

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2008

## HOUSE BILL No. 2648

By Representative O'Neal

1-22

12 AN ACT concerning cities and appointments by mayors; amending  
13 K.S.A. 13-518, 13-527, 13-1347, 14-201, 14-695, 15-201, 15-204 and  
14 17-4757 and K.S.A. 2007 Supp. 12-1222 and 12-5711 and repealing  
15 the existing sections.

16

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

18 New Section 1. Any appointment to any board, commission, advisory  
19 group or other body made by the mayor of any city which is subject to  
20 approval of the governing body of the city must be acted upon by the  
21 governing body within 30 days of the appointment by the mayor **or the**  
22 **appointment shall be deemed approved.** The governing body of the  
23 city shall approve such appointment unless the governing body makes a  
24 specific finding by the passage of a resolution that the person is **either**  
25 **unqualified to hold the office or is** not fit to hold the office or position.

26 Sec. 2. K.S.A. 2007 Supp. 12-1222 is hereby amended to read as  
27 follows: 12-1222. *Subject to the provisions of section 1, and amendments*  
28 *thereto*, upon the establishment of a library under this act the official  
29 head of a municipality shall appoint, with the approval of the governing  
30 body, a library board for such library. In the case of a county, except for  
31 Johnson county, or township library five members shall be appointed, one  
32 for a term expiring the first April 30 following date of appointment, one  
33 for a term expiring the second April 30, following date of appointment,  
34 one for a term expiring the third April 30 following date of appointment,  
35 and two for terms expiring the fourth April 30 following date of appoint-  
36 ment. In the case of a city library seven members shall be appointed, one  
37 for a term expiring the first April 30 following date of appointment, two  
38 for terms expiring the second April 30 following date of appointment, two  
39 for terms expiring the third April 30 following date of appointment, and  
40 two for terms expiring the fourth April 30 following date of appointment.  
41 ~~In any city having a population of more than 250,000,~~ The governing body  
42 of ~~such~~ *any* city may, as an alternative to the membership hereinabove  
43 provided for, appoint ~~ten~~ 10 members to the city library board, which

1 members ~~shall, when first appointed, begin serving on May 1, 1975, and~~  
2 shall have terms as follows: Six of such members first appointed shall  
3 serve for terms of four years and four of such members first appointed  
4 shall serve for terms of two years; thereafter, upon the expiration of the  
5 terms, successors shall be appointed in each odd-numbered year to fill  
6 the vacancies created, and thereafter each member shall serve for a term  
7 of four years. In addition to the appointed members of the board the  
8 official head of the municipality shall be ex officio a member of the library  
9 board with the same powers as appointed members, but no person hold-  
10 ing any office in the municipality shall be appointed a member while  
11 holding such office.

12 Seven members shall be appointed to the Johnson county library board.  
13 Such members, when first appointed, ~~shall begin serving on May 1, 1985,~~  
14 ~~and~~ shall have terms as follows: One for a term expiring the first April 30  
15 following date of appointment, two for terms expiring the second April  
16 30 following date of appointment, two for terms expiring the third April  
17 30 following date of appointment, and two for terms expiring the fourth  
18 April 30 following date of appointment.

19 Upon the expiration of the terms of members first appointed succeed-  
20 ing members shall be appointed in like manner for terms of four years.  
21 Members of library boards holding office at the effective date of this act  
22 shall continue to hold their offices until April 30 following the expiration  
23 of the terms for which appointed, and on or before May 1 following the  
24 first expiration of a term a sufficient number shall be appointed by the  
25 official head of the municipality with the approval of the governing body  
26 for terms of four years to constitute a library board of the number of  
27 members prescribed by this act.

28 All members appointed to a library board shall be residents of the  
29 municipality. Vacancies occasioned by removal from the municipality, res-  
30 ignation or otherwise, shall be filled by appointment for the unexpired  
31 term. No person who has been appointed for two consecutive four-year  
32 terms to a library board shall be eligible for further appointment to such  
33 board until one year after the expiration of the second term. Appoint-  
34 ments made prior to the effective date of this act shall not be counted in  
35 determining eligibility for appointment hereunder. Members of library  
36 boards shall receive no compensation for their services as such but shall  
37 be allowed their actual and necessary expenses in attending meetings and  
38 in carrying out their duties as members.

