

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2090

By Committee on Elections

1-21

1 AN ACT concerning elected officials; relating to military service; vacancy
2 in elected office; appointment of acting official; amending K.S.A. 73-
3 213, 73-214, 73-215, 73-218 and 73-219 and repealing the existing
4 sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 73-213 is hereby amended to read as follows: 73-
8 213. For the purposes of this act, ~~the following terms shall have the~~
9 ~~meanings ascribed to them by this section, unless the context clearly~~
10 ~~requires otherwise:~~

11 (a) ~~"Officer" means any officer or employee of the state of Kansas or~~
12 ~~any political subdivision thereof."Act" means K.S.A. 73-213 through 73-~~
13 ~~219, and amendments thereto.~~

14 (b) *"Appointive authority" means the person, board, commission or*
15 *other authority vested by law with power to appoint a successor for an*
16 *officer when a vacancy occurs in the office or position held by such officer.*
17 *If no person, board, commission, or other authority is vested by law with*
18 *power to appoint a successor for an officer when a vacancy occurs then*
19 *"appointive authority" means the governor of the state of Kansas.*

20 (b)(c) ~~"Military service" means active service in the army, navy, or~~
21 ~~marine corps, air force, coast guard, space force, Kansas army or air~~
22 ~~national guard or any branch of the military reserves of the United States~~
23 ~~or any compulsory service rendered in any capacity to the federal~~
24 ~~government for the purpose of national defense.~~

25 (e)(d) ~~"Appointive authority" means the person, board, commission,~~
26 ~~or other authority vested by law with power to appoint a successor for an~~
27 ~~officer upon the happening of a vacancy in the office or position held by~~
28 ~~such officer; but if no person, board, commission, or other authority is~~
29 ~~vested by law with power to appoint a successor for an officer upon the~~
30 ~~happening of such a vacancy, then "appointive authority" shall mean the~~
31 ~~governor of the state of Kansas."Officer" means any officer or employee of~~
32 ~~the state of Kansas or any political subdivision thereof.~~

33 (d)(e) *"Temporary vacancy" means a vacancy in an office or position*
34 *caused by the absence in military service of the officer elected or*
35 *appointed thereto. If the officer was originally elected or appointed for a*
36 *definite term such, "temporary vacancy" shall mean means the period of*

1 time beginning with the day such officer ~~shall enter the~~ *enters* military
2 service and ending *either* with the day ~~he shall return~~ *such officer returns*
3 from military service; or with the expiration of the *appointed or elected*
4 term ~~for which he was elected or appointed~~, whichever period of time is
5 ~~the~~ shorter. If the officer was originally appointed to ~~his~~ *the* office or
6 position for an indefinite term or for a term expiring at the pleasure of the
7 appointive authority, such "temporary vacancy" ~~shall mean~~ *means* the
8 period of time beginning with the day such officer ~~shall enter the~~ *enters*
9 military service and ending *either* with the day ~~he~~ *such officer* shall return
10 from military service, or with the expiration of the appointive power of the
11 original appointive authority, whichever period of time is ~~the~~ shorter.

12 Sec. 2. K.S.A. 73-214 is hereby amended to read as follows: 73-214.
13 The absence of any officer from ~~his~~ *an* office or position caused by ~~his~~
14 ~~being in the~~ military service shall not create a forfeiture of; or vacancy in
15 the office or position to which such officer was elected or appointed but
16 shall be construed to ~~merely~~ create a temporary vacancy. Wherever the
17 terms "forfeiture of office" or "vacancy in office" or other words of ~~similar~~
18 ~~import~~ *like effect* are used in any law of this state in relation to an officer
19 such as defined in this act, ~~the same such terms or words~~ shall be
20 construed in accordance with the provisions of this section and shall not be
21 construed to apply to any absence of such officer who is absent from ~~his~~
22 *an* office or position by reason of ~~his being in the~~ military service.

23 Sec. 3. K.S.A. 73-215 is hereby amended to read as follows: 73-215.
24 (a)(1) *If an officer's military service creates a temporary vacancy that is*
25 *determined by such officer to require a temporary appointment, such*
26 *officer shall submit an approved form to the designated office as set out in*
27 *paragraph (2).*

28 (2)(A) *If the officer is an elected state official, the form shall be*
29 *approved by and filed with the secretary of state.*

30 (B) **If the officer is an elected official of a political subdivision, the**
31 **form shall be filed with the county clerk of the county containing the**
32 **largest portion of the territory of the political subdivision.**

33 (C) *If the officer is an employee who is not an elected official, the*
34 *form shall be approved by and filed with the employee's human resources*
35 *department or other official as determined by such officer's employer.*

36 (3) *The officer shall also submit an approved form to the designated*
37 *office upon return from military service.*

38 (b) ~~In case if an officer's military service creates a temporary vacancy~~
39 ~~is or has been created in any office or position by reason of the absence of~~
40 ~~the officer in the military service, in an office or position and the form~~
41 ~~prescribed in (a) has been filed:~~

42 (1) *The appointive authority for ~~the~~ a partisan elective office shall*
43 *appoint a person to temporarily fill such office or position using the*

1 *procedures in K.S.A. 25-3901 et seq., and amendments there to; and*

2 (2) The appointive authority ~~shall for the~~ **an elective office that is**
3 **nonpartisan and for an** *employee who is not an elected official may*
4 *appoint some a person to temporarily fill the such office or position to*
5 *which such officer was elected or appointed.*

6 (c) All such appointees shall hold the office or position ~~which they~~
7 ~~are temporarily to fill during the such temporary vacancy caused by the~~
8 ~~absence of the officer in the military service.~~

9 Sec. 4. K.S.A. 73-218 is hereby amended to read as follows: 73-218.
10 An officer who ~~shall be~~ *is* absent from ~~his an~~ office or position ~~and~~ while
11 ~~in the~~ military service shall not be entitled to any compensation as such
12 officer during such absence; ~~but upon his return, If he return the officer~~
13 ~~returns~~ before the expiration of the period of the temporary vacancy
14 created by ~~his the officer's~~ absence, ~~he such officer~~ shall be entitled to
15 immediate possession of ~~the such~~ office or position ~~from which he was~~
16 ~~absent~~ and, upon reassuming the duties of the office, to receive the
17 compensation for the remainder of the term to which the holder thereof is
18 entitled, subject to removal from office according to law.

19 Sec. 5. K.S.A. 73-219 is hereby amended to read as follows: 73-219.
20 *The provisions of this act are declared to be severable and if any section,*
21 *subsection, paragraph, be unconstitutional or provision of this act or its*
22 *application to any person or circumstance is held invalid for any reason, it*
23 *shall be presumed that this act would have been passed by the legislature*
24 *without such invalid section, subsection, paragraph, sentence, provision,*
25 *clause or phrase, and such decision shall not in any way affect the*
26 *remainder of such invalidity shall not affect the other provisions or*
27 *applications of this act.*

28 Sec. 6. K.S.A. 73-213, 73-214, 73-215, 73-218 and 73-219 are hereby
29 repealed.

30 Sec. 7. This act shall take effect and be in force from and after its
31 publication in the statute book.

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