

House Concurrent Resolution No. 5027

By Committee on Taxation

1-31

1 A PROPOSITION to amend section 5 of article 3 of the constitution of
2 the state of Kansas; relating to the selection of supreme court justices.

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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: Section 5 of article 3 of the constitution of
11 the state of Kansas is hereby amended to read as follows:

12 "**§ 5. Selection of justices of the supreme court.** (a) Any
13 vacancy occurring in the office of any justice of the supreme
14 court and any position to be open thereon as a result of
15 enlargement of the court, or the retirement or failure of an
16 incumbent to file ~~his~~ *such justice's* declaration of candidacy
17 to ~~succeed himself~~ *be retained in office* as hereinafter
18 required, or failure of a justice to be elected to ~~succeed~~
19 ~~himself~~ *be retained in office*, shall be filled by appointment
20 by the governor of one of ~~three~~ *the* persons possessing the
21 qualifications of office who shall be nominated and whose
22 ~~names~~ *name* shall be submitted to the governor by the
23 supreme court nominating commission established as
24 hereinafter provided.

25 (b) In event of the failure of the governor to make the
26 appointment within ~~sixty~~ *60* days from the time the names of
27 the nominees are submitted to ~~him~~ *the governor*, the chief
28 justice of the supreme court shall make the appointment
29 from such nominees.

30 (c) Each justice of the supreme court appointed pursuant to
31 provisions of subsection (a) of this section shall hold office
32 for an initial term ending on the second Monday in January
33 following the first general election that occurs after the
34 expiration of ~~twelve~~ *12* months in office. Not less than ~~sixty~~
35 *60* days prior to the holding of the general election next
36 preceding the expiration of ~~his term of office~~, *the term of any*

1 justice of the supreme court, *the justice* may file in the office
2 of the secretary of state a declaration of candidacy for
3 election ~~to succeed himself~~ *retention in office*. If a
4 declaration is not so filed, the position held by such justice
5 shall be open from the expiration of ~~his~~ *the justice's* term of
6 office. If such declaration is filed, ~~his~~ *the justice's* name shall
7 be submitted at the next general election to the electors of
8 the state on a separate judicial ballot, without party
9 designation, reading substantially as follows:

10 "Shall _____

11 (Here insert name of justice.)

12 _____
13 (Here insert the title of the court.)

14 be retained in office?"

15 If a majority of those voting on the question vote against
16 retaining ~~him~~ *the justice* in office, the position or office which
17 ~~he~~ *the justice* holds shall be open upon the expiration of ~~his~~ *the*
18 *justice's* term of office; otherwise ~~he~~ *the justice* shall, unless
19 removed for cause, remain in office for the regular term of six
20 years from the second Monday in January following such
21 election. At the expiration of each term ~~he~~ *the justice* shall,
22 unless by law ~~he~~ *the justice* is compelled to retire, be eligible
23 for retention in office by election in the manner prescribed in
24 this section.

25 (d) A nonpartisan nominating commission whose duty it
26 shall be to nominate and submit to the governor the names of
27 persons for appointment to fill vacancies in the office of any
28 justice of the supreme court is hereby established, and shall be
29 known as the "supreme court nominating commission." ~~Said~~
30 *The* commission shall be organized as hereinafter provided.

31 (e) The supreme court nominating commission shall be
32 composed as follows: One member, who shall be ~~chairman~~
33 *chairperson*, chosen from among their number by the members
34 of the bar who are residents of and licensed in Kansas; one
35 member from each congressional district chosen from among
36 their number by the resident members of the bar in each such
37 district; and one member, who is not a lawyer, from each
38 congressional district, appointed by the governor from among
39 the residents of each such district.

40 (f) The terms of office, the procedure for selection and
41 certification of the members of the commission and provision
42 for their compensation or expenses shall be as provided by the
43 legislature.

1 (g) No member of the supreme court nominating
2 commission shall, while ~~he is~~ a member, hold any other public
3 office by appointment or any official position in a political party
4 or for six months thereafter be eligible for nomination for the
5 office of justice of the supreme court. The commission may act
6 only by the concurrence of a majority of its members.

7 (h) *The supreme court nominating commission shall*
8 *submit to the governor the names of all qualified persons who*
9 *submit their name to the commission for consideration. If a*
10 *person is deemed not qualified by the commission, the*
11 *commission shall give the person a written statement of the*
12 *reasons they were deemed not qualified."*

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

15 "*Explanatory statement.* The purpose of this amendment is to
16 require the supreme court nominating commission to submit
17 to the governor the names of all qualified persons who
18 submit their names to the commission for consideration, and
19 to require the governor to appoint one of such persons. The
20 amendment would also require that a person deemed not
21 qualified by the commission shall be given a written
22 statement of the reasons they were deemed not qualified.
23 Current law requires the supreme court nominating
24 commission to submit the names of three qualified persons
25 to the governor, and requires the governor to appoint one of
26 such persons.

27 "A vote for this proposition would require the supreme court
28 nominating commission to submit to the governor the names
29 of all qualified persons who submit their names to the
30 commission for consideration, and require the governor to
31 appoint one of such persons.

32 "A vote against this proposition would continue the current law
33 that requires the supreme court nominating commission to
34 submit the names of three qualified persons to the governor,
35 and requires the governor to appoint one of such persons."

36 Sec. 3. This resolution, if approved by two-thirds of the members
37 elected (or appointed) and qualified to the House of Representatives, and
38 two-thirds of the members elected (or appointed) and qualified to the
39 Senate shall be entered on the journals, together with the yeas and nays.
40 The secretary of state shall cause this resolution to be published as
41 provided by law and shall cause the proposed amendment to be submitted
42 to the electors of the state at the general election in November in the year
43 2014 unless a special election is called at a sooner date by concurrent

- 1 resolution of the legislature, in which case it shall be submitted to the
- 2 electors of the state at the special election.