39 Sec. 3. K.S.A. 2007 Supp. 12-5711 is hereby amended to read as  
40 follows: 12-5711. (a) The governing and administrative body of the au-  
41 thority shall be a board consisting of six members, to be known as the  
42 riverfront board. Members of the board shall be residents of Kansas. No  
43 member of the board shall be an elected official.

- 1 (b) Members shall not be paid a salary, but shall be reimbursed for  
2 actual expenses incurred by them in the performance of their duties.
- 3 (c) Members of the board shall be appointed as follows: *Subject to*  
4 *the provisions of section 1, and amendments thereto*, three shall be ap-  
5 pointed by the mayor with the approval of the council and three shall be  
6 appointed by the commission. Of the first appointees, the council and  
7 mayor shall designate one member to serve a term of one year, one to  
8 serve two years and one to serve a three-year term. The commission shall  
9 designate the terms of its appointees likewise. Should the city and county  
10 consolidate, then the members shall be appointed by the governing body  
11 of the consolidated government as set forth above.
- 12 (d) Upon the expiration of the term of any member, all successor  
13 members of the board shall be appointed and hold office for terms of  
14 three years from the date of appointment. The city clerk or county clerk  
15 shall certify the action of the respective governing body with respect to  
16 such appointments and file such certificates as a part of the records of  
17 the office of either the city or county clerk. Before entering upon the  
18 duties of office, each member of the board shall take and subscribe the  
19 constitutional oath of office and same shall be filed in the office of the  
20 city clerk and county clerk.
- 21 (e) Any member may resign from office to take effect when a suc-  
22 cessor has been appointed and has qualified. The mayor, with the ap-  
23 proval of the council and the commission, may remove any member of  
24 the board in case of incompetency, neglect of duty or malfeasance in  
25 office. The member shall be given a copy of the charges and an oppor-  
26 tunity to be publicly heard in person or by counsel upon not less than 10  
27 days' notice. In case of failure to qualify within the time required, or of  
28 abandonment of office, or in case of death, conviction of a crime involving  
29 moral turpitude or removal from office, the office of a member shall  
30 become vacant. A vacancy shall be filled for the unexpired term by ap-  
31 pointment in the same manner as the original appointment.
- 32 (f) As soon as possible after the appointment of the initial members,  
33 the board shall organize for the transaction of business, select a chair-  
34 person and a temporary secretary from its members and adopt bylaws,  
35 rules and regulations to govern its proceedings. The initial chairperson  
36 and successors shall be elected by the board from time to time for the  
37 term of the chairperson's office as a member of the board or for the term  
38 of three years, whichever is shorter.
- 39 (g) Regular meetings of the board shall be held at least once each  
40 calendar month, the time and place of such meetings to be fixed by the  
41 board. Four members of the board shall constitute a quorum for the  
42 transaction of business.
- 43 (h) All action of the board shall be by resolution and the affirmative

1 vote of at least three members shall be necessary for the adoption of any  
2 resolution. All such resolutions before taking effect shall be approved by  
3 the chairperson of the board and, if the chairperson approves thereof, the  
4 chairperson shall sign the same. If the chairperson does not approve any  
5 such resolution, the chairperson shall return it to the board with the  
6 chairperson's written objections thereto at the next regular meeting of  
7 the board occurring after the passage thereof. If the chairperson fails to  
8 return any resolution with the objections thereto by the prescribed time,  
9 the chairperson shall be deemed to have approved the same and it shall  
10 take effect accordingly. Upon the return of any resolution by the chair-  
11 person with the chairperson's objections, the vote by which such resolu-  
12 tion was passed shall be reconsidered by the board. If upon reconsider-  
13 ation the resolution is passed by the affirmative vote of at least five  
14 members, it shall go into effect notwithstanding the veto of the chairper-  
15 son. All resolutions and all proceedings of the authority and all documents  
16 and records in its possession shall be public records, and open to public  
17 inspection, except such documents and records as shall be kept or pre-  
18 pared by the board for use in negotiations, actions or proceedings to  
19 which the authority is a party.

