

SB0098S02 compared with SB0098S01

~~text~~ shows text that was in SB0098S01 but was deleted in SB0098S02.

text shows text that was not in SB0098S01 but was inserted into SB0098S02.

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Senator **Todd D. Weiler** proposes the following substitute bill:

JUDICIARY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to judicial administration.

Highlighted Provisions:

This bill:

- ▶ addresses compensation for the presiding officer of the Judicial Council;
- ▶ clarifies the amount of a fee deposited in the Dispute Resolution Account;
- ▶ amends and enacts provisions regarding presiding and associate presiding judges of the courts;
- ▶ amends provisions regarding judicial vacancies for justice courts; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-8-2, as last amended by Laws of Utah 2015, Chapter 347

78A-2-106, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-2-301, as last amended by Laws of Utah 2021, Chapters 157 and 262

78A-3-101, as last amended by Laws of Utah 2019, Chapter 429

78A-4-102, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-5-106, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-203, as last amended by Laws of Utah 2021, Chapter 261

78A-7-202, as last amended by Laws of Utah 2021, Chapter 355

78A-7-206, as last amended by Laws of Utah 2012, Chapter 205

78A-7-301, as last amended by Laws of Utah 2014, Chapter 189

ENACTS:

78A-7-209.5, Utah Code Annotated 1953

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

Section 1. Section **67-8-2** is amended to read:

67-8-2. Salaries of judges established annually in appropriations act -- Bases of salaries -- Additional compensation.

(1) The salaries of judges of courts of record, as described in Section 78A-1-101, shall be set annually by the Legislature in an appropriations act.

(2) Judicial salaries shall be based on the following percentages of the salary of a district court judge:

- (a) juvenile court judges: 100%;
- (b) Court of Appeals judges: 105%; and
- (c) justices of the Supreme Court: 110%.

(3) (a) A salary described in Subsection (2) does not include additional compensation provided for a presiding judge [~~presiding officer~~], or associate presiding judge [in] under:

[~~(i) Section 78A-2-106;~~]

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- (i) Section 78A-3-101;
- (ii) Section 78A-4-102;
- (iii) Section 78A-5-106; ~~{}~~ or ~~{}~~

~~{~~ ~~(iv) Section 78A-6-203[.]; or~~

~~}~~ ~~{(v)}~~ (iv) Section ~~{78A-7-209}~~ 78A-6-203. ~~{5.}~~

(b) Compensation described in Subsection (3)(a) does not constitute a salary for purposes of Utah Constitution, Article VIII, Section 14.

Section 2. Section **78A-2-106** is amended to read:

78A-2-106. Presiding officer -- Compensation -- Duties.

(1) The chief justice of the Supreme Court shall serve as the presiding officer of the Judicial Council. [~~The presiding officer shall receive as additional compensation the sum of \$1,000 per annum or fraction thereof for the period served.~~]

(2) (a) The presiding officer of the Judicial Council shall supervise the courts to ensure uniform adherence to law and to the rules and forms adopted by the council and to promote the proper and efficient functioning of the courts.

(b) The presiding officer of the council may issue orders as necessary to assure compliance with uniform administrative practices.

Section 3. Section **78A-2-301** is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$375.

(b) The fee for filing a complaint or petition is:

(i) \$90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) \$325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5;

(vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender

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Registry under Section 77-41-112; and

(vii) \$35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

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(g) The fee for filing a petition is:

(i) \$240 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$240.

(i) The fee for filing a petition for expungement is \$150.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited into the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) [~~Three~~] Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is \$35.

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(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is \$50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is \$100.

(r) The fee for filing any accounting required by law is:

(i) \$15 for an estate valued at \$50,000 or less;

(ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$175 for an estate valued at more than \$168,000.

(s) The fee for filing a demand for a civil jury is \$250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is \$35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.

(v) The fee for a petition to open a sealed record is \$35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7, Emancipation, is \$50.

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(y) The fee for a certificate issued under Section 26-2-25 is \$8.

(z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.

(cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of the public to conduct a limited amount of searches on the Xchange database without having to pay a monthly subscription fee.

(dd) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(ee) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ff) The filing fees under this section may not be charged to the state, the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited into the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

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(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited into the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the

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balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 4. Section **78A-3-101** is amended to read:

78A-3-101. Number of justices -- Terms -- Chief justice and associate chief justice -- Selection and functions.

(1) The Supreme Court consists of five justices.

(2) (a) A justice of the Supreme Court shall be appointed initially to serve until the first general election held more than three years after the effective date of the appointment.

~~[Thereafter,]~~

(b) After the first term of appointment under Subsection (2)(a), the term of office of a justice of the Supreme Court is 10 years and commences on the first Monday in January following the date of election.

