

RETENTION ELECTIONS FOR JUSTICE COURT JUDGES

2011 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

Committee Note:

The Judiciary, Law Enforcement, and Criminal Justice Interim Committee recommended this bill.

General Description:

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

Highlighted Provisions:

This bill:

- ▶ for the 2012, 2014, and 2016 retention elections only, authorizes the Judicial Performance Evaluation Commission to evaluate justice court judges under two different standards by allowing:
 - justice court judges who are employed part-time on July 1, 2012, to be evaluated by the criteria established before the Judicial Performance Evaluation Commission was established; and
 - justice court judges who are employed full-time on July 1, 2012, to be evaluated by the new criteria established when the Judicial Performance Evaluation Commission was created.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides an immediate effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63I-2-278**, as last amended by Laws of Utah 2011, Chapters 33, 65, 111 and last
32 amended by Coordination Clause, Laws of Utah 2011, Chapter 65

33 **78A-7-202**, as last amended by Laws of Utah 2011, Chapter 29



34
35 *Be it enacted by the Legislature of the state of Utah:*

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

37 **63I-2-278. Repeal dates, Title 78A and Title 78B.**

38 (1) Subsection 78A-7-202(9) is repealed November 15, 2016.

39 [~~(1)~~] (2) Section 78A-9-103, Practicing law without a license prohibited -- Exceptions,
40 is repealed May 3, 2012.

41 [~~(2)~~] (3) Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, is repealed January 1,
42 2017.

43 [~~(3)~~] (4) Subsections 78B-5-618(4) and (5) are repealed January 1, 2016.

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

45 **78A-7-202. Justice court judges to be appointed -- Procedure -- Retention.**

46 (1) As used in this section:

47 (a) "Local government executive" means:

48 (i) for a county:

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

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

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

55 (ii) for a city or town:

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

57 (B) the city manager, in the council-manager form of government described in

58 Subsection 10-3b-103(6).

59 (b) "Local legislative body" means:

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

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

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

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

67 (i) one member appointed by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

116 (b) have no more than one public reprimand issued by the Judicial Conduct
117 Commission or the Supreme Court during the justice court judge's current term; and

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

119 Section 3. **Effective date.**

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

121 upon approval by the governor, or the day following the constitutional time limit of Utah
122 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
123 the date of veto override.

Legislative Review Note
as of 7-6-11 1:28 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 2001

SHORT TITLE: Retention Elections for Justice Court Judges

SPONSOR: Oda, C.

2011 SECOND SPECIAL SESSION

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 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.