

## HOUSE BILL No. 2334

By Committee on Ethics and Elections

2-5

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AN ACT concerning municipal judges; relating to the election thereof; amending K.S.A. 12-1036g, 12-4105, 12-4107, 13-527, 13-628a, 14-201, 14-205, 14-1501, 14-1502, 14-1503, 15-204, 15-209, 15-1601, 15-1602 and 15-1603 and repealing the existing sections; also repealing K.S.A. 13-628l.

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

Section 1. K.S.A. 12-1036g is hereby amended to read as follows: 12-1036g. The governing body and the city manager of a city adopting this act shall be governed by the provisions of K.S.A. 12-1009 ~~to 12-1014, both sections inclusive, and any amendments thereto, and K.S.A. 12-1015, and any through 12-1015, and amendments thereto,~~ in the organization and administration of such city, ~~except that~~. The governing body ~~may~~, by ordinance, ~~may~~ provide that the governing body shall appoint ~~either or all of the following city officers: City attorney, city clerk, and city police judge~~ a city attorney and city clerk, to hold office at the pleasure of the governing body.

Sec. 2. K.S.A. 12-4105 is hereby amended to read as follows: 12-4105. The municipal court shall be presided over by a municipal judge. The judge shall be ~~selected in the manner provided by statute~~ *elected in the manner provided by this act*. The person who is selected shall be:

- (a) A citizen of the United States;
- (b) a graduate of a high school or secondary school or the equivalent thereof; and
- (c) (1) in cities other than cities of the first class, an attorney regularly admitted to practice law in the state of Kansas or certified by the supreme court in the manner prescribed by K.S.A. 12-4114, *and amendments thereto*, as qualified to serve as a municipal judge; or
- (2) in cities of the first class an attorney regularly admitted to practice law in the state of Kansas.

The municipal judge shall receive a monthly or annual salary set by ordinance of the city in which such municipal judge presides, except where otherwise provided by law.

Sec. 3. K.S.A. 12-4107 is hereby amended to read as follows: 12-4107. ~~In the event the~~ *If* a municipal judge is temporarily unable to pre-

1 side due to absence, illness or disqualification, the municipal judge shall  
2 designate an attorney or other qualified person to act as judge pro tem-  
3 pore. In the event the municipal judge fails to appoint a judge pro tem-  
4 pore, the judge pro tempore shall be appointed ~~in the same manner as~~  
5 ~~the municipal judge is selected by the governing body of the city.~~ The  
6 judge pro tempore shall receive compensation as shall be provided by  
7 ordinance, payable in the same manner as the compensation of the regular  
8 municipal judge.

9 In the event a vacancy shall occur in the office of municipal judge, a  
10 successor shall be appointed to fill the unexpired term ~~in the same man-~~  
11 ~~ner as the municipal judge was appointed by the governing body of the~~  
12 ~~city.~~

13 Sec. 4. K.S.A. 13-527 is hereby amended to read as follows: 13-527.  
14 The mayor, by and with the consent of the council, may appoint a city  
15 attorney, city prosecutor, city clerk, city treasurer, ~~municipal judge of the~~  
16 ~~municipal court,~~ city engineer, director of public works, chief of police,  
17 policemen, and such other officers and employees as they may deem  
18 necessary for the best interests of the city, ~~but~~. No such officer shall be  
19 appointed until ~~his or her~~ *the* term of office and salary shall have been  
20 fixed by ordinance; ~~and~~. All contracts of employment of auditors, ac-  
21 countants, engineers, attorneys, counselors and architects for any special  
22 purpose shall be authorized by ordinance.