20 Sec. 4. K.S.A. 13-518 is hereby amended to read as follows: 13-518.  
21 The city clerk shall attend all meetings of the city council, keep a true  
22 record of its proceedings, and also keep a record of all official acts of the  
23 clerk, and, when necessary, shall attest them. The city clerk shall also  
24 keep and preserve them. ~~He or she~~ *The city clerk* shall also keep and  
25 preserve in the city clerk's office the corporate seal of the city, all records,  
26 public papers and documents of the city not belonging to any other office.  
27 The city clerk shall be authorized to administer oaths; and the copies of  
28 all papers filed in ~~his or her~~ *the city clerk's* office, and transcripts from  
29 the records of the proceedings of the council, including ordinances, duly  
30 certified by the city clerk under the corporate seal of the city, shall be  
31 taken as evidence in all courts of this state without further proof. The city  
32 clerk shall keep a correct account with the city and county of the financial  
33 affairs of the city treasurer, as may be provided by ordinance, and shall  
34 perform such other duties as may be prescribed by ordinance. *Subject to*  
35 *section 1, and amendments thereto*, the mayor may appoint one or more  
36 deputies, by and with the consent of the council; the salary of such deputy  
37 or deputies shall be fixed by ordinance.

38 Sec. 5. K.S.A. 13-527 is hereby amended to read as follows: 13-527.  
39 *Subject to section 1, and amendments thereto*, the mayor, by and with the  
40 consent of the council, may appoint a city attorney, city prosecutor, city  
41 clerk, city treasurer, municipal judge of the municipal court, city engineer,  
42 director of public works, chief of police, policemen, and such other offi-  
43 cers and employees as they may deem necessary for the best interests of

1 the city, but no such officer shall be appointed until ~~his or her~~ *such*  
2 *officer's* term of office and salary shall have been fixed by ordinance; and  
3 all contracts of employment of auditors, accountants, engineers, attor-  
4 neys, counselors and architects for any special purpose shall be authorized  
5 by ordinance.

6 The term of all such officers shall be provided by ordinance. ~~Provided,~~  
7 In case of an appointment to fill a vacancy such appointee shall only serve  
8 for the remainder of the term for which ~~his or her~~ *the officer's* predecessor  
9 was appointed.

10 Sec. 6. K.S.A. 13-1347 is hereby amended to read as follows: 13-  
11 1347. The governing body of any city or cities desiring to establish a board  
12 of park commissioners, as provided in K.S.A. 13-1346, *and amendments*  
13 *thereto*, may by ordinance cause a board of park commissioners to be  
14 created ~~and, thereafter~~. *Subject to the provisions of section 1, and amend-*  
15 *ments thereto*, the mayor, by and with the consent and approval of the  
16 board of commissioners, shall appoint five ~~freeholders and~~ residents of  
17 such city or cities, well known for their intelligence and integrity, as the  
18 members of such board of park commissioners, and shall designate one  
19 to serve for a term of one year, one for a term of two years, one for a  
20 term of three years, and two for a term of four years, and thereafter the  
21 members of such board of park commissioners shall hold their offices for  
22 a term of four years and until their successor or successors shall have  
23 been appointed and qualified, and in event of the death, resignation, or  
24 other disqualification of any member of such board of park commission-  
25 ers, ~~his or her~~ *such* successor shall be appointed by the governing body  
26 to fill only unexpired terms caused by such vacancy.

27 Any member of said board of park commissioners may be removed by  
28 the governing body of such city for the same cause as any appointive  
29 officer. ~~Provided, however, That where any city shall have heretofore,~~  
30 ~~under any act of which this act is amendatory or supplemental, appointed~~  
31 ~~any board of park commissioners the terms of such members holding~~  
32 ~~office at the effective date of this act shall not in any wise be affected but~~  
33 ~~such members shall continue to serve until the expiration of their terms~~  
34 ~~of office and thereafter until their successors shall have been appointed~~  
35 ~~and qualified, and two additional members shall be appointed for terms~~  
36 ~~of four years.~~

