

Representative Jon Hawkins proposes the following substitute bill:

JUSTICE COURT CHANGES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon Hawkins

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to justice courts.

Highlighted Provisions:

This bill:

- ▶ creates the Justice Court Reform Task Force;
- ▶ provides the membership of the Justice Court Reform Task Force;
- ▶ addresses vacancies, salaries and expenses, staffing, and the duties of the Justice Court Reform Task Force;
- ▶ provides a sunset date for the Justice Court Reform Task Force;
- ▶ clarifies that a justice court is part of the state judiciary;
- ▶ addresses the independence of a justice court from other branches of government for a municipality or county;
- ▶ amends the eligibility requirements for a justice court judge;
- ▶ amends provisions regarding the salary of a justice court judge;
- ▶ repeals a statute regarding an annual review and adjustment of a justice court judge's compensation; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **49-12-406**, as last amended by Laws of Utah 2021, Chapter 193

32 **49-13-406**, as last amended by Laws of Utah 2021, Chapter 193

33 **63I-1-236**, as last amended by Laws of Utah 2022, Chapters 175, 247

34 **78A-7-101**, as last amended by Laws of Utah 2012, Chapter 205

35 **78A-7-201**, as last amended by Laws of Utah 2016, Chapter 146

36 **78A-7-206**, as last amended by Laws of Utah 2022, Chapter 276

37 ENACTS:

38 **36-29-112**, Utah Code Annotated 1953

39 REPEALS:

40 **78A-7-207**, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

43 Section 1. Section **36-29-112** is enacted to read:

44 **36-29-112. Justice Court Reform Task Force.**

45 (1) As used in this section, "task force" means the Justice Court Reform Task Force
46 created in Subsection (2).

47 (2) There is created the Justice Court Reform Task Force consisting of the following
48 members:

49 (a) three members of the Senate appointed by the president of the Senate, no more than
50 two of whom may be from the same political party; and

51 (b) four members of the House of Representatives appointed by the speaker of the
52 House of Representatives, no more than three of whom may be from the same political party.

53 (3) (a) The president of the Senate shall designate a member of the Senate appointed
54 under Subsection (2)(a) as a cochair of the task force.

55 (b) The speaker of the House of Representatives shall designate a member of the House
56 of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

57 (4) If a vacancy occurs in the membership of the task force described in Subsection (2),
58 the member shall be replaced in the same manner in which the original appointment was made.

59 (5) (a) A majority of the members of the task force constitutes a quorum.

60 (b) The action of a majority of a quorum constitutes an action of the task force.

61 (6) Salaries and expenses of the members of the task force who are legislators shall be
62 paid in accordance with:

63 (a) Section [36-2-2](#);

64 (b) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation
65 Expenses; and

66 (c) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

67 (7) The Office of Legislative Research and General Counsel shall provide staff support
68 to the task force.

69 (8) The task force shall review the court system of this state and make
70 recommendations regarding:

71 (a) the structure and organization of the court system of this state;

72 (b) appeals from the justice court to the district court;

73 (c) qualifications and requirements for justice court judges;

74 (d) the procedures and practices for small claims cases and infractions; and

75 (e) other changes related to justice courts.

76 (9) If the task force recommends legislation, the task force may prepare legislation for
77 consideration by the Legislature at the next general session.

78 (10) On or before November 30 of each year that the task force is in effect, the task
79 force shall provide a report to:

80 (a) the Judiciary Interim Committee; and

81 (b) the Legislative Management Committee.

82 (11) The task force is repealed July 1, 2025.

83 Section 2. Section **49-12-406** is amended to read:

84 **49-12-406. Exceptions for part-time elective or appointive service -- Computation**
85 **of allowance -- Justice court judges.**

86 (1) Notwithstanding the provisions of Sections [49-11-401](#) and [49-12-102](#), and unless
87 otherwise provided in this section, a member's elective or appointive service rendered on a

88 basis not considered full-time by the office shall have a separate allowance computed on the
89 basis of compensation actually received by the member during the period of elective or
90 appointive service.

