

House Concurrent Resolution No. 5003

By Committee on Judiciary

1-16

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
14 this state shall be vested exclusively in one court of justice,
15 which shall be divided into one supreme court, one court of
16 appeals, district courts, and such other courts as are provided by
17 law; and all courts of record shall have a seal. The supreme
18 court shall have general administrative authority over all courts
19 in this state.

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

36 **"§ 3. Jurisdiction and terms.** The supreme court shall

1 have original jurisdiction in proceedings in quo warranto,
2 mandamus, and habeas corpus; and such appellate jurisdiction
3 as may be provided by law. It shall hold one term each year at
4 the seat of government and such other terms at such places as
5 may be provided by law, and its jurisdiction shall be co-
6 extensive with the state.

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

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

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

36 **"§ 6. Court of appeals.** (a) The court of appeals shall
37 consist of 14 judges whose positions shall be numbered one to
38 14. Any vacancy occurring in the office of any judge of the
39 court of appeals and any position to be open thereon as a result
40 of enlargement of the court, or the retirement, resignation or
41 removal of a judge, shall be filled by election at the next general
42 election. Such election shall be partisan and from the state as a
43 whole. Except as otherwise provided in this section, election

1 laws applicable to other state officers elected from the state as a
2 whole shall apply to the nomination and election of judges of
3 the court of appeals. Each judge of the court of appeals elected
4 as provided by law shall hold office for a term of six years
5 which term shall commence on the second Monday in January
6 following the general election. Judges of the court of appeals
7 may seek reelection.

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

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

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

23 **"§ 7. District courts.** (a) The state shall be divided into
24 judicial districts as provided by law. Each judicial district shall
25 have at least one district judge. The term of office of each judge
26 of the district court shall be four years. District court shall be
27 held at such times and places as may be provided by law. The
28 district judges shall be elected by the electors of the respective
29 judicial districts unless the electors of a judicial district have
30 adopted and not subsequently rejected a method of nonpartisan
31 selection. The legislature shall provide a method of nonpartisan
32 selection of district judges and for the manner of submission
33 and resubmission thereof to the electors of a judicial district. A
34 nonpartisan method of selection of district judges may be
35 adopted, and once adopted may be rejected, only by a majority
36 of electors of a judicial district voting on the question at an
37 election in which the proposition is submitted. Whenever a
38 vacancy occurs in the office of district judge, it shall be filled
39 by appointment by the governor until the next general election
40 that occurs more than 30 days after such vacancy, or as may be
41 provided by such nonpartisan method of selection.

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

1 (c) The legislature shall provide for clerks of the district
2 courts.

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

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

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

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

12 **"§ 8. Qualifications of justices and judges.** Justices of the
13 supreme court, judges of the court of appeals and judges of the
14 district courts shall be at least 30 years of age and shall be duly
15 authorized by the supreme court of Kansas to practice law in the
16 courts of this state and shall possess such other qualifications as
17 may be prescribed by law.

18 **"§ 9. Prohibition of political activity by certain judges.**
19 No judge of the district court holding office under a nonpartisan
20 method authorized in subsection (a) of section 7 of this article,
21 shall directly or indirectly make any contribution to or hold any
22 office in a political party or organization or take part in any
23 political campaign.

24 **"§ 10. Extension of terms until successor qualified.** All
25 judicial officers shall hold their offices until their successors
26 shall have qualified.

27 **"§ 11. Compensation of justices and judges; certain
28 limitation.** The justices of the supreme court, judges of the
29 court of appeals and judges of the district courts shall receive
30 for their services such compensation as may be provided by
31 law, which shall not be diminished during their terms of office,
32 unless by general law applicable to all salaried officers of the
33 state. Such justices or judges shall receive no fees or perquisites
34 nor hold any other office of profit or trust under the authority of
35 the state, or the United States except as may be provided by law,
36 or practice law during their continuance in office.

37 **"§ 12. Removal of justices and judges.** Justices of the
38 supreme court may be removed from office by impeachment
39 and conviction as prescribed in article 2 of this constitution. In
40 addition to removal by impeachment and conviction, justices
41 may be retired after appropriate hearing, upon certification to
42 the governor, by the supreme court that such justice is so
43 incapacitated as to be unable to perform adequately such

1 justice's duties. Other judges shall be subject to retirement for
2 incapacity, and to discipline, suspension and removal for cause
3 by the supreme court after appropriate hearing.

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

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

23 "*Explanatory statement.* The purpose of this amendment is to
24 place the law concerning the court of appeals into the
25 constitution, to do away with the supreme court nominating
26 commission and to provide for election of justices of the
27 supreme court and judges of the court of appeals. Future
28 justices and judges would be elected in partisan, statewide
29 elections. Each justice and judge elected would hold office
30 for a term of six years and would be allowed to seek
31 reelection.

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

35 "A vote against this proposition would continue the current
36 system in which justices of the supreme court and judges of
37 the court of appeals are appointed by the governor from a list
38 of three individuals submitted by the supreme court
39 nominating commission."

40 Sec. 3. This resolution, if approved by two-thirds of the members
41 elected (or appointed) and qualified to the House of Representatives, and
42 two-thirds of the members elected (or appointed) and qualified to the
43 Senate shall be entered on the journals, together with the yeas and nays.

1 The secretary of state shall cause this resolution to be published as
2 provided by law and shall cause the proposed amendment to be submitted
3 to the electors of the state at the election in August in the year 2014
4 unless a special election is called at a sooner date by concurrent
5 resolution of the legislature, in which case it shall be submitted to the
6 electors of the state at the special election.