

1 **JUDICIAL CONDUCT COMMISSION AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Mayne**

5 House Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill allows the Utah Supreme Court discretion in appointing judges to the Judicial
10 Conduct Commission.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ allows the Utah Supreme Court to appoint a justice court judge to the Judicial
14 Conduct Commission.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **78A-11-103**, as renumbered and amended by Laws of Utah 2008, Chapter 3

22

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

24 Section 1. Section **78A-11-103** is amended to read:

25 **78A-11-103. Judicial Conduct Commission -- Members -- Terms -- Vacancies --**

26 **Voting -- Power of chair.**

27 (1) The membership of the commission consists of the following 11 members:



28 (a) two members of the House of Representatives to be appointed by the speaker of the
29 House of Representatives for a four-year term, not more than one of whom may be of the same
30 political party as the speaker;

31 (b) two members of the Senate to be appointed by the president of the Senate for a
32 four-year term, not more than one of whom may be of the same political party as the president;

33 (c) two members of, and in good standing with, the Utah State Bar, who shall be
34 appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may
35 reside in the same judicial district;

36 (d) three persons not members of the Utah State Bar, who shall be appointed by the
37 governor, with the consent of the Senate, for four-year terms, not more than two of whom may
38 be of the same political party as the governor; and

39 ~~[(e) one member of the Utah Court of Appeals to be selected by a majority of the Utah
40 Supreme Court for a four-year term; and]~~

41 ~~[(f) one judge from a trial court of record to be selected by a majority of the Utah
42 Supreme Court for a four-year term.]~~

43 (e) two judges to be appointed by a majority of the Utah Supreme Court for a four-year
44 term, neither of whom may:

45 (i) be a member of the Utah Supreme Court;

46 (ii) serve on the same level of court as the other; and

47 (iii) if trial judges, serve primarily in the same judicial district as the other.

48 (2) (a) The terms of the members shall be staggered so that approximately half of the
49 commission expires every two years.

50 (b) Members of the commission may not serve longer than eight years.

51 (3) The commission shall establish guidelines and procedures for the disqualification
52 of any member from consideration of any matter. A judge who is a member of the commission
53 or the Supreme Court may not participate in any proceedings involving the judge's own
54 removal or retirement.

55 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall
56 be appointed by the appointing authority for that position for the unexpired term.

57 (b) If the appointing authority fails to appoint a replacement, the commissioners who
58 have been appointed may act as a commission under all the provisions of this section.

59 (5) Six members of the commission shall constitute a quorum. Any action of a
60 majority of the quorum constitutes the action of the commission.

61 (6) (a) At each commission meeting, the chair and executive director shall schedule all
62 complaints to be heard by the commission and present any information from which a
63 reasonable inference can be drawn that a judge has committed misconduct so that the
64 commission may determine by majority vote of a quorum whether the executive director shall
65 draft a written complaint in accordance with Subsection 78A-11-102(2)(b).

66 (b) The chair and executive director may not act to dismiss any complaint without a
67 majority vote of a quorum of the commission.

68 (7) It is the responsibility of the chair and the executive director to ensure that the
69 commission complies with the procedures of the commission.

70 (8) The chair shall be nonvoting except in the case of a tie vote.

71 (9) The chair shall be allowed the actual expenses of secretarial services, the expenses
72 of services for either a court reporter or a transcriber of electronic tape recordings, and other
73 necessary administrative expenses incurred in the performance of the duties of the commission.

74 (10) Upon a majority vote of the quorum, the commission may:

75 (a) employ an executive director, legal counsel, investigators, and other staff to assist
76 the commission; and

77 (b) incur other reasonable and necessary expenses within the authorized budget of the
78 commission and consistent with the duties of the commission.

79 (11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
80 Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

Legislative Review Note
as of 2-1-12 9:58 AM

Office of Legislative Research and General Counsel