91 (2) (a) (i) A justice court judge who has service with only one participating employer
92 shall be considered part-time or full-time by the office as certified by the participating
93 employer.

94 (ii) If there is a dispute between the office and a participating employer or justice court
95 judge over whether service is full-time or part-time for any employment period, the disputed
96 service shall be submitted by the office to the Administrative Office of the Courts for
97 determination.

98 (b) If a justice court judge has a combination of part-time service and full-time position
99 service with one participating employer, the office shall compute separate allowances on the
100 basis of compensation actually received by the judge during the part-time and full-time periods
101 of service.

102 (3) (a) A justice court judge who has service with more than one participating
103 employer shall be considered full-time by the office for a period of service in which the judge
104 is certified as full-time by:

105 (i) a participating employer;

106 (ii) a group of participating employers where the judge's part-time work for each
107 employer, when aggregated, amounts to full-time service; or

108 (iii) the Administrative Office of the Courts beginning on or after January 1, 2009,
109 based on the judge's aggregate caseload of the multiple employers as determined by the judge's
110 caseloads of the individual courts of each employer in accordance with Subsection
111 ~~[78A-7-206(1)(b)(ii)]~~ [78A-7-206\(2\)\(a\)](#).

112 (b) If a justice court judge has full-time service under Subsection (3)(a), the office shall
113 compute an allowance on the basis of total compensation actually received from all
114 participating employers by the judge during the total period of full-time service.

115 (c) If a justice court judge has part-time service performed that is not within a period
116 considered full-time service under Subsection (3)(a), the office shall compute a separate
117 allowance on the basis of compensation actually received by the member during the period of
118 part-time service.

119 (d) If there is a dispute between the office and a participating employer, a group of
120 participating employers, or a justice court judge over whether service is full-time or part-time
121 for any employment period, the disputed service shall be submitted by the office to the
122 Administrative Office of the Courts for determination.

123 (4) All of the service rendered by a justice court judge in any one fiscal or calendar
124 year may not count for more than one year of service credit.

125 Section 3. Section **49-13-406** is amended to read:

126 **49-13-406. Exceptions for part-time elective or appointive service -- Computation**
127 **of allowance -- Justice court judges.**

128 (1) Notwithstanding the provisions of Sections [49-11-401](#) and [49-13-102](#), and unless
129 otherwise provided in this section, a member's elective or appointive service rendered on a
130 basis not considered full-time by the office shall have a separate allowance computed on the
131 basis of compensation actually received by the member during the period of elective or
132 appointive service.

133 (2) (a) (i) A justice court judge who has service with only one participating employer
134 shall be considered part-time or full-time by the office as certified by the participating
135 employer.

136 (ii) If there is a dispute between the office and a participating employer or justice court
137 judge over whether service is full-time or part-time for any employment period, the disputed
138 service shall be submitted by the office to the Administrative Office of the Courts for
139 determination.

140 (b) If a justice court judge has a combination of part-time service and full-time position
141 service with one participating employer, the office shall compute separate allowances on the
142 basis of compensation actually received by the judge during the part-time and full-time periods
143 of service.

144 (3) (a) A justice court judge who has service with more than one participating
145 employer shall be considered full-time by the office for a period of service in which the judge
146 is certified as full-time by:

147 (i) a participating employer;

148 (ii) a group of participating employers where the judge's part-time work for each
149 employer, when aggregated, amounts to full-time service; or

150 (iii) the Administrative Office of the Courts beginning on or after January 1, 2009,
151 based on the judge's aggregate caseload of the multiple employers as determined by the judge's
152 caseloads of the individual courts of each employer in accordance with Subsection
153 ~~[78A-7-206(1)(b)(ii)]~~ 78A-7-206(2)(a).