37 Sec. 7. K.S.A. 14-201 is hereby amended to read as follows: 14-201.  
38 Except as provided in K.S.A. 12-1028a, and amendments thereto, there  
39 shall be elected on the first Tuesday in April of each odd-numbered year  
40 a mayor, council members and city treasurer. *Subject to the provisions of*  
41 *section 1, and amendments thereto*, the mayor shall appoint, by and with  
42 the consent of the council, a municipal judge of the municipal court, a  
43 city marshal-chief of police, city clerk, city attorney, and may appoint

1 police officers and any other officers deemed necessary. Any officers ap-  
2 pointed and confirmed shall hold an initial term of office of not to exceed  
3 one year and until their successors are appointed and qualified. Any of-  
4 ficers who are reappointed shall hold their offices for a term of one year  
5 and until their successors are appointed and qualified. The council shall  
6 by ordinance specify the duties and compensation of the office holders,  
7 and by ordinance may abolish any office created by the council whenever  
8 deemed expedient.

9 The mayor, council members and city treasurer shall hold their offices  
10 for a term of two years.

11 Sec. 8. K.S.A. 14-695 is hereby amended to read as follows: 14-695.  
12 *Subject to the provisions of section 1, and amendments thereto*, within 30  
13 days after the addition of the territory the board of commissioners of such  
14 city or the mayor, by and with the consent of the council, shall appoint  
15 two electors residing in the added territory to the board of trustees to  
16 serve until the next regular city election and until their successors are  
17 elected and qualified, and the board of hospital trustees shall thereafter  
18 consist of five trustees, but at all times at least two of the trustees shall  
19 be residents of the city in the added territory. At the next regular city  
20 election, two trustees from the added territory shall be elected, one for  
21 a term of one year and one for a term of two years, and a successor to  
22 the trustee whose office expires under K.S.A. 14-604 and amendments  
23 thereto who may reside anywhere in the hospital territory. Successors to  
24 the short-term trustees shall be elected for three-year terms.

25 The board of hospital trustees is authorized to establish and fund pen-  
26 sion and deferred compensation plans for hospital employees and to pro-  
27 cure contracts insuring hospital employees, their dependents, or any class  
28 or classes thereof, under a policy or policies of life, disability income,  
29 health, accident, accidental death and dismemberment and hospital, sur-  
30 gical and medical expense insurance. The employee's contribution, if any,  
31 to the plan and to the premium for such insurance may be deducted by  
32 the employer from the employee's salary when authorized in writing by  
33 the respective employee.

34 The board of hospital trustees shall also have authority to expend funds  
35 deemed necessary in recruitment or retention of professional staff in-  
36 cluding, but not limited to, the purchase of professional liability insurance  
37 for such staff.

38 Sec. 9. K.S.A. 15-201 is hereby amended to read as follows: 15-201.  
39 Every two years an election shall be held for a mayor, and five council  
40 members. The mayor and council members shall hold their offices for  
41 two years and until their successors are elected and qualified.

42 *Subject to the provisions of section 1, and amendments thereto*, in case  
43 of a vacancy in the council occurring by reason of resignation, death, or

1 removal from office or from the city, the mayor, by and with the advice  
2 and consent of the remaining council members, shall appoint an elector  
3 to fill the vacancy until the next election for that office. In case any person  
4 elected as a council member neglects or refuses to qualify within 30 days  
5 after election, the council member shall be deemed to have refused to  
6 accept the office and a vacancy shall exist. *Subject to the provisions of*  
7 *section 1, and amendments thereto*, the mayor may, with the consent of  
8 the remaining council members, appoint a suitable elector to fill the  
9 vacancy.

10 In case of a vacancy in the office of mayor, the president of the council  
11 shall become mayor until the next regular election for that office and a  
12 vacancy shall occur in the office of the council member becoming mayor.

13 Sec. 10. K.S.A. 15-204 is hereby amended to read as follows: 15-204.  
14 *Subject to the provisions of section 1, and amendments thereto*, the mayor,  
15 with the consent of the council, may appoint, at the first regular meeting  
16 of the governing body in May of each year, the following city officers: A  
17 municipal judge of the municipal court, a clerk, a treasurer, a marshal-  
18 chief of police, law enforcement officers and such other officers as  
19 deemed necessary. Such officers shall hold an initial term of office of not  
20 to exceed one year and until their successors have been appointed and  
21 qualified. Any officers who are reappointed shall hold their offices for a  
22 term of one year and until their successors are appointed and qualified.  
23 The duties and pay of the various officers shall be regulated by ordinance.  
24 Any officer may be removed by a majority vote of the total membership  
25 elected or appointed to the council and may be suspended at any time  
26 by the mayor.

