate for county office in accordance with

46   Section 20A-9-202; and

47   (ii) pay a filing fee of $25.

48   (3) (a) The lieutenant governor shall, no later than September 8 of each regular general

49   election year:

50   (i) transmit a certified list containing the names of the justices of the Supreme Court

51   and judges of the Court of Appeals declaring their candidacy to the county clerk of each

52   county; and

53   (ii) transmit a certified list containing the names of judges of other courts declaring

54   their candidacy to the county clerk of each county in the geographic division in which the judge

55   filing the declaration holds office.

56   (b) Each county clerk shall place the names of justices and judges standing for

57   retention election in the nonpartisan section of the ballot.

58   (4) At the general election, the ballots shall contain, as to each justice or judge of any

59   court to be voted on in the county, the following question:

60   "Shall _____(name of justice or judge) be retained in the

61   office of _____?" (name of office, such as "Justice of the Supreme

62   Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the

63   Third Judicial District;" "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "

64   Justice Court Judge of (name of county) County or (name of municipality)")

65   Yes ()

66   No ()."

67   (5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge

68   is retained for the term of office provided by law.

69   (b) If the justice or judge does not receive more yes votes than no votes, the justice or

70   judge is not retained, and a vacancy exists in the office on the first Monday in January after the

71   regular general election.

72   (6) A justice or judge not retained is ineligible for appointment to the office for which

73   the justice or judge was defeated until after the expiration of that term of office.

74   (7) If a justice court judge is standing for retention for more than one office, the county

75   clerk shall place the judge's name on the ballot separately for each office. If the justice court

76   judge receives more no votes than yes votes in one office, but more yes votes than no votes in

77   the other, the justice court judge shall be retained only in the office for which the judge

78   received more yes votes than no votes.

79   Section 2. Section **78A-7-202** is amended to read:

80   **78A-7-202.   Justice court judges to be appointed -- Procedure -- Retention.**

81   (1) As used in this section:

82   (a) "Local government executive" means:

83   (i) for a county:

84   (A) the chair of the county commission in a county operating under the county

85   commission or expanded county commission form of county government;

86   (B) the county executive in a county operating under the county executive-council form

87   of county government; and

88   (C) the county manager in a county operating under the council-manager form of
89   county government; and
90   (ii) for a city or town:
91   (A) the mayor of the city or town; or
92   (B) the city manager, in the council-manager form of government described in
93   Subsection 10-3b-103(6).
94   (b) "Local legislative body" means:
95   (i) for a county, the county commission or county council; and
96   (ii) for a city or town, the council of the city or town.
97   (2) There is created in each county a county justice court nominating commission to
98   review applicants and make recommendations to the appointing authority for a justice court
99   position. The commission shall be convened when a new justice court judge position is created
100 or when a vacancy in an existing court occurs for a justice court located within the county.
101   (a) Membership of the justice court nominating commission shall be as follows:
102   (i) one member appointed by:
103   (A) the county commission if the county has a county commission form of
104 government; or
105   (B) the county executive if the county has an executive-council form of government;
106   (ii) one member appointed by the municipalities in the counties as follows:
107   (A) if the county has only one municipality, appointment shall be made by the
108 governing authority of that municipality; or
109   (B) if the county has more than one municipality, appointment shall be made by a
110 municipal selection committee composed of the mayors of each municipality in the county;
111   (iii) one member appointed by the county bar association; and
112   (iv) two members appointed by the governing authority of the jurisdiction where the
113 judicial office is located.
114   (b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be
115 appointed by the regional bar association. If no regional bar association exists, the state bar
116 association shall make the appointment.
117   (c) Members appointed under Subsections (2)(a)(i) and (ii) may not be an elected
118 official of the county or municipality.

119   (d) The nominating commission shall submit at least two names to the appointing
120   authority of the jurisdiction expected to be served by the judge. The local government
121   executive shall appoint a judge from the list submitted and the appointment ratified by the local
122   legislative body.
123   (e) The state court administrator shall provide staff to the commission. The Judicial
124   Council shall establish rules and procedures for the conduct of the commission.
125   (3) Judicial vacancies shall be advertised in a newspaper of general circulation, through
126   the Utah State Bar, and other appropriate means.
127   (4) Selection of candidates shall be based on compliance with the requirements for
128   office and competence to serve as a judge.
129   (5) Once selected, the Judicial Council shall certify the judge as qualified to hold office
130   upon successful completion of the orientation program.
131   (6) The selection of a person to fill the office of justice court judge is effective upon
132   certification of the judge by the Judicial Council. A justice court judge may not perform
133   judicial duties until certified by the Judicial Council.
134   (7) Upon the expiration of a justice court judge's term of office, the judge shall be
135   subject to an unopposed retention election [in the county or counties in which the court to
136   which the judge is appointed is located,] in accordance with the procedures set forth in Section
137   20A-12-201[.]:
138   (a) in the county or counties in which the court to which the judge is appointed is
139   located if the judge is a county justice court judge; or
140   (b) in the municipality in which the court to which the judge is appointed is located if
141   the judge is a municipal justice court judge.
142   (8) Before each retention election, each justice court judge shall be evaluated in
143   accordance with the performance evaluation program established in [Subsection 78A-2-104(5)]
144   Section 78A-12-203.

FISCAL NOTE

H.B. 74 1st Sub. (Buff)

SHORT TITLE: Municipal Justice Court Judge Elections

SPONSOR: Sumsion, K.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.