154 (b) If a justice court judge has full-time service under Subsection (3)(a), the office shall
155 compute an allowance on the basis of total compensation actually received from all
156 participating employers by the judge during the total period of full-time service.

157 (c) If a justice court judge has part-time service performed that is not within a period
158 considered full-time service under Subsection (3)(a), the office shall compute a separate
159 allowance on the basis of compensation actually received by the member during the period of
160 part-time service.

161 (d) If there is a dispute between the office and a participating employer, a group of
162 participating employers, or a justice court judge over whether service is full-time or part-time
163 for any employment period, the disputed service shall be submitted by the office to the
164 Administrative Office of the Courts for determination.

165 (4) All of the service rendered by a justice court judge in any one fiscal or calendar
166 year may not count for more than one year of service credit.

167 Section 4. Section **63I-1-236** is amended to read:

168 **63I-1-236. Repeal dates: Title 36.**

169 (1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

170 (2) Section 36-12-20 is repealed June 30, 2023.

171 (3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed
172 January 1, 2025.

173 (4) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1, 2023.

174 (5) Section 36-29-112, Justice Court Reform Task Force, is repealed July 1, 2025.

175 ~~[(5) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee,~~
176 ~~is repealed January 1, 2022.]~~

177 Section 5. Section **78A-7-101** is amended to read:

178 **78A-7-101. Creation of justice court -- Not of record -- Independent branch of**
179 **local government -- Classes of justice.**

180 (1) (a) Under Article VIII, Section 1, Utah Constitution, there is created a court not of

181 record known as the justice court.

182 (b) The judges of this court are justice court judges.

183 (2) A justice court is:

184 (a) a court of this state in accordance with Section [78A-1-101](#);

185 (b) a part of the state judiciary even though the justice court is funded and staffed by a
186 municipality or county; and

187 (c) independent from the other branches of government for a municipality or county.

188 (3) A justice court may not be treated as part of the executive or legislative branches or
189 offices of a municipality or county.

190 (4) A municipality or county may only operate a justice court as authorized by this
191 chapter.

192 ~~[(2)]~~ (5) Justice courts shall be divided into the following classes:

193 (a) Class I: 501 or more case filings per month;

194 (b) Class II: 201-500 case filings per month;

195 (c) Class III: 61-200 case filings per month; and

196 (d) Class IV: 60 or fewer case filings per month.

197 Section 6. Section **78A-7-201** is amended to read:

198 **78A-7-201. Justice court judge eligibility -- Mandatory retirement.**

199 (1) A justice court judge shall be:

200 (a) a citizen of the United States;

201 (b) 25 years ~~[of age]~~ old or older;

202 (c) a resident of Utah for at least three years immediately preceding ~~[his]~~ the judge's
203 appointment;

204 (d) upon appointment or within a reasonable time after appointment, a resident of the
205 county, an adjacent county, or the judicial district in which the justice court is located; and

206 ~~[(d) a resident of the county in which the court is located or an adjacent county for at~~
207 ~~least six months immediately preceding appointment; and]~~

208 (e) a qualified voter of the county in which the judge resides.

209 (2) (a) On and after May 3, 2023, a justice court judge shall have a degree from a law
210 school that makes one eligible to apply for admission to a bar in any state.

211 (b) A justice court judge holding office on May 3, 2023, who does not meet the

212 qualification described in Subsection (2)(a) may continue in office until the judge resigns,
213 retires, is not retained in a retention election, or is removed from office.

214 (3) Notwithstanding Subsection (2), a justice court judge is not required to be admitted
215 to practice law in the state as a qualification to hold office.