23 The term of all such officers shall be provided by ordinance: *Provided,*  
24 In case of an appointment to fill a vacancy such appointee shall only serve  
25 for the remainder of the term for which ~~his or her~~ *such person's* prede-  
26 cessor was appointed. *Vacancies shall be filled by the governing body of*  
27 *the city.*

28 Sec. 5. K.S.A. 13-628a is hereby amended to read as follows: 13-  
29 628a. *The municipal judges* in all cities of the first class which have a  
30 population of ~~one hundred thousand (100,000)~~ *100,000* or more, and  
31 which shall have the city-manager plan of government at the effective  
32 date of this act, ~~the court shall be designated the municipal court, and~~  
33 ~~the judge of the municipal court shall be appointed by the judges of the~~  
34 ~~district court of the district in which said city is located in each odd-~~  
35 ~~numbered year, commencing in 1929, to take office on the third Tuesday~~  
36 ~~in April in such year, or as soon thereafter as appointed, and hold the~~  
37 ~~same until a successor shall have been appointed and shall have qualified~~  
38 ~~and said judge shall be designated judge of division No. 1: *Provided,* That~~  
39 ~~the judges of the district court of the district in which such city is located~~  
40 ~~shall appoint two additional judges to said municipal court, to take office~~  
41 ~~commencing on the third Tuesday in April, 1967, and until their succes-~~  
42 ~~sors are appointed and qualified in each odd numbered year thereafter,~~  
43 ~~said judges to be designated judges of division No. 2 and division No. 3~~

1 respectively. ~~Said municipal judges so appointed shall have concurrent~~  
2 ~~jurisdiction in said municipal court with the judge of division No. 1 shall~~  
3 ~~be elected in the manner provided by this act. Municipal judges shall have~~  
4 ~~jurisdiction over all traffic and criminal violations in the city and all said~~  
5 ~~judges are authorized to direct the police department of the city to issue~~  
6 ~~all notices of traffic violations in duplicate and to require the duplicate~~  
7 ~~notice of such violation to be filed with the clerk of said the municipal~~  
8 ~~court.~~

9 ~~The said Municipal judges, in exercising jurisdiction over traffic viola-~~  
10 ~~tions, shall record or cause to be recorded on the copy of the notice filed~~  
11 ~~with said clerk, the clerk and the disposition of each traffic violation. The~~  
12 ~~provisions of K.S.A. 13-628b to 13-628h, both sections inclusive, and~~  
13 ~~amendments thereto, relating to qualifications, powers, duties, bonds,~~  
14 ~~vacancies, salaries and judges pro tem, shall apply to all of the judges of~~  
15 ~~the municipal court in said city: Provided, That only one clerk shall be~~  
16 ~~appointed by said court, said clerk to be appointed by the judge of division~~  
17 ~~No. 1: Provided further, The judges of the district court of the district in~~  
18 ~~which such city is located shall designate no more than two divisions of~~  
19 ~~said municipal court to try and otherwise process traffic violations.~~

20 Sec. 6. K.S.A. 14-201 is hereby amended to read as follows: 14-201.  
21 Except as provided in K.S.A. 12-1028a, and amendments thereto, there  
22 shall be elected on the first Tuesday in April of each odd-numbered year  
23 a mayor, councilmembers and city treasurer. The mayor shall appoint, by  
24 and with the consent of the council, ~~a municipal judge of the municipal~~  
25 ~~court,~~ a city marshal-chief of police, city clerk, city attorney, and may  
26 appoint police officers and any other officers deemed necessary. Any of-  
27 ficers appointed and confirmed shall hold an initial term of office of not  
28 to exceed one year and until their successors are appointed and qualified.  
29 Any officers who are reappointed shall hold their offices for a term of  
30 one year and until their successors are appointed and qualified. The coun-  
31 cil shall by ordinance specify the duties and compensation of the office  
32 holders, and by ordinance may abolish any office created by the council  
33 whenever deemed expedient.

34 The mayor, councilmembers and city treasurer shall hold their offices  
35 for a term of two years.

36 Sec. 7. K.S.A. 14-205 is hereby amended to read as follows: 14-205.  
37 *Except as provided herein*, all officers elected or appointed shall be qual-  
38 ified electors of ~~said the city, except that the city may appoint nonresidents~~  
39 ~~as. The city attorney, municipal judge and as and law enforcement officers~~  
40 ~~when deemed necessary, including the appointment of nonresidents who~~  
41 ~~also serve as city attorney, municipal judge or law enforcement officers~~  
42 ~~of another municipality or public agency: Provided, That may be nonres-~~  
43 ~~idents of the city.~~ Nothing herein shall authorize the appointment of non-

1 residents of this state. The city attorney shall be a qualified elector of the  
2 county in which ~~said~~ the city is located or of an adjoining county. The  
3 removal from such city of any officer required to be a qualified elector  
4 shall ~~occasion~~ create a vacancy in such office. The clerk shall enter every  
5 appointment to office, and the date thereof, on the journal of proceedings.  
6 The council may require all city officers, elected or appointed, to take  
7 and subscribe an oath and give bonds and security for the faithful per-  
8 formances of their duties.

