

HOUSE BILL No. 2297

AN ACT concerning courts; relating to the court of appeals; amending K.S.A. 20-3002, 20-3005, 20-3006 and 46-234 and repealing the existing sections; also repealing K.S.A. 20-3003.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 20-3002 is hereby amended to read as follows: 20-3002. (a) *On and after January 1, 2003, through December 31, 2003, the court of appeals shall consist of ~~10~~ 11 judges whose positions shall be numbered one to ~~10~~ 11. On and after January 1, 2004, through December 31, 2004, the court of appeals shall consist of 12 judges whose positions shall be numbered one to 12. On and after January 1, 2005, through December 31, 2005, the court of appeals shall consist of 13 judges whose positions shall be numbered one to 13. On and after January 1, 2006, the court of appeals shall consist of 14 judges whose positions shall be numbered one to 14.* Judges of the court of appeals shall possess the qualifications prescribed by law for justices of the supreme court.

(b) Judges of the court of appeals shall be selected in the manner provided by K.S.A. 20-3003 through 20-3010, and amendments thereto. Each judge of the court of appeals shall receive an annual salary in the amount prescribed by law. No judge of the court of appeals may receive additional compensation for official services performed by the judge. Each such judge shall be reimbursed for expenses incurred in the performance of such judge's official duties in the same manner and to the same extent justices of the supreme court are reimbursed for such expenses.

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

(d) *Any additional court of appeals judge position created by this section shall be considered a position created by the supreme court and not a civil appointment to a state office pursuant to K.S.A. 46-234, and amendments thereto.*

Sec. 2. K.S.A. 20-3005 is hereby amended to read as follows: 20-3005. *On the respective July 1, ~~1987~~, pursuant to subsection (a) of K.S.A. 20-3002, and amendments thereto, the clerk of the supreme court shall notify the chairperson of the supreme court nominating commission of the number of vacant positions on the court of appeals to be filled by appointment. Upon receipt of such notice, the chairperson shall ~~cause the call a meeting of the commission to meet~~ and submit to the governor a panel of three nominees for the lowest numbered position on the court of appeals for which an appointment is to be made. The governor shall appoint one of such nominees to the position on the court of appeals for which the nominee was nominated within 60 days from the time the panel of nominations for such position is submitted to the governor. If the governor fails to make the appointment within such time, the chief justice of the supreme court shall make such appointment from among the persons ~~so~~ nominated as provided in this section. When the appointment has been made and the person has informed the clerk of the supreme court in writing of the person's acceptance of such appointment, the clerk of the supreme court shall ~~so~~ notify the chairperson of the supreme court nominating commission who again shall ~~cause the call a meeting of the commission to meet~~ and submit to the governor another panel of three nominees for the lowest numbered position remaining on the court of appeals for which no appointment has been made. The process of nomination and appointment provided ~~herein~~ in this section shall be repeated until nominations and appointments have been made for all positions on the court of appeals for which appointments are to be made. Each appointment to the court of appeals shall be made from a separate panel of nominees, and the appointment to each position shall be made and accepted before any other panel of nominees is submitted to the governor. The nomination of a person on an earlier panel shall not preclude the person's nomination on a subsequent panel.*

Sec. 3. K.S.A. 20-3006 is hereby amended to read as follows: 20-3006. (a) Persons who are appointed as judges of the court of appeals pursuant to K.S.A. 20-3005 and amendments thereto shall commence the duties of ~~their~~ office upon appointment, and each ~~such~~ judge shall have all the rights, privileges, powers and duties prescribed by law for the office of judge of the court of appeals. The initial ~~terms~~ term of office for ~~persons~~ the person serving as ~~judges~~ judge of the court of appeals in ~~positions~~

~~eight, nine and 10~~ position 11 shall expire January ~~14, 1991~~ 10, 2005. *The initial term of office for the person serving as judge of the court of appeals in position 12 shall expire January 8, 2007. The initial term of office for the person serving as judge of the court of appeals in position 13 shall expire January 8, 2007. The initial term of office for the person serving as judge of the court of appeals in position 14 shall expire January 12, 2009.*

(b) (1) Not less than 60 days prior to the holding of the general election next preceding the expiration of the term of any judge of the court of appeals, the judge may file in the office of the secretary of state a declaration of candidacy for retention in office. If a declaration is not ~~so~~ filed *as provided in this section*, the position held by the judge shall be vacant upon the expiration of the judge's term of office. If such declaration is filed, the judge's name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows:

"Shall \_\_\_\_\_ (Here insert name of judge.), Judge of the Court of Appeals, be retained in office?"

(2) If a majority of those voting on the question ~~shall vote~~ *votes* against retaining the judge in office, the position which the judge holds shall be vacant upon the expiration of the judge's term of office. Otherwise, unless the judge is removed for cause, the judge shall remain in office for a term of four years from the second Monday in January following the election. At the expiration of each term, unless by law the judge is compelled to retire, the judge shall be eligible for retention in office by election in the manner prescribed in this section.

(3) If a majority of those voting on the question ~~shall vote~~ *votes* against the judge's retention, the secretary of state, following the final canvass of votes on the question, shall certify the results to the clerk of the supreme court. Any such judge who has not been retained in office pursuant to this section shall not be eligible for nomination or appointment to the office of judge of the court of appeals prior to the expiration of four years after the expiration of the judge's term of office.

(4) Election laws applicable to the general election of other state officers shall apply to elections upon the question of retention of judges of the court of appeals pursuant to this section, to the extent that they are not in conflict with and are consistent with the provisions of this act.

Sec. 4. K.S.A. 46-234 is hereby amended to read as follows: 46-234. No elected state officer shall within one year after the expiration of such officer's last term receive any civil appointment to a state office which was created by law during the last term for which such person had been elected, and all such appointments shall be void. Upon resignation by an elected state officer, such person may be appointed to any elective state office to fill a vacancy. As used in this section, the term "civil appointment to a state office" shall not include an additional district judge position created by K.S.A. 20-355, and amendments thereto, *or an additional court of appeals judge position created by K.S.A. 20-3002, and amendments thereto.*

Sec. 5. K.S.A. 20-3002, 20-3003, 20-3005, 20-3006 and 46-234 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*