(c) A justice whose term expires may serve upon request of the Judicial Council until a successor is appointed and qualified.

(3) (a) The justices of the Supreme Court shall elect a chief justice from among the members of the court by a majority vote of all justices.

(b) The term of the office of chief justice is four years.

(c) The chief justice may serve successive terms.

(d) The chief justice may resign from the office of chief justice without resigning from the Supreme Court.

(e) The chief justice may be removed from the office of chief justice by a majority vote of all justices of the Supreme Court.

(f) The chief justice shall receive the sum of \$2,000 per annum as additional compensation for the period served as chief justice.

(4) (a) If the justices are unable to elect a chief justice within 30 days of a vacancy in

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that office, the associate chief justice shall act as chief justice until a chief justice is elected under this section.

(b) If the associate chief justice is unable or unwilling to act as chief justice, the most senior justice shall act as chief justice until a chief justice is elected under this section.

(5) In addition to the chief justice's duties as a member of the Supreme Court, the chief justice has duties as provided by law.

(6) (a) There is created the office of associate chief justice.

(b) The term of office of the associate chief justice is two years.

(c) The associate chief justice shall be:

(i) elected by a majority vote of the members of the Supreme Court [~~and shall be~~]; and

(ii) allocated duties as the chief justice determines.

(d) If the chief justice is absent or otherwise unable to serve, the associate chief justice shall serve as chief justice.

(e) The chief justice may delegate responsibilities to the associate chief justice as consistent with law.

(f) The associate chief justice shall receive the sum of \$1,000 per annum for the period served as associate chief justice.

Section 5. Section **78A-4-102** is amended to read:

78A-4-102. Number of judges -- Terms -- Presiding judge -- Associate presiding judge -- Filing fees.

(1) (a) The Court of Appeals consists of seven judges.

(b) The term of appointment to office as a judge of the Court of Appeals is until the first general election held more than three years after the effective date of the appointment.

(c) [~~Thereafter,~~] After the first term of appointment under Subsection (1)(b), the term of office of a judge of the Court of Appeals is six years and commences on the first Monday in January, next following the date of election.

(d) A judge whose term expires may serve, upon request of the Judicial Council, until a successor is appointed and qualified. [~~The presiding judge of the Court of Appeals shall receive as additional compensation \$1,000 per annum or fraction thereof for the period served.~~]

(2) (a) The Court of Appeals shall sit and render judgment in panels of three judges.

(b) Assignment to panels shall be by random rotation of all judges of the Court of

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Appeals.

(c) The Court of Appeals by rule shall provide for the selection of a chair for each panel.

(d) The Court of Appeals may not sit en banc.

(3) (a) The judges of the Court of Appeals shall elect a presiding judge from among the members of the court by majority vote of all judges.

(b) The term of office of the presiding judge is two years and until a successor is elected.

(c) A presiding judge of the Court of Appeals may serve in that office no more than two successive terms.

(d) The Court of Appeals may by rule provide for an acting presiding judge to serve in the absence or incapacity of the presiding judge.

(e) The presiding judge of the Court of Appeals shall receive \$2,000 per annum of additional compensation for the period served as presiding judge.

(4) (a) The presiding judge may be removed from the office of presiding judge by majority vote of all judges of the Court of Appeals.

(b) In addition to the duties of a judge of the Court of Appeals, the presiding judge shall:

~~(a)~~ (i) administer the rotation and scheduling of panels;

~~(b)~~ (ii) act as liaison with the Supreme Court;

~~(c)~~ (iii) call and preside over the meetings of the Court of Appeals; and

~~(d)~~ (iv) carry out duties prescribed by the Supreme Court and the Judicial Council.

(5) (a) The judges of the Court of Appeals shall elect an associate presiding judge from among the members of the court by majority vote of all judges.

(b) The associate presiding judge of the Court of Appeals shall receive \$1,000 per annum as additional compensation for the period served as associate presiding judge.

~~(5)~~ (6) Filing fees for the Court of Appeals are the same as for the Supreme Court.

Section 6. Section **78A-5-106** is amended to read:

78A-5-106. Presiding judge -- Associate presiding judge -- Election -- Term -- Compensation -- Powers -- Duties.

(1) In judicial districts having more than one district court judge, the district court

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judges shall elect one judge of the district to the office of presiding judge.

(2) In judicial districts having more than two district court judges, the district court judges may elect one judge of the district to the office of associate presiding judge.

(3) [~~In districts having five or more full-time judges, court commissioners, referees, or hearing officers, the~~] The presiding judge shall receive an additional \$2,000 per annum as compensation for the period served as presiding judge.

