

**MINUTES OF THE  
JUDICIAL RETENTION ELECTION TASK FORCE**

Wednesday, November 7, 2007 – 1:00 p.m. – Room W130 House Building

**Members Present:**

Sen. D. Chris Buttars, Senate Chair  
Rep. Curtis Oda, House Chair  
Sen. Gregory S. Bell  
Sen. Lyle W. Hillyard  
Sen. Ross I. Romero  
Rep. Jackie Biskupski  
Rep. DeMar Bud Bowman  
Rep. Glenn A. Donnelson  
Rep. Lorie D. Fowlke  
Rep. Eric K. Hutchings  
Rep. Rosalind J. McGee  
Judge Hans Q. Chamberlain  
Chief Justice Christine M. Durham  
Judge Gary D. Stott

**Staff Present:**

Mr. Jerry D. Howe, Policy Analyst  
Mr. Mark B. Steinagel, Policy Analyst  
Ms. Esther Chelsea-McCarty, Associate General Counsel  
Mr. Christopher R. Parker, Associate General Counsel  
Ms. Amanda K. Majers, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Buttars called the meeting to order at 1:05 p.m.

**MOTION:** Rep. Donnelson moved to approve the minutes of the October 22, 2007 meeting. The motion passed unanimously with Rep. Biskupski, Rep. Fowlke, and Rep. Hutchings absent for the vote.

**2. Draft Legislation, "Judicial Performance Evaluation Commission"**

Sen. Buttars asked for the task force members' opinions and suggestions on the present draft of the 2008 General Session draft legislation, "Judicial Performance Evaluation Commission," which was mailed to the task force members prior to the meeting.

Mr. Parker distributed language incorporating a prohibition on a sitting legislator or a sitting judge serving as a member of the Judicial Performance Evaluation Commission.

**MOTION:** Chief Justice Durham moved to insert "(c) A sitting legislator or a sitting judge may not serve as a commission member," after line 545 in the 2008 General Session draft legislation, "Judicial Performance Evaluation Commission." The motion passed unanimously.

The Task Force discussed whether midterm survey results should be included in the judicial performance evaluations and whether those results should be made available to the public.

Chief Justice Durham proposed placing the Judicial Performance Evaluation Commission in the executive branch with administrative support provided by CCJJ (Utah Commission on Criminal and Juvenile Justice), because the director of CCJJ will be on the Commission, CCJJ already staffs the judicial appointment process, and is well established with the perception of being non-political.

**MOTION:** Sen. Hillyard moved to replace the words "lieutenant governor's office" with "Commission on Criminal and Juvenile Justice" on line 578 of the 2008 General Session draft legislation, "Judicial Performance Evaluation Commission." The motion passed unanimously.

**MOTION:** Sen. Bell moved to delete the word "and" from line 670, to take out subsection (A) on line 671, to delete the words "for a trial judge" from line 671, to delete "or" and add "and" on line 671, and to delete the words "for an appellate judge" from line 672. The motion passed unanimously.

The Task Force discussed the current minimum performance standard for attorney and juror surveys, and whether the Task Force should establish a new minimum standard requiring a judge to receive an average affirmative response of at least 70% on the survey questions.

Mr. Steinagel distributed an example of what the voter information pamphlet might look like when presenting a judge's performance evaluation survey results.

Sen. Buttars set aside the question concerning the rating system for the minimum performance standards.

Sen. Bell discussed whether the sample of judicial performance survey respondents in Section 78-63-204(2) applies to juvenile and appellate judges.

**MOTION:** Sen. Bell moved to add to line 637 the words "as applicable" after the word "following" and delete from line 641 the words "if applicable." The motion passed unanimously with Rep. McGee absent for the vote.

Sen. Buttars suggested that the Task Force adopt the 2008 General Session draft legislation, "Judicial Performance Evaluation Commission" as a task force bill, but reserve the issue of the minimum performance standard for the survey to be decided at the next meeting.

Sen. Romero suggested that the Task Force maintain the 70% minimum performance standard.

Rep. Hutchings asked staff to bring examples of other states' rating systems for judicial performance evaluation survey results to compare with Utah's current system.

### **3. Other Business / Adjourn**

The Task Force scheduled its next meeting for Tuesday, November 20, 2007 at 2:00 p.m.

**MOTION:** Sen. Hillyard moved to adjourn the meeting. The motion passed unanimously. Chair Buttars adjourned the meeting at 2:29 p.m.