9 Sec. 8. K.S.A. 14-1501 is hereby amended to read as follows: 14-  
10 1501. (a)The board of commissioners shall appoint, by a majority vote of  
11 all the members thereof, the following officers, ~~to wit~~: A city attorney, a  
12 city clerk, a city treasurer, ~~a municipal judge of the municipal court,~~ a  
13 city marshal, a fire chief, and such other officers, assistants and employees  
14 as they may deem necessary for the best interests of the city; ~~but~~. No  
15 such officer shall be appointed until the term and salary of the office to  
16 which ~~he or she~~ such officer is appointed shall be prescribed by ordinance  
17 as hereinafter provided.

18 (b) An ordinance prescribing a salary for any such office or position  
19 shall either shall (1) fix a specific salary, or (2) prescribe a minimum salary  
20 and a maximum salary, and, in the latter case, the maximum salary shall  
21 not be more than ~~twenty five percent (25%)~~ 25% greater than the min-  
22 imum salary, and the salary to be paid shall be fixed within such limits by  
23 resolution of the board of commissioners ~~but said board, at any time it~~  
24 ~~deems such action advisable.~~ The board may adjust or change such salary  
25 within such limits by resolution.

26 (c) The board of commissioners may retain a licensed professional  
27 engineer to act in the capacity of city engineer for specifically defined  
28 duties, and provide for reasonable compensation for the services ren-  
29 dered. The terms of all appointive officers shall be for two (2) years and  
30 until their successors are appointed and qualified. In case of an appoint-  
31 ment to fill a vacancy such appointee shall only serve for the remainder  
32 of the term for which his or her predecessor was appointed.

33 Sec. 9. K.S.A. 14-1502 is hereby amended to read as follows: 14-  
34 1502. No person shall be eligible to any appointive office unless ~~he or she~~  
35 ~~shall be a bona fide~~ such person is a resident of the city or of the territory  
36 within a two (2) mile radius of such city prior to ~~his or her~~ appointment;  
37 ~~except that.~~ The board of commissioners of the city may hire nonresident  
38 expert employees or appoint nonresidents ~~as a municipal judge or as law~~  
39 enforcement officers when deemed necessary by the board of commis-  
40 sioners, including the appointment of nonresidents who also serve as ~~mu-~~  
41 ~~nicipal judge or law enforcement officers of another municipality or pub-~~  
42 lic agency: ~~Provided, That.~~ Nothing herein shall authorize the  
43 appointment of nonresidents of this state.

1 Sec. 10. K.S.A. 14-1503 is hereby amended to read as follows: 14-  
2 1503. The board of commissioners shall have power by a majority vote of  
3 all the members thereof to remove, for cause, the city attorney, city clerk,  
4 city treasurer, ~~police judge~~, city engineer, or the incumbent of any other  
5 appointive city office or employment whatever, and ~~may~~ by ordinance  
6 prescribe, *may* limit or change the compensation of such officers or em-  
7 ployees: ~~Provided, however, That~~. No fees ~~whatever shall~~ be paid to or  
8 allowed any such officer or employee as compensation for the services  
9 thereof. The chief of police, chief of the fire department, or any super-  
10 intendent or foreman in charge of municipal work, ~~may~~, with the consent  
11 of the board of commissioners, *may* suspend or discharge any subordinate  
12 under ~~his or her~~ *such person's* direction for neglect of duty or disobedi-  
13 ence of ~~his or her~~ orders.

