

House Concurrent Resolution No. 5004

By Committee on Judiciary

1-20

1 A PROPOSITION to amend the constitution of the state of Kansas by
2 revising article 3 thereof, relating to the judiciary.

3
4 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*
5 *members elected (or appointed) and qualified to the House of*
6 *Representatives and two-thirds of the members elected (or appointed)*
7 *and qualified to the Senate concurring therein:*

8 Section 1. The following proposition to amend the constitution of
9 the state of Kansas shall be submitted to the qualified electors of the state
10 for their approval or rejection: Article 3 of the constitution of the state of
11 Kansas is hereby amended to read as follows:

"Article 3.—JUDICIAL

12
13 **"§ 1. Judicial power; seals; rules.** The judicial power of this
14 state shall be vested exclusively in one court of justice, which shall
15 be divided into one supreme court, one court of appeals, district
16 courts, and such other courts as are provided by law; and all courts
17 of record shall have a seal. The supreme court shall have general
18 administrative authority over all courts in this state.

19 **"§ 2. Supreme court.** The supreme court shall consist of not
20 less than seven justices who shall be selected as provided by this
21 article. All cases shall be heard with not fewer than four justices
22 sitting and the concurrence of a majority of the justices sitting and
23 of not fewer than four justices shall be necessary for a decision.
24 The term of office of the justices shall be six years except as
25 hereinafter provided. The justice who is senior in continuous term
26 of service shall be chief justice, and in case two or more have
27 continuously served during the same period the senior in age of
28 these shall be chief justice. A justice may decline or resign from the
29 office of chief justice without resigning from the court. Upon such
30 declination or resignation, the justice who is next senior in
31 continuous term of service shall become chief justice. During
32 incapacity of a chief justice, the duties, powers and emoluments of
33 the office shall devolve upon the justice who is next senior in
34 continuous service.

35 **"§ 3. Jurisdiction and terms.** The supreme court shall have
36 original jurisdiction in proceedings in quo warranto, mandamus,

1 and habeas corpus; and such appellate jurisdiction as may be
2 provided by law. It shall hold one term each year at the seat of
3 government and such other terms at such places as may be
4 provided by law, and its jurisdiction shall be coextensive with the
5 state.

6 **"§ 4. Reporter; clerk.** There shall be appointed, by the
7 justices of the supreme court, a reporter and clerk of such court,
8 who shall hold their offices for two years, and whose duties shall
9 be prescribed by law.

10 **"§ 5. Selection of justices of the supreme court.** (a) Any
11 vacancy occurring in the office of any justice of the supreme court
12 and any position to be open thereon as a result of enlargement of
13 the court, or the retirement, resignation or removal of a justice,
14 shall be filled by election at the next general election. Such election
15 shall be partisan and from the state as a whole. Except as otherwise
16 provided in this section, election laws applicable to other state
17 officers elected from the state as a whole shall apply to the
18 nomination and election of justices of the supreme court. Each
19 justice of the supreme court elected as provided by law shall hold
20 office for a term of six years which term shall commence on the
21 second Monday in January following the general election. Justices
22 of the supreme court may seek reelection.

23 (b) Each justice in office at the time this amendment takes
24 effect shall hold office for the term for which such justice was
25 retained in office by election, or hold office for the initial term for
26 which such justice was appointed, and until a successor is elected
27 and qualified. The office which such justice holds shall be open
28 upon the expiration of such justice's term of office, or upon the
29 retirement, resignation or removal of such justice, whichever
30 occurs first. Such justice shall be eligible for election to such office
31 in the manner prescribed in this section, unless by law such justice
32 is compelled to retire or such justice retired, resigned or was
33 removed from such office.

34 **"§ 6. Court of appeals.** (a) (1) The court of appeals shall
35 consist of 14 judges whose positions shall be numbered one to 14.
36 The court of appeals shall be a part of the court of justice in which
37 the judicial power of the state is vested by section 1 of this article
38 and shall be subject to the general administrative authority of the
39 supreme court. The court of appeals shall have such jurisdiction
40 over appeals in civil and criminal cases and from administrative
41 bodies and officers of the state as may be prescribed by law, and
42 shall have such original jurisdiction as may be necessary to the
43 complete determination of any cause on review. During the

1 pendency of any appeal, the court of appeals, on such terms as may
2 be just, may make an order suspending further proceedings in the
3 court below, until the decision of the court of appeals.

4 (2) Any vacancy occurring in the office of any judge of the
5 court of appeals and any position to be open thereon as a result of
6 enlargement of the court, or the retirement, resignation or removal
7 of a judge, shall be filled by election at the next general election.
8 Such election shall be partisan and from the state as a whole.
9 Except as otherwise provided in this section, election laws
10 applicable to other state officers elected from the state as a whole
11 shall apply to the nomination and election of judges of the court of
12 appeals. Each judge of the court of appeals elected as provided by
13 law shall hold office for a term of six years which term shall
14 commence on the second Monday in January following the general
15 election. Judges of the court of appeals may seek reelection.

16 (b) Each judge in office at the time this amendment takes
17 effect shall hold office for the term for which such judge was
18 retained in office by election, or hold office for the initial term for
19 which such judge was appointed, and until a successor is elected
20 and qualified. The office which such judge holds shall be open
21 upon the expiration of such judge's term of office, or upon the
22 retirement, resignation or removal of such judge, whichever occurs
23 first. Such judge shall be eligible for election to such office in the
24 manner prescribed in this section, unless by law such judge is
25 compelled to retire or such judge retired, resigned or was removed
26 from such office.

27 (c) The supreme court may assign a judge of the court of
28 appeals to serve temporarily on the supreme court.

