

1 **RETENTION ELECTIONS FOR JUSTICE COURT JUDGES**

2 2011 SECOND SPECIAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis Oda**

5 Senate Sponsor: Lyle W. Hillyard

7 **LONG TITLE**

8 **General Description:**

9 This bill allows justice court judges to be evaluated for the 2012, 2014, and 2016
10 retention elections under two different standards.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ for the 2012, 2014, and 2016 retention elections only, authorizes the Judicial
14 Performance Evaluation Commission to evaluate justice court judges under two
15 different standards by allowing:

16 • justice court judges who are employed part-time on July 1, 2012, to be evaluated
17 by the criteria established before the Judicial Performance Evaluation

18 Commission was established; and

19 • justice court judges who are employed full-time on July 1, 2012, to be evaluated
20 by the new criteria established when the Judicial Performance Evaluation

21 Commission was created.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill provides an immediate effective date.

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63I-2-278**, as last amended by Laws of Utah 2011, Chapters 33, 65, 111 and last
29 amended by Coordination Clause, Laws of Utah 2011, Chapter 65

30 78A-7-202, as last amended by Laws of Utah 2011, Chapter 29



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **63I-2-278** is amended to read:

34 **63I-2-278. Repeal dates, Title 78A and Title 78B.**

35 (1) Subsection 78A-7-202(9) is repealed November 15, 2016.

36 [~~1~~] (2) Section 78A-9-103, Practicing law without a license prohibited -- Exceptions,
37 is repealed May 3, 2012.

38 [~~2~~] (3) Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, is repealed January 1,
39 2017.

40 [~~3~~] (4) Subsections 78B-5-618(4) and (5) are repealed January 1, 2016.

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

42 **78A-7-202. Justice court judges to be appointed -- Procedure -- Retention.**

43 (1) As used in this section:

44 (a) "Local government executive" means:

45 (i) for a county:

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

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

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

52 (ii) for a city or town:

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

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

56 (b) "Local legislative body" means:

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

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

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

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

64 (i) one member appointed by:

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

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

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

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

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

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

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

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

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

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

85 (e) The state court administrator shall provide staff to the commission. The Judicial

86 Council shall establish rules and procedures for the conduct of the commission.

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

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

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

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

96 (7) Upon the expiration of a justice court judge's term of office, the judge shall be
97 subject to an unopposed retention election in accordance with the procedures set forth in
98 Section 20A-12-201:

99 (a) in the county or counties in which the court to which the judge is appointed is
100 located if the judge is a county justice court judge or a municipal justice court judge in a town
101 or city of the fourth or fifth class; or

102 (b) in the municipality in which the court to which the judge is appointed is located if
103 the judge is a municipal justice court judge and Subsection (7)(a) does not apply.

104 (8) Before each retention election, each justice court judge shall be evaluated in
105 accordance with the performance evaluation program established in [~~Section 78A-12-203.~~]
106 Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act.

107 (9) Notwithstanding Subsection (8), each justice court judge who is subject to a
108 retention election in 2012, 2014, and 2016, and who is not a full-time justice court judge on
109 July 1, 2012, shall be evaluated by the Judicial Performance Evaluation Commission according
110 to the following performance standards:

111 (a) have no less than 30 annual hours of continuing legal education for each year of the
112 justice court judge's current term;

113 (b) have no more than one public reprimand issued by the Judicial Conduct

114 Commission or the Supreme Court during the justice court judge's current term; and

115 (c) have no cases under advisement for more than two months.

116 Section 3. **Effective date.**

117 If approved by two-thirds of all the members elected to each house, this bill takes effect

118 upon approval by the governor, or the day following the constitutional time limit of Utah

119 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

120 the date of veto override.