27 Sec. 11. K.S.A. 17-4757 is hereby amended to read as follows: 17-  
28 4757. (a) There is hereby created in each municipality a public body  
29 corporate and politic to be known as the “urban renewal agency” of the  
30 municipality. ~~Provided, That~~ Such agency shall not transact any business  
31 or exercise its powers hereunder until or unless the local governing body  
32 has made the finding prescribed in K.S.A. 17-4746, *and amendments*  
33 *thereto*, and has elected to have the urban renewal project powers exer-  
34 cised by an urban renewal agency as provided in K.S.A. 17-4756, *and*  
35 *amendments thereto*.

36 (b) *Subject to the provisions of section 1, and amendments thereto*, if  
37 the urban renewal agency is authorized to transact business and exercise  
38 powers hereunder, the mayor, by and with the advice and consent of the  
39 local governing body, shall appoint a board of commissioners of the urban  
40 renewal agency which shall consist of five (5) commissioners. Of the com-  
41 missioners first appointed, one (1) shall be appointed for a term of one  
42 (1) year; one (1) for a term of two (2) years; one (1) for a term of three  
43 (3) years; and two (2) for a term of four (4) years. On the expiration of

1 the term of each of said commissioners, his successor shall be appointed  
2 for a term of four (4) years. Any vacancy shall be filled by appointment  
3 for the unexpired term.

4 (c) A commissioner shall receive no compensation for his services but  
5 shall be entitled to the necessary expenses, including traveling expenses,  
6 incurred in the discharge of his duties. Each commissioner shall hold  
7 office until his successor has been appointed and has qualified. A certifi-  
8 cate of the appointment or reappointment of any commissioner shall be  
9 filed with the clerk of the municipality and such certificate shall be con-  
10 clusive evidence of the due and proper appointment of such  
11 commissioner.

12 The powers of an urban renewal agency shall be exercised by the com-  
13 missioners thereof. A majority of the commissioners shall constitute a  
14 quorum for the purpose of conducting business and exercising the powers  
15 of the agency and for all other purposes. Action may be taken by the  
16 agency upon a vote of a majority of the commissioners present, unless in  
17 any case the bylaws shall require a larger number. Any persons may be  
18 appointed as commissioners if they reside within the area of operation of  
19 the agency (which shall be coterminous with the area of operation of the  
20 municipality) and are otherwise eligible for such appointments under this  
21 act.

22 The members shall elect a chairman and vice-chairman from among  
23 the commissioners. An agency may employ an executive director, tech-  
24 nical experts and such other agents and employees, permanent and tem-  
25 porary, as it may require, and determine their qualifications, duties and  
26 compensation. ~~For such legal service as it may require,~~ An agency may  
27 employ or retain its own counsel and legal staff. An agency authorized to  
28 transact business and exercise powers under this act shall file, with the  
29 local governing body, on or before March 31 of each year, a report of its  
30 activities for the preceding calendar year, which report shall include a  
31 complete financial statement setting forth its assets, liabilities, income and  
32 operating expense as of the end of such calendar year. At the time of  
33 filing the report, the agency shall publish in a newspaper of general cir-  
34 culation in the community a notice to the effect that such report has been  
35 filed with the municipality and that the report is available for inspection  
36 during business hours in the office of the city clerk and in the office of  
37 the agency.

38 (d) For inefficiency or neglect of duty or misconduct in office, a com-  
39 missioner may be removed only after a hearing and after he shall have  
40 been given a copy of the charges at least ~~ten (10)~~ 10 days prior to such  
41 hearing and have had an opportunity to be heard in person or by counsel.

42 Sec. 12. K.S.A. 13-518, 13-527, 13-1347, 14-201, 14-695, 15-201, 15-  
43 204 and 17-4757 and K.S.A. 2007 Supp. 12-1222 and 12-5711 are hereby



1 repealed.

2     Sec. 13. This act shall take effect and be in force from and after its  
3 publication in the statute book.