29 (d) The supreme court or the court of appeals may assign a
30 district judge to serve temporarily on the court of appeals.

31 **"§ 7. District courts.** (a) The state shall be divided into
32 judicial districts as provided by law. Each judicial district shall
33 have at least one district judge. The term of office of each judge of
34 the district court shall be four years. District court shall be held at
35 such times and places as may be provided by law. The district
36 judges shall be elected by the electors of the respective judicial
37 districts unless the electors of a judicial district have adopted and
38 not subsequently rejected a method of nonpartisan selection. The
39 legislature shall provide a method of nonpartisan selection of
40 district judges and for the manner of submission and resubmission
41 thereof to the electors of a judicial district. A nonpartisan method
42 of selection of district judges may be adopted, and once adopted
43 may be rejected, only by a majority of electors of a judicial district

1 voting on the question at an election in which the proposition is
2 submitted. Whenever a vacancy occurs in the office of district
3 judge, it shall be filled by appointment by the governor until the
4 next general election that occurs more than 30 days after such
5 vacancy, or as may be provided by such nonpartisan method of
6 selection.

7 (b) The district courts shall have such jurisdiction in their
8 respective districts as may be provided by law.

9 (c) The legislature shall provide for clerks of the district
10 courts.

11 (d) Provision may be made by law for judges pro tem of the
12 district court.

13 (e) The supreme court or any justice thereof shall have the
14 power to assign judges of district courts temporarily to other
15 districts.

16 (f) The supreme court may assign a district judge to serve
17 temporarily on the supreme court.

18 (g) The supreme court or the court of appeals may assign a
19 district judge to serve temporarily on the court of appeals.

20 **"§ 8. Qualifications of justices and judges.** Justices of the
21 supreme court, judges of the court of appeals and judges of the
22 district courts shall be at least 30 years of age and shall be duly
23 authorized by the supreme court of Kansas to practice law in the
24 courts of this state and shall possess such other qualifications as
25 may be prescribed by law.

26 **"§ 9. Prohibition of political activity by certain judges.** No
27 judge of the district court holding office under a nonpartisan
28 method authorized in subsection (a) of section 7 of this article,
29 shall directly or indirectly make any contribution to or hold any
30 office in a political party or organization or take part in any
31 political campaign.

32 **"§ 10. Extension of terms until successor qualified.** All
33 judicial officers shall hold their offices until their successors shall
34 have qualified.

35 **"§ 11. Compensation of justices and judges; certain
36 limitation.** The justices of the supreme court, judges of the court of
37 appeals and judges of the district courts shall receive for their
38 services such compensation as may be provided by law, which
39 shall not be diminished during their terms of office, unless by
40 general law applicable to all salaried officers of the state. Such
41 justices or judges shall receive no fees or perquisites nor hold any
42 other office of profit or trust under the authority of the state, or the
43 United States except as may be provided by law, or practice law

1 during their continuance in office.

2 **"§ 12. Removal of justices and judges.** Justices of the
3 supreme court may be removed from office by impeachment and
4 conviction as prescribed in article 2 of this constitution. In addition
5 to removal by impeachment and conviction, justices may be retired
6 after appropriate hearing, upon certification to the governor, by the
7 supreme court that such justice is so incapacitated as to be unable
8 to perform adequately such justice's duties. Other judges shall be
9 subject to retirement for incapacity, and to discipline, suspension
10 and removal for cause by the supreme court after appropriate
11 hearing.

12 **"§ 13. Savings clause.** Nothing contained in this amendment
13 to the constitution shall: (a) Shorten the term of office or abolish
14 the office of any justice of the supreme court, any judge of the
15 court of appeals, any judge of the district court, or any other judge
16 of any other court who is holding office at the time this amendment
17 becomes effective, or who is holding office at the time of adoption,
18 rejection, or resubmission of a nonpartisan method of selection of
19 district judges as provided in subsection (a) of section 7 of this
20 article, and all such justices and judges shall hold their respective
21 offices for the terms for which elected or appointed unless sooner
22 removed in the manner provided by law; (b) repeal any statute of
23 this state relating to the supreme court, the supreme court
24 nominating commission, the court of appeals, district courts, or any
25 other court, or relating to the justices or judges of such courts, and
26 such statutes shall remain in force and effect until amended or
27 repealed by the legislature."

28 Sec. 2. The following statement shall be printed on the ballot with
29 the amendment as a whole:

30 *"Explanatory statement.* The purpose of this amendment is to
31 place the law concerning the court of appeals into the
32 constitution, to do away with the supreme court nominating
33 commission and to provide for election of justices of the
34 supreme court and judges of the court of appeals. Future
35 justices and judges would be elected in partisan, statewide
36 elections. Each justice and judge elected would hold office
37 for a term of six years and would be allowed to seek
38 reelection.

39 "A vote for this proposition would cause justices of the supreme
40 court and judges of the court of appeals to be elected in
41 partisan, statewide elections for terms of six years.

42 "A vote against this proposition would continue the current
43 system in which justices of the supreme court are appointed

1 by the governor from a list of three individuals submitted by
2 the supreme court nominating commission and judges of the
3 court of appeals are appointed by the governor, with the
4 consent of the senate."

5 Sec. 3. This resolution, if approved by two-thirds of the members
6 elected (or appointed) and qualified to the House of Representatives, and
7 two-thirds of the members elected (or appointed) and qualified to the
8 Senate shall be entered on the journals, together with the yeas and nays.
9 The secretary of state shall cause this resolution to be published as
10 provided by law and shall cause the proposed amendment to be submitted
11 to the electors of the state at the election in August in the year 2016
12 unless a special election is called at a sooner date by concurrent
13 resolution of the legislature, in which case it shall be submitted to the
14 electors of the state at the special election.