

**RETENTION ELECTIONS FOR JUSTICE COURT JUDGES**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis Oda**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill delays unopposed judicial retention elections for justice court judges until the 2018 general election.

**Highlighted Provisions:**

This bill:

▸ requires, beginning January 1, 2018, that each justice court judge stand for an unopposed judicial retention election; and

▸ requires the Judicial Performance Evaluation Commission to begin evaluating the performance of justice court judges beginning January 1, 2014, in preparation for the 2018 retention elections of justice court judges.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78A-7-202**, as last amended by Laws of Utah 2009, Chapter 146

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

Section 1. Section **78A-7-202** is amended to read:



28 **78A-7-202. Justice court judges to be appointed -- Procedure -- Retention.**

29 (1) As used in this section:

30 (a) "Local government executive" means:

31 (i) for a county:

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

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

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

38 (ii) for a city or town:

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

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

42 (b) "Local legislative body" means:

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

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

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

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

50 (i) one member appointed by:

51 (A) the county commission if the county has a county commission form of  
52 government; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

82 (7) [~~Upon~~] Beginning January 1, 2018, upon the expiration of a justice court judge's  
83 term of office, the judge shall be subject to an unopposed retention election in the county or  
84 counties in which the court to which the judge is appointed is located, in accordance with the  
85 procedures set forth in Section 20A-12-201.

86 (8) [~~Before~~] Beginning January 1, 2014, before each retention election, each justice  
87 court judge shall be evaluated in accordance with the performance evaluation program  
88 established in [~~Subsection 78A-2-104(5)~~] Section 78A-12-203.

**Legislative Review Note**  
**as of 2-8-11 1:21 PM**

**Office of Legislative Research and General Counsel**