14 Sec. 11. K.S.A. 15-204 is hereby amended to read as follows: 15-204.  
15 The mayor, with the consent of the council, may appoint, at the first  
16 regular meeting of the governing body in May of each year, the following  
17 city officers: A ~~municipal judge of the municipal court~~, a clerk, a treasurer,  
18 a marshal-chief of police, law enforcement officers and such other officers  
19 as deemed necessary. Such officers shall hold an initial term of office of  
20 not to exceed one year and until their successors have been appointed  
21 and qualified. Any officers who are reappointed shall hold their offices  
22 for a term of one year and until their successors are appointed and qual-  
23 ified. The duties and pay of the various officers shall be regulated by  
24 ordinance. Any officer may be removed by a majority vote of the total  
25 membership elected or appointed to the council and may be suspended  
26 at any time by the mayor.

27 Sec. 12. K.S.A. 15-209 is hereby amended to read as follows: 15-209.  
28 The officers elected or appointed under this act shall be qualified electors  
29 of said city, except the city may appoint nonresidents as city attorney,  
30 ~~municipal judge~~ and as law enforcement officers when deemed necessary,  
31 including the appointment of nonresidents who also serve as city attorney,  
32 ~~municipal judge~~ or law enforcement officers of another municipality or  
33 public agency: ~~Provided, That~~. Nothing herein shall authorize the ap-  
34 pointment of nonresidents of this state. The city attorney, shall be a qual-  
35 ified elector of the county in which ~~said~~ *the* city is located or of an ad-  
36 joining county. The removal from such city of any officer elected or  
37 appointed under this act, who is required to be a qualified elector thereof,  
38 shall ~~occasion~~ *create* a vacancy in such office. All vacancies in office, ex-  
39 cept in the offices of mayor and councilman, may be filled until the next  
40 regular time for appointment by appointment by the governing body.  
41 Every appointment to office, and the date thereof, shall be entered on  
42 the journal of proceedings of the council.

43 Sec. 13. K.S.A. 15-1601 is hereby amended to read as follows: 15-

1 1601. The board of commissioners shall appoint, for a term of one ~~(1)~~  
2 year, by a majority vote of all the members thereof, the following officers,  
3 to wit: A city clerk, a city treasurer, ~~a municipal judge of the municipal~~  
4 ~~court~~, a city marshal-chief of police, and may appoint the following offi-  
5 cers, ~~to wit~~: A city attorney, a fire chief, and such other officers, assistants,  
6 and employees as they deem necessary for the best interests of the city;  
7 ~~but~~. No such officer shall be appointed until ~~his or her~~ *the* term and salary  
8 shall have been fixed by ordinance. Such persons shall hold their respec-  
9 tive offices until their successors shall have been appointed and qualified.  
10 In case of appointment to fill a vacancy, such appointee shall only serve  
11 for the remainder of the term for which ~~his or her~~ *such person's* prede-  
12 cessor was appointed. The board of commissioners may retain a licensed  
13 professional engineer to act in the capacity of city engineer for specifically  
14 defined duties, and provide for reasonable compensation for the services  
15 rendered.

16 Sec. 14. K.S.A. 15-1602 is hereby amended to read as follows: 15-  
17 1602. No person shall be eligible to any appointive office unless ~~he or she~~  
18 ~~shall be a bona fide~~ *such person is a* resident of the city at least one ~~(1)~~  
19 year prior to ~~his or her~~ appointment, ~~except that~~. *The board of commis-*  
20 *sioners of the city may hire nonresident expert employees or appoint*  
21 *nonresidents as a municipal judge or as law enforcement officers when*  
22 *deemed necessary by the board of commissioners, including the appoint-*  
23 *ment of nonresidents who also serve as a municipal judge or law enforce-*  
24 *ment officers of another municipality or public agency.* ~~Provided, That~~.  
25 Nothing herein shall authorize the appointment of nonresidents of this  
26 state.

