

SENATE BILL No. 4

By Senator Hensley

12-19

1 AN ACT concerning elections; relating to determinations of certain
2 objections with respect to nominations or candidacies; establishing the
3 Kansas objections board; amending K.S.A. 2018 Supp. 25-308 and
4 repealing the existing section.

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

7 New Section 1. (a) (1) The Kansas objections board shall be
8 composed of five members selected from the Kansas objections board
9 judiciary pool as follows:

- 10 (A) One member appointed by the governor;
11 (B) one member appointed by the president of the senate;
12 (C) one member appointed by the minority leader of the senate;
13 (D) one member appointed by the speaker of the house of
14 representatives; and
15 (E) one member appointed by the minority leader of the house of
16 representatives.

17 (2) The Kansas objections board judiciary pool shall be comprised of
18 retired district judges who have agreed to serve on the Kansas objections
19 board, if appointed and have been determined to be qualified to serve by
20 the officers of the Kansas district judges association based upon the
21 volunteer's mental fitness and ability to decide objections without bias,
22 prejudice or partiality. The Kansas district judges association shall provide
23 a list of the qualified retired district judges in the pool to the governor,
24 president of the senate, minority leader of the senate, speaker of the house
25 of representatives and minority leader of the house of representatives upon
26 request.

27 (3) Appointments to the Kansas objections board shall be made on or
28 before January 31, 2020, and January 31 of each even-numbered year
29 thereafter for terms commencing on February 1, 2020, and February 1 of
30 each even-numbered year thereafter. Terms shall be for a period of two
31 years. No member shall be appointed to the board for more than two
32 consecutive terms. Upon the expiration of the term of office of any
33 member of the board, and in any case upon a vacancy, a successor shall be
34 appointed from the Kansas objections board judiciary pool by the
35 appointing authority who had appointed the expired or vacant position.

36 (4) The members of the board shall select a chairperson and a

1 secretary at the beginning of each term. The chairperson or secretary may
2 serve two consecutive terms. The board may meet at such times as it
3 deems appropriate or upon the call of the chairperson. The board shall
4 determine its rules and procedures, as consistent with the provisions of this
5 section and K.S.A. 25-308, and amendments thereto, at the beginning of
6 each term. The rules and procedures, including, but not limited to, any rule
7 permitting relaxation of the rules of evidence, shall be as determined by
8 the board in its discretion to be most appropriate for the just and timely
9 resolution of objections. The board may adopt provisions of the Kansas
10 administrative procedure act to the extent determined or modified by the
11 board. The secretary of state shall publish the rules and procedures adopted
12 by the board on the secretary's website. The board's rules and procedures
13 shall not be subject to the rules and regulations filing act. Rules and
14 procedures, or any changes to rules and procedures, adopted by the board
15 shall be effective and in force only upon being noticed and published on
16 the website of the secretary of state for 30 days, except that rules and
17 procedures effective and in force on the day an objection is filed shall
18 remain in force until the board's final written decision upon the objection.
19 All rules and procedures shall expire at the end of the term in which they
20 were adopted. Decisions of the board upon an objection shall not be
21 binding precedent in any subsequent decision against a person who was
22 not a party to the original objection and hearing. Actions by the board shall
23 be by majority vote and shall be recorded in the minutes of the board.

24 (5) Meetings of the board shall be subject to the open meetings act,
25 except for deliberations as provided in subsection (b). Hearings of the
26 board shall be public, but shall not be subject to the notice or other
27 requirements of the open meetings act. Notice of the time and place of a
28 hearing shall be published by the secretary of state on the secretary's
29 website. Upon request of the board, the secretary of state shall provide
30 notice of the meetings of the board subject to the open meetings act, under
31 this section on behalf of the board.

32 (b) (1) The board shall hear objections as provided by K.S.A. 25-308,
33 and amendments thereto. The board is authorized to exercise the quasi-
34 judicial function of hearing and deciding such objections, and all
35 deliberations of the board with respect to an objection before the board
36 shall not be subject to the open meetings act upon the filing of the
37 objection. Orders and decisions of the board shall be by majority vote,
38 recorded in the minutes of the board. All decisions of the board shall be
39 final, except that the board may grant a motion for reconsideration in the
40 sole discretion of the board, and, if granted, its decision upon
41 reconsideration shall be final. All written complaints, answers, evidence,
42 motions, briefs, arguments or other filings with the board shall be public
43 record, except as otherwise provided by law.

1 (2) Any person appearing before the board shall have the right to be
2 represented by counsel. All persons appearing before the board shall
3 address board members with the respect and decorum appropriate before a
4 judge of the district court.

5 (3) The board may issue subpoenas compelling the attendance and
6 testimony of witnesses or the production of documents, records or any
7 other evidence. Any member of the board, or any agent designated by the
8 board, may administer oaths or affirmations, examine witnesses and
9 receive evidence. The board shall have the authority granted a district
10 court to compel the attendance of witnesses or the production of evidence
11 upon noncompliance with a subpoena.

