

SESSION OF 2011

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 83**

As Amended by House Committee of the Whole

**Brief\***

SB 83 would amend KSA 20-2622, which allows temporary judicial employment of retired judges. The bill would remove timing provisions requiring that a retired judge enter into a written agreement for such employment with the Kansas Supreme Court either before retirement or else within 5 years after retirement and within 30 days before the judge's retirement anniversary.

The bill also would provide for the selection of Kansas Court of Appeals judges by the Governor, with confirmation by the Senate. When a vacancy occurs, the Clerk of the Kansas Supreme Court would be required to give notice to the Governor. The person selected by the Governor would then have to be approved by a majority vote of all the members of the Senate. The Senate would be required to vote on the appointment within 60 days. Failure to do so would be deemed consent. If not in session, the Senate President would be required to convene the Senate for the sole purpose of voting on the appointment. If the appointee is not confirmed, the Governor would be required to appoint another within 60 days to be considered by the Senate in the same way.

The bill would require the person appointed to be a person of recognized integrity, character, ability, experience, and judicial temperament to the end that persons selected are the best qualified. Pursuant to the bill, once appointed, Kansas Court of Appeals judges would continue to stand for retention as currently provided in statute.

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\*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**

A spokesperson for the Kansas Supreme Court requested the Senate Judiciary Committee introduce SB 83.

In the Senate Judiciary Committee, a representative of the Kansas Supreme Court appeared in support of SB 83, explaining that the Court operates the Senior Judge Program under KSA 20-2622. Established in 1995, the program allows the Court to contract with retired judges to perform judicial duties part-time at a reduced rate of compensation. The conferee stated the retired judges hear cases when there are conflicts, increased filings, illnesses, or similar situations. According to the Court, the time provisions under current law limit the pool of retired judges who may be used in the program, and this could create difficulty and shortages should any of the retired judges under contract be unable to complete their contract year.

No opponents provided testimony. The Senate Committee on Judiciary made no changes to the bill and recommended it be passed.

The same conferee appeared before the House Committee on Judiciary. The House Committee amended the bill to retain language requiring the chief justice, or designee, to sign senior judge agreements with the approval of a majority of the justices of the Supreme Court.

The House Committee of the Whole amended SB 83 by adding language taken from HB 2101 allowing the Governor to appoint judges to the Kansas Court of Appeals, with Senate confirmation.

HB 2101 was heard in the House Committee on Judiciary, where representatives of the Governor and Americans for Prosperity, in addition to several private citizens, local attorneys, and professors appeared in support of HB 2101. Members and former members of the Supreme Court Nominating Commission, Chief Judge Richard Greene

of the Kansas Court of Appeals, retired Kansas Supreme Court Justice Fred N. Six, a Washburn Law School professor, and representatives of the League of Women Voters of Kansas, Kansas Bar Association, Wichita Bar Association, Kansas Association of Defense Counsel, and Kansas Association for Justice appeared in opposition to the bill.

The House Committee amended HB 2101 by restoring retention votes for Kansas Court of Appeals judges, rather than allowing them to serve during good behavior; adding the provision concerning the qualifications of appointees; and raising from 30 to 60 the number of days within which the Senate must hold a confirmation vote and within which the Governor must appoint an alternative appointee when the Senate does not confirm the original. The language included in SB 83 is drawn from the version of HB 2101 passed by the House.

The fiscal note on SB 83, as introduced, states the bill would have no fiscal effect. The fiscal note on HB 2101, as introduced, states the bill would have no fiscal effect on the Judicial Branch, but it would cost \$13,896 to convene the Senate if necessary.