27 Sec. 15. K.S.A. 15-1603 is hereby amended to read as follows: 15-  
28 1603. The board of commissioners shall have power to remove the city  
29 attorney, city clerk, city treasurer, ~~police judge~~, city engineer or city as-  
30 sessor for incompetency, neglect of duty, or malfeasance in office, upon  
31 charges preferred, after due notice in writing and opportunity to be heard  
32 in their defense. When such charges are sustained any such officers shall  
33 be removed by resolution of the board of commissioners, passed by a vote  
34 of at least two of the members of ~~said~~ *the* board, declaring that the charges  
35 preferred have been proven and that such office is vacant. ~~But said board~~  
36 ~~may~~ *The board*, in its discretion, by a majority vote of all the members  
37 thereof, *may* remove with or without cause the incumbent of any other  
38 appointive city office or employment whatever, and ~~may~~ by ordinance  
39 *may* prescribe, limit or change the salary of all appointive officers or  
40 employees, ~~except that~~. The salary of all appointive officers shall not be  
41 increased or diminished during the term for which they are appointed.

42 New Sec. 16. As used in this act:

43 (a) "City election" means the election at which the governing body

1 of the city is elected.

2 (b) "Filing deadline" means the hour, date or time after which it is  
3 provided by law that no person may become a candidate for election to  
4 a city office.

5 (c) "Primary election" means the primary election of the governing  
6 body of a city.

7 (d) "General election" means the general election of the governing  
8 body of a city.

9 New Sec. 17. From and after July 1, 2001, municipal court judges  
10 shall be elected as provided by this act.

11 New Sec. 18. (a) Municipal court judges shall be elected at the same  
12 time as all other city elections.

13 (b) Municipal court judges shall be elected for terms of four years  
14 and until their successors are elected and qualified.

15 (c) The filing deadline for the office of municipal court judge shall  
16 be the same as the filing deadline for candidates for office for members  
17 of the governing body of the city.

18 New Sec. 19. (a) Except as provided by subsection (b), there shall  
19 be a primary election of municipal court judge at the same time for the  
20 holding of the primary election for members of the governing body of  
21 the city.

22 (b) No primary election of municipal court judge shall be held unless  
23 by holding such primary one or more persons will be eliminated as can-  
24 didates for office. In the event there are not more than two candidates  
25 for such office, the names of the candidates for such office shall not  
26 appear on the primary election ballots, and there shall be no primary  
27 election for such office, but the names of such candidates shall be placed  
28 on the general city election ballot.

29 New Sec. 20. (a) Any person desiring to become a candidate for a  
30 municipal court judge shall file with the city clerk before the filing dead-  
31 line a statement of such candidacy on a form furnished by the county  
32 election officer as specified by the secretary of state. The city clerk of any  
33 city upon receiving any filing under this section shall record the same and  
34 transmit it, together with the filing fee or petition herein provided, within  
35 three business days to the county election officer.

36 (b) In cities having a population of less than 5,000, each such filing  
37 shall be accompanied by a filing fee of \$5 or, in lieu of such filing fee, by  
38 a petition signed by 25 qualified electors of the city or by a number of  
39 such qualified electors of the city equal to not less than 10% of the ballots  
40 cast at the last general city election, whichever is less.

41 (c) In cities having a population of not less than 5,000 nor more than  
42 100,000, each such filing shall be accompanied by a filing fee of \$10 or,  
43 in lieu of such filing fee, by a petition signed by 50 qualified electors of

1 the city or by a number of such qualified electors of the city equal to not  
2 less than 1% of the ballots cast and counted at the last general city elec-  
3 tion, whichever is less.

4 (d) In cities having a population of more than 100,000, each such  
5 filing shall be accompanied by a filing fee of \$50; or, in lieu of such filing  
6 fee, by a petition signed by 100 qualified electors of the city or by a  
7 number of qualified electors of the city equal to 1% of the ballots cast at  
8 the last general city election, whichever is less.

9 (e) All elections for municipal court judge shall be conducted by the  
10 county election officer of the county in which such city is located, or of  
11 the county in which the greater population of the city is located if the city  
12 extends into more than one county.