(4) [~~In districts having 10 or more full-time judges, court commissioners, referees, or hearing officers, the~~] The associate presiding judge shall receive an additional [~~\$2,000~~] \$1,000 per annum as compensation for the period served as associate presiding judge.

(5) The presiding judge has the following authority and responsibilities, consistent with the policies of the Judicial Council:

(a) implementing policies of the Judicial Council; and

(b) exercising powers and performing administrative duties as authorized by the Judicial Council.

(6) (a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

(b) The associate presiding judge shall perform other duties assigned by the presiding judge.

Section 7. Section **78A-6-203** is amended to read:

78A-6-203. Board of Juvenile Court Judges -- Composition -- Purpose --

Presiding judge -- Associate presiding judge.

(1) (a) The Judicial Council shall, by rule, establish a Board of Juvenile Court Judges.

(b) The board shall establish general policies for the operation of the juvenile courts and uniform rules and forms governing practice, consistent with the provisions of this chapter, the rules of the Judicial Council, and the rules of the Supreme Court.

(c) (i) The board may receive and expend any funds that may become available from the federal government or private sources to carry out any of the purposes described in Subsection 78A-6-102(5).

(ii) The board may meet any federal requirements that are conditions precedent to receiving the funds.

(iii) The board may cooperate with the federal government in a program for training

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personnel employed, or preparing for employment, by the juvenile court and may receive and expend funds from federal or state sources or from private donations for these purposes.

(iv) Funds donated or paid to the juvenile court by private sources for the purpose of compensatory service programs are nonlapsing.

(v) The board may:

(A) contract with public or nonprofit institutions of higher learning for the training of personnel;

(B) conduct short-term training courses of the board's own and hire experts on a temporary basis for this purpose; and

(C) cooperate with the Division of Child and Family Services and other state departments or agencies in personnel training programs.

(d) The board may contract, on behalf of the juvenile court, with the United States Forest Service or other agencies or departments of the federal government or with agencies or departments of other states for the care and placement of minors adjudicated under Title 80, Utah Juvenile Code.

(e) The powers to contract and expend funds are subject to budgetary control and procedures as provided by law.

(2) Under the direction of the presiding officer of the council, the chair shall supervise the juvenile courts to:

(a) ensure uniform adherence to law and to the rules and forms adopted by the Supreme Court and Judicial Council; and

(b) promote the proper and efficient functioning of the juvenile courts.

~~[(3)(a) The judges of districts having more than one juvenile court judge shall elect a presiding juvenile court judge.]~~

~~[(b) In districts comprised of five or more juvenile court judges and court commissioners, the presiding juvenile court judge shall receive an additional \$1,000 per annum as compensation.]~~

(3) (a) In judicial districts having more than one juvenile court judge, the juvenile court judges shall elect one judge of the district to the office of presiding judge.

(b) The presiding judge shall receive \$2,000 per annum as additional compensation for the period served as presiding judge.

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(4) (a) In judicial districts having more than two juvenile court judges, the juvenile court judges may elect one judge of the district to the office of associate presiding judge.

(b) The associate presiding judge shall receive \$1,000 per annum as additional compensation for the period served as associate presiding judge.

~~(4)~~ (5) The presiding juvenile court judge, in accordance with the policies of the Judicial Council, shall:

(a) implement policies of the Judicial Council;

(b) exercise powers and perform administrative duties as authorized by the Judicial Council;

(c) manage the judicial business of the district; and

(d) call and preside over meetings of juvenile court judges of the district.

(6) (a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

(b) The associate presiding judge shall perform other duties assigned by the presiding judge.

Section 8. Section **78A-7-202** is amended to read:

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

(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;

(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(7); and

(iii) for a metro township, the chair of the metro township council.

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(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) (a) 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.

(b) 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)]~~ (c) 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 and the chairs of each metro township in the county;

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

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

~~[(b)]~~ (d) (i) If there is no county bar association, the member in Subsection (2)~~[(a)]~~(c)(iii) shall be appointed by the regional bar association.

(ii) If no regional bar association exists, the state bar association shall make the appointment.

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

~~[(d)]~~ (f) (i) ~~[The]~~ Except as provided in Subsection (2)(d)(ii), the nominating commission shall submit at least three names to the appointing authority of the jurisdiction

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expected to be served by the judge.

(ii) If there are fewer than three applicants for a justice court vacancy, the nominating commission shall submit all qualified applicants to the appointing authority of the jurisdiction expected to be served by the judge.

(iii) The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

~~(f)~~ (g)(i) The state court administrator shall provide staff to the commission.

(ii) 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, on the Utah Public Notice Website, created in Section 63A-16-601, and through other appropriate means.]~~

(3) (a) A judicial vacancy for a justice court shall be announced:

(i) as an employment opportunity on the Utah Courts' website;

(ii) in an email to the members of the Utah State Bar; and

(iii) on the Utah Public Notice Website, created in Section 63A-16-601.