216 [~~(2) Effective May 10, 2016, a justice court judge is not required to be admitted to~~
217 ~~practice law in the state as a qualification to hold office but:]~~

218 [~~(a) in counties of the first and second class, a justice court judge shall have a degree~~
219 ~~from a law school that makes one eligible to apply for admission to a bar in any state; and]~~

220 [~~(b) in counties of the third, fourth, fifth, and sixth class, a justice court judge shall~~
221 ~~have at the minimum a diploma of graduation from high school or its equivalent.]~~

222 [~~(3)] (4) A justice court judge shall be a person who has demonstrated maturity of~~
223 ~~judgment, integrity, and the ability to understand and apply appropriate law with impartiality.~~

224 [~~(4)] (5) A justice court judge shall retire upon attaining the age of 75 years.~~

225 [~~(5) In counties of the first and second class, if there are not at least three applicants for~~
226 ~~a justice court judge position who meet the requirements of Subsection (2)(a), the justice court~~
227 ~~nominating commission shall re-advertise the position, and may accept applications from~~
228 ~~persons who do not meet the requirements of Subsections (1)(d) and (2)(a).]~~

229 [~~(6) (a) In accordance with Subsection [78A-7-202](#)(3), the Administrative Office of the~~
230 ~~Courts shall provide notice to all attorneys in the county and adjacent counties when a justice~~
231 ~~court judge position is vacant.]~~

232 [~~(b) If the justice court nominating commission waives the requirement of Subsection~~
233 ~~(1)(d) in accordance with Subsection (5), the Administrative Office of the Courts shall provide~~
234 ~~notice to all attorneys in the state.]~~

235 [~~(7) A justice court judge holding office on May 10, 2016, who does not meet the~~
236 ~~qualification in Subsection (2)(a) may continue in the judge's position until the judge resigns,~~
237 ~~retires, is not retained in a retention election, or is removed from office.]~~

238 Section 7. Section [78A-7-206](#) is amended to read:

239 **[78A-7-206. Determination of compensation for justice court judge -- Limits on](#)**
240 **[secondary employment -- Prohibition on holding political or elected office -- Penalties.](#)**

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

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

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

247 ~~[(i) The governing body shall first determine the full-time salary range outlined in~~
248 ~~Subsection (1)(a):]~~

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

251 ~~[(iii) The judge's salary shall then be determined by applying the percentage~~
252 ~~determined in Subsection (1)(b)(ii) against the salary range determined in Subsection (1)(a):]~~

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

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

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

261 ~~[(f) A salary described in this Subsection (1) does not include additional compensation~~
262 ~~provided for a presiding judge or associate presiding judge of a justice court under Section~~
263 ~~78A-7-209.5:]~~

264 ~~[(2)]~~ (1) The governing body of a municipality or county shall pay a full-time justice
265 court judge a salary that is 90% of a district court judge's salary.

266 (2) The governing body of a municipality or county shall pay a part-time justice court
267 judge a salary that is determined by:

268 (a) the caseload of a part-time judge as established by the Administrative Office of the
269 Courts and expressed as a percentage of the caseload of a full-time justice court judge; and

270 (b) applying the percentage under Subsection (2)(a) against the salary of a full-time
271 justice court judge under Subsection (1).

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

274 court judge.

275 (4) A salary described in this section does not include additional compensation
276 provided for a presiding judge or associate judge of a justice court under Section [78A-7-209.5](#).

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

278 (a) justice court;

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

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

282 [~~(3)~~] (6) A justice court judge may not hold any office or employment including
283 contracting for services in any justice agency of state government or any political subdivision
284 of the state including law enforcement, prosecution, criminal defense, corrections, or court
285 employment.

286 [~~(4)~~] (7) A justice court judge may not hold any office in any political party or
287 organization engaged in any political activity or serve as an elected official in state government
288 or any political subdivision of the state.

289 [~~(5)~~] (8) A justice court judge may not own or be employed by any business entity
290 which regularly litigates in small claims court.

291 [~~(6)~~] (9) The Judicial Council shall file a formal complaint with the Judicial Conduct
292 Commission for each violation of this section.

293 Section 8. **Repealer.**

294 This bill repeals:

295 Section [78A-7-207](#), **Compensation -- Annual review and adjustment.**