12 (4) Decisions of the board may initially be issued summarily or orally
13 upon the conclusion of a hearing. The board shall issue a written decision,
14 which shall fully set forth the reasoning of the board, and shall include the
15 vote and signature of each member. A written decision shall be issued
16 within 10 days of the hearing, if no motion for reconsideration is granted,
17 or if the board grants a motion for reconsideration within 15 days of the
18 hearing. Any signatures required under this section may be made
19 electronically.

20 (5) Failure of a party to comply with a board order may provide a
21 basis for a decision denying or upholding an objection.

22 (c) All hearings of the board shall be at the office of the secretary of
23 state. Other meetings of the board may be at the office of the secretary of
24 state. The secretary of state shall provide hearing and office facilities for
25 the board as requested by the board, including, but not limited to, hearing
26 and meeting rooms, internet access, computers, copiers, printers and other
27 office machines and such other support as reasonably requested by the
28 board.

29 (d) Each member of the board shall receive compensation,
30 subsistence allowances, mileage and other expenses as provided for in
31 K.S.A. 75-3223, and amendments thereto.

32 Sec. 2. K.S.A. 2018 Supp. 25-308 is hereby amended to read as
33 follows: 25-308. (a) Any certificate of nomination, nomination petitions or
34 declaration of intention to become a candidate, filed or issued in apparent
35 conformity with law, shall be deemed to be valid unless:

36 (1) Objection thereto is made in writing within three days from the
37 date the certificate, petitions or declaration is filed with or issued by the
38 proper officers; or

39 (2) in the case of certificates of nomination, nomination petitions and
40 declarations of intention to become a candidate, the secretary of state or
41 the county election officer finds them to be invalid pursuant to K.S.A. 25-
42 208a, and amendments thereto.

43 (b) If the secretary of state or the county election officer finds any

1 certificates of nomination, nomination petitions or declaration of intention
2 to become a candidate to be invalid pursuant to K.S.A. 25-208a, and
3 amendments thereto, the candidate on whose behalf the certificates,
4 petitions or declaration was filed may make objection to such finding in
5 writing within three days of receipt by the candidate of notice of such
6 finding.

7 (c) In the case of nominations of national and state officers,
8 objections shall be filed with ~~the secretary of state~~ and shall be considered
9 by ~~the lieutenant governor, secretary of state, and attorney general, and a~~
10 ~~decision of a majority of these officers~~ *Kansas board of objections as*
11 *provided in section 1, and amendments thereto, and the decision of a*
12 *majority of the board* shall be final. In the case of nominations for county,
13 township, city and school officers, objections shall be filed with the county
14 election officer and shall be considered by the county election officer,
15 county attorney or district attorney and an elected official of the county
16 whose position is not involved in the controversy, who shall be designated
17 by the county election officer. The decision of a majority of these officers
18 shall be final.

19 (d) In any case where objection is made, notice shall be given
20 immediately, by the *Kansas board of objections or by the officer* with
21 whom the objections are filed, to ~~the any~~ other officers required to
22 determine the matter and to the candidates affected by such objection,
23 addressed in the case of candidates to their places of residence as given in
24 the nomination petitions, declaration of intention to become a candidate or
25 certificate of nomination. The notice shall state the time when the
26 objection will be considered *or the hearing before the Kansas board of*
27 *objections will take place*. Such time shall not be more than five days
28 following the giving of such notice in the case of nomination of a national
29 or state officer and not be more than three days following the giving of
30 such notice in the case of nomination of a county, township, city or school
31 officer, and the place where such objections will be considered.

32 (e) The causes for objection under this section as to any office may be
33 any of those causes listed in K.S.A. 25-1436, and amendments thereto. The
34 officers *or the Kansas board of objections* determining any objections
35 under this section may assess any costs arising from such determination to
36 either the objector or objectee in accordance with the determination made.
37 Such costs shall be paid to the secretary of state *when the objection is*
38 *determined by the Kansas board of objections* or the county election
39 officer, as the case may be, and deposited in the treasury of the state or
40 county to the credit of its general fund. If such costs are not paid within 10
41 days after being fixed, the secretary of state or county election officer shall
42 make a certificate of the facts and file it with the clerk of the district court
43 in the county where the person resides who must pay such costs. Such

1 clerk of the district court shall collect such costs as in cases of collection
2 of court costs, and when collected such costs shall be disposed of as are
3 court costs in such district court.

4 (f) All mandamus proceedings to compel an officer to certify and
5 place upon the ballot any name or names, and all injunction proceedings to
6 restrain an officer from certifying and placing upon the ballot any name or
7 names, must be commenced not less than 45 days before the election.

8 Sec. 3. K.S.A. 2018 Supp. 25-308 is hereby repealed.

9 Sec. 4. This act shall take effect and be in force from and after its
10 publication in the statute book.