(b) A judicial vacancy for a justice court may also be advertised through 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) (a) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council.

(b) Upon completion of the orientation ~~[program]~~ seminar described in Subsection (5)(a), the Judicial Council shall certify the justice court judge as qualified to hold office.

(6) (a) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council.

(b) A justice court judge may not perform judicial duties until certified by the Judicial Council.

Section 9. Section 78A-7-206 is amended to read:

78A-7-206. Determination of compensation and limits -- Salary survey -- Limits on secondary employment -- Prohibition on holding political or elected office -- Penalties.

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(1) Every justice court judge shall be paid a fixed compensation determined by the governing body of the respective municipality or county.

(a) The governing body of the municipality or county may not set a full-time justice court judge's salary at less than 50% nor more than 90% of a district court judge's salary.

(b) The governing body of the municipality or county shall set a part-time justice court judge's salary as follows:

(i) The governing body shall first determine the full-time salary range outlined in Subsection (1)(a).

(ii) The caseload of a part-time judge shall be determined by the office of the state court administrator and expressed as a percentage of the caseload of a full-time judge.

(iii) The judge's salary shall then be determined by applying the percentage determined in Subsection (1)(b)(ii) against the salary range determined in Subsection (1)(a).

(c) A justice court judge shall receive an annual salary adjustment at least equal to the average salary adjustment for all county or municipal employees for the jurisdiction served by the judge.

(d) Notwithstanding Subsection (1)(c), a justice court judge may not receive a salary greater than 90% of the salary of a district court judge.

(e) A justice court judge employed by more than one entity as a justice court judge may not receive a total salary for service as a justice court judge greater than the salary of a district court judge.

(f) A salary described in this Subsection (1) does not include additional compensation provided for a presiding judge or associate presiding judge of a justice court under Section 78A-7-209.5.

(2) A justice court judge may not appear as an attorney in any:

(a) justice court;

(b) criminal matter in any federal, state, or local court; or

(c) juvenile court case involving conduct which would be criminal if committed by an adult.

(3) A justice court judge may not hold any office or employment including contracting for services in any justice agency of state government or any political subdivision of the state including law enforcement, prosecution, criminal defense, corrections, or court employment.

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(4) A justice court judge may not hold any office in any political party or organization engaged in any political activity or serve as an elected official in state government or any political subdivision of the state.

(5) A justice court judge may not own or be employed by any business entity which regularly litigates in small claims court.

(6) The Judicial Council shall file a formal complaint with the Judicial Conduct Commission for each violation of this section.

Section ~~9~~10. Section **78A-7-209.5** is enacted to read:

78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers -- Duties.

(1) (a) In judicial districts having more than one justice court judge, the justice court judges shall elect one judge of the district to the office of presiding judge.

(b) The presiding judge shall receive an additional \$2,000 per annum as compensation from the Justice Court Technology, Security, and Training Account described in Section 78A-7-301 for the period served as presiding judge.

(2) (a) In judicial districts having more than two justice court judges, the justice court judges may elect one judge of the district to the office of associate presiding judge.

(b) The associate presiding judge shall receive an additional \$1,000 per annum as compensation from the Justice Court Technology, Security, and Training Account described in Section 78-7-301 for the period served as associate presiding judge.

(3) The presiding judge has the following authority and responsibilities, consistent with the policies of the Judicial Council:

(a) working with each justice court judge in the district to implement policies and rules of the Judicial Council;

(b) exercising powers and performing administrative duties as authorized by the Judicial Council;

(c) if there is no other appointed justice court judge in that court available, assigning a justice court judge to hear a case in which a judge has been disqualified in accordance with rules of the Supreme Court;

(d) if a justice court judge of the district cannot perform the justice court judge's duties in a case or cases due to illness, death, or other incapacity, and the governing body has not

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appointed a temporary justice court judge in accordance with Section 78A-7-208:

(i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

(ii) facilitating judicial coverage with the appointing municipal or county authority

until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208,

or a new justice court judge is formally appointed and takes office, in accordance with Section

78A-7-202; and

(e) entering orders of expungement in cases expunged in accordance with Section 77-40-114.

(4) (a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

(b) The associate presiding judge shall perform other duties assigned by the presiding judge.

Section ~~(10)~~11. Section 78A-7-301 is amended to read:

78A-7-301. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

(1) There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

~~[(1)]~~ (2) The state treasurer shall deposit in the account money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii).

~~[(2)]~~ (3) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for:

(a) audit, technology, security, and training needs in justice courts throughout the state[.]; and

(b) additional compensation for presiding judges and associate presiding judges for justice courts under Section 78A-7-209.5.