

HB0074S01 compared with HB0074

~~{deleted text}~~ shows text that was in HB0074 but was deleted in HB0074S01.

inserted text shows text that was not in HB0074 but was inserted into HB0074S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Kenneth W. Sumsion proposes the following substitute bill:

MUNICIPAL JUSTICE COURT JUDGE ELECTIONS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kenneth W. Sumsion

Senate Sponsor: _____

LONG TITLE

General Description:

This bill changes the requirements for a retention election vote for municipal justice court judges and the length of the terms of justice court judges.

Highlighted Provisions:

This bill:

- ▶ changes the retention election requirements for municipal justice court judges from the entire county to the municipality where the judge sits; ~~{and}~~
- ▶ ~~{reduces the term of}~~ clarifies that a justice court ~~{judges from six to four years}~~ judge standing for retention in more than one location who is retained in one location and not retained in another does not lose both offices; and
- ▶ makes a technical correction.

Money Appropriated in this Bill:

HB0074S01 compared with HB0074

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[20A-12-201, as last amended by Laws of Utah 2008, Chapters 93 and 225](#)

[78A-7-202, as last amended by Laws of Utah 2009, Chapter 146](#)

~~[78A-7-203, as last amended by Laws of Utah 2009, Chapter 146](#)~~

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

[Section 1. Section 20A-12-201 is amended to read:](#)

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

(1) (a) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

(b) After the first retention election:

(i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

(ii) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.

(2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

(i) file a declaration of candidacy as if a candidate for multi-county office in accordance with Section 20A-9-202; and

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

(b) Each justice court judge who wishes to retain office shall, in the year the justice court judge is subject to a retention election:

(i) file a declaration of candidacy as if a candidate for county office in accordance with Section 20A-9-202; and

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

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

HB0074S01 compared with HB0074

(i) transmit a certified list containing the names of the justices of the Supreme Court and judges of the Court of Appeals declaring their candidacy to the county clerk of each county; and

(ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.

(b) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.

(4) At the general election, the ballots shall contain, as to each justice or judge of any court to be voted on in the county, the following question:

"Shall _____ (name of justice or judge) be retained in the office of _____?" (name of office, such as "Justice of the Supreme Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county) County or (name of municipality)")

Yes ()

No ()."

(5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.

(b) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday in January after the regular general election.

(6) A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) If a justice court judge is standing for retention for more than one office, the county clerk shall place the judge's name on the ballot separately for each office. If the justice court judge receives more no votes than yes votes in one office, but more yes votes than no votes in the other, the justice court judge shall be retained only in the office for which the judge received more yes votes than no votes.

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

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

HB0074S01 compared with HB0074

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

(A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

(B) the county executive in a county operating under the county executive-council form of county government; and

(C) the county manager in a county operating under the council-manager form of county government; and

(ii) for a city or town:

(A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection 10-3b-103(6).

(b) "Local legislative body" means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position. The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

(a) Membership of the justice court nominating commission shall be as follows:

(i) one member appointed by:

(A) the county commission if the county has a county commission form of government; or

(B) the county executive if the county has an executive-council form of government;

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality in the county;

(iii) one member appointed by the county bar association; and

HB0074S01 compared with HB0074

(iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

(b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be appointed by the regional bar association. If no regional bar association exists, the state bar association shall make the appointment.

(c) Members appointed under Subsections (2)(a)(i) and (ii) may not be an elected official of the county or municipality.

(d) The nominating commission shall submit at least two names to the appointing authority of the jurisdiction expected to be served by the judge. The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

(e) The state court administrator shall provide staff to the commission. The Judicial Council shall establish rules and procedures for the conduct of the commission.

(3) Judicial vacancies shall be advertised in a newspaper of general circulation, through the Utah State Bar, and other appropriate means.

(4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

(5) Once selected, the Judicial Council shall certify the judge as qualified to hold office upon successful completion of the orientation program.

(6) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council. A justice court judge may not perform judicial duties until certified by the Judicial Council.

(7) Upon the expiration of a justice court judge's term of office, the judge shall be subject to an unopposed retention election [~~in the county or counties in which the court to which the judge is appointed is located,~~] in accordance with the procedures set forth in Section 20A-12-201[-];

(a) in the county or counties in which the court to which the judge is appointed is located if the judge is a county justice court judge; or

(b) in the municipality in which the court to which the judge is appointed is located if the judge is a municipal justice court judge.

(8) Before each retention election, each justice court judge shall be evaluated in

HB0074S01 compared with HB0074

accordance with the performance evaluation program established in ~~[Subsection 78A-2-104(5)]~~
Section 78A-12-203.

~~{ Section 2. Section 78A-7-203 is amended to read:~~

~~—— 78A-7-203. Term of office for justice court judge.~~

~~—— (1) The term of a justice court judge is [six] four years beginning the first Monday in January following the date of election.~~

~~—— (2) Notwithstanding Section 20A-12-201, justice court judges holding office or appointed to fill any vacancy before January 1, 2009 will stand for election in the 2010 general election, unless a municipal justice court judge chooses not to stand for election.~~

~~—— (3) (a) Notwithstanding Section 20A-12-201, any municipal justice court judge holding office on January 1, 2009 may serve out their current term if the judge:~~

~~—— (i) stands for retention election in 2010, and is not retained in that election; or~~

~~—— (ii) chooses not to stand for election in 2010.~~

~~—— (b) A vacancy shall then exist in the office on the first Monday in February 2012.~~

Legislative Review Note

~~—— as of 1-11-11 3:17 PM~~

~~————— Office of Legislative Research and General Counsel}~~