13 New Sec. 21. At all elections for municipal court judge the polls shall  
14 open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set  
15 and publicly announced by the county election officer. In the event that  
16 different hours are so set, the polls shall be open at least 12 continuous  
17 hours commencing not earlier than 6:00 a.m. and ending not later than  
18 8:00 p.m. The secretary of state shall adopt rules and regulations speci-  
19 fying the time and manner of setting and announcing any change of hours  
20 under authority of this section.

21 New Sec. 22. No notice of any election of municipal court judge shall  
22 be required.

23 New Sec. 23. Municipal court judge elections shall be nonpartisan.  
24 Laws applicable to elections occurring at the same time as municipal court  
25 judge elections shall apply to municipal court judge elections to the extent  
26 that the same are not in conflict with the provisions of this act.

27 New Sec. 24. Primary and general elections for municipal court  
28 judge shall be conducted jointly with other elections held at the same  
29 time insofar as is practicable. Any election officer having responsibility  
30 for any other such election shall cooperate with the election officer of the  
31 city, and if a difference arises which cannot be agreed upon, determina-  
32 tion of the difference shall be made by the county election officer, unless  
33 such difference involves a question the determination of which is pro-  
34 vided by law to be made by the secretary of state. If under the provisions  
35 of this act one election officer is required to make determination of a  
36 matter and under any other statute a different election officer is required  
37 to make determination of the same issue, the two election officers shall  
38 agree upon determination of such matter, or if they do not agree, either  
39 may submit the matter for determination to the secretary of state whose  
40 decision on such matter shall be final and conclusive.

41 New Sec. 25. Names of candidates for municipal court judge ap-  
42 pearing on the ballots in primary and general elections shall be listed in  
43 the various possible orders in rotation.



1 New Sec. 26. (a) No blank lines for write-in candidates shall appear  
2 on ballots for municipal court judge at primary elections.

3 (b) On the ballots in the general election for municipal court judge,  
4 blank lines for the name of write-in candidates shall be printed at the end  
5 of the list of candidates for such office equal to the number to be elected  
6 thereto. The purpose of such blank lines shall be to permit the voter to  
7 insert the name of any person not printed on the ballot for whom the  
8 voter desires to vote for such office.

9 New Sec. 27. Whenever any vacancy occurs in the office of munic-  
10 ipal court judge office, the vacancy shall be filled by appointment by the  
11 governing body of the city.

12 New Sec. 28. The city clerk shall certify to the county election officer  
13 a list of municipal court judge offices to be voted upon at each city election  
14 not later than January 1 of every year that such city has an election for  
15 municipal court judge.

16 New Sec. 29. Ballots for primary and general elections for municipal  
17 court judge shall be prepared in such manner that each voter is instructed  
18 to vote for the same number of candidates as the number of positions to  
19 be filled, for which the voter is qualified to vote. When the voter may  
20 vote for more than one candidate, such instruction also shall specify that  
21 the voter may vote for fewer than the total number for which the voter  
22 is qualified to vote. Failure to vote for the maximum number of candidates  
23 for positions as the voter is qualified to vote shall not invalidate the ballot  
24 nor that portion of the ballot and votes for candidates fewer than the  
25 number directed shall be counted.

26 New Sec. 30. The county election officer who conducts the election  
27 for municipal court judge shall certify to the city governing body the  
28 determination of election results made by the county board of canvassers.  
29 The term of office for municipal court judge shall commence with the  
30 first regular meeting of the governing body of the city following certifi-  
31 cation of the election.

32 Every person elected or appointed to the office of municipal court  
33 judge, before entering upon the duties of such office, shall take and sub-  
34 scribe an oath or affirmation as specified in K.S.A. 54-106, and amend-  
35 ments thereto, and every such oath or affirmation shall be filed with the  
36 city clerk.

37 Sec. 31. K.S.A. 12-1036g, 12-4105, 12-4107, 13-527, 13-628a, 13-  
38 628l, 14-201, 14-205, 14-1501, 14-1502, 14-1503, 15-204, 15-209, 15-  
39 1601, 15-1602 and 15-1603 are hereby repealed.

40 Sec. 32. This act shall take effect and be in force from and after its  
41 publication in the statute book.