

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SENATE CONCURRENT
RESOLUTION NO. 1622**

As Recommended by Senate Committee on
Judiciary

Brief*

SCR 1622 would submit to the qualified electors of the state an amendment to Article 3 of the *Kansas Constitution* concerning the method of selection for justices of the Kansas Supreme Court when a vacancy occurs. The amendment would replace the current method of selection with election of Supreme Court justices at the next general election, and would eliminate the Supreme Court Nominating Commission. Elections would be partisan and from the state as a whole, and election laws would be applicable. Justices would serve six-year terms and then could seek reelection. A justice already in office would continue to hold the office for the remainder of his or her initial term or the term for which the justice was retained and could run for election unless compelled to retire or if removed from such office.

Additionally, the resolution proposes to remove language prohibiting Supreme Court justices from directly or indirectly making any contribution to or holding any office in a political party or organization or taking part in any political campaign.

If approved by two-thirds of the members of the House and Senate, the amendment would be submitted to the electors at a special election to be held in conjunction with the primary election on August 2, 2022.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

The resolution was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Masterson.

Article 3, Section 5 of the *Kansas Constitution* governs selection of Kansas Supreme Court justices. Since its amendment in 1958, Section 5 has specified any vacancy on the Court shall be filled through the Governor's appointment of one of three candidates nominated by the Supreme Court Nominating Commission (Commission). The nonpartisan Commission has nine members: a chairman who is an attorney chosen by the members of the Kansas bar; one attorney member from each congressional district chosen by members of the Kansas Bar that reside in such district; and one non-attorney member from each congressional district appointed by the Governor.

Article 14, Section 1 of the *Kansas Constitution* allows amendments to be made through approval by popular vote of a legislative proposal. Specifically, it provides that a concurrent resolution originating in either house of the Legislature that is approved by two-thirds of all the members will be considered by Kansas voters at the next election. If a majority of those voting on any such amendment approve the amendment, it becomes a part of the *Kansas Constitution*. When multiple amendments are proposed, a separate vote is taken for each, with no more than five amendments being considered in the same election.

Senate Committee on Judiciary

In the Senate Committee hearing on March 4, 2022, a law professor, an attorney, and representatives of Americans for Prosperity—Kansas, Family Policy Alliance, the Kansas Chamber of Commerce testified as **proponents** on the bill. Written-only proponent testimony was provided by Senator Masterson, the Attorney General, and a representative of the

Kansas Policy Institute. Neutral testimony was provided by a former Supreme Court Nominating Commission member. Representatives of Kansas Appleseed, the Kansas Association of Defense Counsel, the Kansas Bar Association, and the Kansas Trial Lawyers Association testified as **opponents** on the bill. Written-only opponent testimony was provided by a representative of the Kansas Association of School Boards. No other testimony was provided.

Fiscal Information

No fiscal note was available when the Senate Committee took action on the resolution.

Selection of supreme court justices; constitutional amendment; Article 3; *Kansas Constitution*; partisan election; Supreme Court Nominating Commission