#### 

H.B. 349 1st Sub. (Buff)

#### **Representative Brian S. King** proposes the following substitute bill:

1	EXPEDITED JURY TRIALS					
2	2011 GENERAL SESSION					
3	STATE OF UTAH					
4	Chief Sponsor: Brian S. King					
5	Senate Sponsor: Stephen H. Urquhart					
6	X O V C TYPE T					
7	LONG TITLE					
8	General Description:					
9	This bill creates a new part in Title 78B, Chapter 3, allowing for expedited jury trials.					
10	Highlighted Provisions:					
11	This bill:					
12	<ul> <li>creates Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, as a pilot project;</li> </ul>					
13	► defines terms;					
14	<ul> <li>requires that all parties to an action agree to participate;</li> </ul>					
15	<ul> <li>requires the Judicial Council to create rules;</li> </ul>					
16	<ul><li>allows parties to set limits on damages;</li></ul>					
17	<ul><li>limits post-trial motions;</li></ul>					
18	<ul> <li>requires a report to the Judiciary Interim Committee in 2016; and</li> </ul>					
19	► is repealed January 1, 2017.					
20	Money Appropriated in this Bill:					
21	None					
22	Other Special Clauses:					
23	None					
24	<b>Utah Code Sections Affected:</b>					
25	AMENDS:					



# 1st Sub. (Buff) H.B. 349

#### 02-18-11 11:15 AM

26	63I-2-278, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and
27	amended by Laws of Utah 2008, Chapter 382
28	ENACTS:
29	<b>78B-3-901</b> , Utah Code Annotated 1953
30	<b>78B-3-902</b> , Utah Code Annotated 1953
31	<b>78B-3-903</b> , Utah Code Annotated 1953
32	<b>78B-3-904</b> , Utah Code Annotated 1953
33	<b>78B-3-905</b> , Utah Code Annotated 1953
34	<b>78B-3-906</b> , Utah Code Annotated 1953
35	<b>78B-3-907</b> , Utah Code Annotated 1953
36	<b>78B-3-908</b> , Utah Code Annotated 1953
37	<b>78B-3-909</b> , Utah Code Annotated 1953
38	
39	Be it enacted by the Legislature of the state of Utah:
40	Section 1. Section 63I-2-278 is amended to read:
41	63I-2-278. Repeal dates, Title 78A and Title 78B.
42	(1) Section 78A-9-103, Practicing law without a license, is repealed May 3, 2012.
43	(2) [Subsections 78B-12-301(1) and 78B-12-302(1) are repealed January 1, 2010.]
44	Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, is repealed January 1, 2017.
45	Section 2. Section <b>78B-3-901</b> is enacted to read:
46	Part 9. Expedited Jury Trial
47	78B-3-901. Title.
48	This part is known as the "Expedited Jury Trial Act."
49	Section 3. Section <b>78B-3-902</b> is enacted to read:
50	78B-3-902. Pilot project Rules and procedures.
51	The Judicial Council shall by rule create and provide procedures for a pilot project for
52	expedited jury trials in civil actions.
53	(1) The program shall comply with all constitutional and statutory requirements for
54	jury trials.
55	(2) All parties to an action shall agree to participation in an expedited jury trial.
56	(3) Any matters not expressly addressed in this part, in the implementing rules of the

#### 02-18-11 11:15 AM

### 1st Sub. (Buff) H.B. 349

57	court, or in an agreement authorized by this part, are governed by applicable statutes and rules
58	governing civil actions.
59	Section 4. Section <b>78B-3-903</b> is enacted to read:
60	78B-3-903. Agreement.
61	(1) An agreement to participate in an expedited jury trial under this part may be entered
62	into only after a dispute has arisen and an action has been filed.
63	(2) Any party to an action may file a motion with the court for an expedited jury trial.
64	(3) Notice of the motion shall be served on all other parties.
65	(4) All parties agreeing to participate in an expedited jury trial and, if represented, their
66	counsel shall sign the agreement filed with the court.
67	(5) The agreement to participate in the expedited jury trial process is binding upon the
68	parties.
69	(6) The conditions of the agreement shall include:
70	(a) waiver of the right to appeal the verdict;
71	(b) waiver of the right to move for a directed verdict;
72	(c) waiver of the right to file post trial motions, except as permitted by rule and Section
73	78B-3-906; and
74	(d) an agreed-upon range of monetary damages that will be awarded, regardless of the
75	verdict, if liability and allocation of fault are proved.
76	(7) The Judicial Council may by rule impose additional reasonable conditions.
77	(8) If the jury verdict is within the agreed range of monetary damages, the court shall
78	enter the verdict as rendered. If the jury verdict is outside the agreed range of monetary
79	damages the court shall, as appropriate, increase or decrease the damages to the minimum or
80	maximum agreed amount.
81	Section 5. Section <b>78B-3-904</b> is enacted to read:
82	<u>78B-3-904.</u> Juries.
83	(1) Juries in expedited jury trial cases shall be composed of no less than six jurors with
84	no alternates.
85	(2) Nothing in this part is intended to preclude a jury from deliberating as long as
86	needed.
87	Section 6. Section <b>78B-3-905</b> is enacted to read:

88	<u>78B-3-905.</u> Rules of evidence.
89	(1) The rules of evidence apply in expedited jury trials, unless the parties stipulate
90	otherwise.
91	(2) Any stipulation by the parties to use relaxed rules of evidence may not be construed
92	to eliminate or affect the right of a witness or party to invoke any applicable privilege or other
93	law protecting confidentiality.
94	(3) The right to issue subpoenas and notices to appear to secure the attendance of
95	witnesses or the production of documents at trial shall be in accordance with the Utah Rules of
96	Civil Procedure.
97	Section 7. Section <b>78B-3-906</b> is enacted to read:
98	78B-3-906. Post-trial motions Appeals.
99	(1) A party may move for a new trial or appeal a judgment only on the following
100	grounds:
101	(a) judicial misconduct that materially affected the substantive rights of a party;
102	(b) misconduct of the jury; or
103	(c) corruption, fraud, or other undue means employed in the proceedings of the court,
104	jury, or adverse party that prevented a party from having a fair trial.
105	(2) Parties may file post-trial motions:
106	(a) relating to costs and attorney fees;
107	(b) to correct a clerical error in a judgment; and
108	(c) to enforce a judgment.
109	Section 8. Section <b>78B-3-907</b> is enacted to read:
110	<u>78B-3-907.</u> Attorney fees.
111	Unless the parties otherwise agree in the consent order, all statutes and rules governing
112	costs and attorney fees apply in expedited jury trials.
113	Section 9. Section <b>78B-3-908</b> is enacted to read:
114	78B-3-908. Judicial Council to make rules.
115	The Judicial Council shall, on or before July 1, 2012, adopt rules and forms to establish
116	uniform procedures implementing the provisions of this part, including:
117	(1) additional content of proposed agreements;
118	(2) pretrial exchanges and submissions;

### 02-18-11 11:15 AM

# 1st Sub. (Buff) H.B. 349

119	(3) pretrial conferences;
120	(4) time limits for jury selection;
121	(5) time limits for trial, including presentation of evidence and argument;
122	(6) presentation of evidence and testimony; and
123	(7) any other procedures necessary to implement this part.
124	Section 10. Section <b>78B-3-909</b> is enacted to read:
125	78B-3-909. Report to Legislature Repeal date.
126	(1) The Administrative Office of the Courts shall present a report to the Judiciary
127	Interim Committee not later than September 2016 regarding the program. The report shall
128	include:
129	(a) the number of expedited jury trials held;
130	(b) the number of appeals from expedited jury trials;
131	(c) the approximate cost increase or cost savings experienced by using expedited jury
132	trials; and
133	(d) a recommendation to continue or sunset this part.
134	(2) This part is repealed January 1, 2017.

# FISCAL NOTE

H.B. 349 1st Sub. (Buff)

SHORT TITLE: Expedited Jury Trials

SPONSOR: King, B.

2011 GENERAL SESSION, STATE OF UTAH

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

Enactment of this bill will require one-time programming changes that will cost \$5,000 in General Fund in FY 2012. To the extent that jury trials are shortened, this bill may save Courts \$2,500 per day per trial beginning in FY 2013.

STATE BUDGET DETAIL TABLE	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund, One-Time	\$0	\$5,000	\$0
Total Expenditure	\$0	\$5,000	\$0
Net Impact, All Funds (RevExp.)	\$0	(\$5,000)	\$0
Net Impact, General/Education Funds	\$0	(\$5,000)	\$0

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

Enactment of this bill likely will not result in direct, measurable costs 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.

2/28/2011, 11:45 AM, Lead Analyst: Syphus, G./Attorney: ECM

Office of the Legislative Fiscal Analyst