

HOUSE BILL No. 2049

By Committee on Corrections and Juvenile Justice

1-23

AN ACT concerning district attorneys; relating to the creation of the office of district attorney in certain judicial districts; amending K.S.A. 22a-106 and K.S.A. 2002 Supp. 22a-105 and 22a-107 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) An office of district attorney may be established in a judicial district in the following manner.

(b) Each county commission in a judicial district may pass a resolution submitting to the qualified electors in each judicial district the proposition of creating the office of district attorney in such judicial district. If a majority of county commissions in the judicial district pass such a resolution, the secretary of state shall place on the ballot at the next election in which all of the qualified electors of the judicial district are entitled to vote the proposition stated in subsection (d).

(c) The secretary of state shall place on the ballot at the next election in which all of the qualified electors of the judicial district are entitled to vote the proposition stated in subsection (d), if the secretary of state receives a petition requesting an election on the proposition, signed by not less than 5% of the qualified electors in the judicial district. Not less than 2% of the qualified electors in each county shall have signed a petition in order to reach the not less than 5% of the qualified electors in the judicial district. The following shall appear on the petition:

“We request an election to determine whether the present method of selecting county attorneys in this judicial district shall be discontinued and replaced in this judicial district with the office of district attorney, which shall be elected by the voters of this judicial district.”

(d) The proposition on the ballot at an election held pursuant to this section for the adoption of the office of district attorney in the judicial district shall be as follows:

“The present method of selecting county attorneys in this judicial district shall be discontinued and there is hereby adopted in this judicial district the office of district attorney, which shall be elected by the voters of this judicial district.” Provision shall be made for marking the question “yes” or “No.”

1 (e) If a majority of the votes cast and counted on the proposition is
2 in favor of the establishment of the office of district attorney, the provi-
3 sions of this act shall govern the selection of the district attorney in the
4 judicial district. If a majority of the votes cast and counted is against the
5 establishment of the office of district attorney, the offices of the county
6 attorneys shall continue.

7 (f) It shall be the duty of the state board of canvassers to canvass the
8 votes in each judicial district voting on the proposition of the establish-
9 ment of the office of district attorney in the judicial district in the manner
10 prescribed by K.S.A. 25-3206, and amendments thereto. Upon comple-
11 tion of the final canvass and certification of the results, the secretary of
12 state shall transmit a copy of the results for each such judicial district to
13 the board of county commissioners of each county in such judicial district
14 which voted in favor of the establishment of the office of district attorney
15 in such judicial district.

16 New Sec. 2. (a) Whenever the majority of the votes cast and counted
17 on the proposition is in favor of the establishment of the office of district
18 attorney pursuant to section 1, and amendments thereto, there is hereby
19 established the office of district attorney in such judicial district.

20 (b) Commencing with the next general election following the certi-
21 fication date of the election on the office of district attorney, and at the
22 general election every four years thereafter, a district attorney shall be
23 elected in the judicial district for a four-year term, commencing on the
24 second Monday in January next following the election. Upon such date,
25 the offices of county attorney in such judicial district shall be and is hereby
26 abolished.

27 (c) The district attorney authorized by this section is hereby declared
28 to be an executive officer of the judicial district in which such attorney is
29 elected, with the office constituting a separate entity within the district
30 for administrative purposes. In no event shall the district attorney be
31 deemed an officer of any county.

32 (d) Before entering upon the duties of the office, the district attorney
33 shall take the oath of office required by law for public officers and shall
34 execute a good and sufficient surety bond in the manner prescribed by
35 K.S.A. 75-4101 *et seq.*, and amendments thereto.

36 (e) If the office of district attorney is established pursuant to this
37 section, the district attorney, or the district attorney's deputies or assis-
38 tants shall maintain office hours of not less than 60 hours per month in
39 each city which is the county seat of each county in the judicial district.

40 (f) The provisions of K.S.A. 22a-102, 22a-103, 22a-104, 22a-105, 22a-
41 106 and 22a-107, and amendments thereto, shall be applicable to the
42 office of district attorney established pursuant to sections 1 and 2, and
43 amendments thereto.

1 Sec. 3. K.S.A. 2002 Supp. 22a-105 is hereby amended to read as
2 follows: 22a-105. Each of the district attorneys elected under this act shall
3 receive an annual salary in the amount of no less than the salary provided
4 for district judges in K.S.A. 75-3120g and amendments thereto. The salary
5 of each district attorney shall be paid by the county *or counties* comprising
6 the judicial district in which the district attorney is elected in equal
7 monthly installments and in the manner county officers and employees
8 are paid. *The counties shall contribute to the district attorney's salary*
9 *based on the population of the county.* The district attorneys and their
10 deputies and assistants shall be reimbursed for their actual travel and
11 subsistence expenses incurred while in the performance of their official
12 duties within or without the district.

13 Sec. 4. K.S.A. 22a-106 is hereby amended to read as follows: 22a-
14 106. (a) Within the limits of appropriations therefor, the district attorney
15 shall appoint such assistant district attorneys, deputy district attorneys and
16 other stenographic, investigative and clerical hire as may be necessary to
17 carry out the functions of the district attorney's office in such judicial
18 district, ~~and he~~. *The district attorney* shall determine the annual com-
19 pensation of each assistant district attorney and other persons appointed
20 pursuant to this subsection. The county commissioners shall determine
21 and allow such reasonable sums from funds of the county for the com-
22 pensation of assistants, deputies and other stenographic, investigative and
23 clerical hire and for other expenses of such office as may be necessary to
24 carry out the function of such office. *The counties shall contribute to such*
25 *compensation and other expenses based on the population of the county.*

26 (b) Each assistant and deputy district attorney shall have been regu-
27 larly admitted to practice law within the state of Kansas prior to ~~his~~ ap-
28 pointment. Each district attorney and ~~his~~ assistant district attorneys shall
29 devote full time to official duties and shall not engage in the civil practice
30 of law, except as required in performing ~~his~~ official duties while serving
31 as district attorney or assistant district attorney, and shall not refer any
32 client or other person or any matter to any designated attorney or firm
33 of attorneys.

34 (c) The board of county commissioners of each county ~~contained~~ in
35 judicial districts ~~3, 10, 18 and 29~~ *which have an office of district attorney*
36 shall provide suitable office space within such county for the district at-
37 torney, ~~his~~ *the district attorney's* assistants, deputies, office personnel and
38 equipment.

39 (d) Notwithstanding any of the provisions of this act the district at-
40 torney, with the approval of the board of county commissioners, may
41 appoint and employ special counsel when necessary to assist the district
42 attorney in the discharge of ~~his~~ *the district attorney's* duties, such special
43 counsel not to be subject to the restrictions contained in ~~paragraph sub-~~

1 *section (b) herein.*

2 (e) Any county contained in judicial districts ~~3, 10, 18 or 20~~ *which*
3 *have an office of district attorney* may receive and expend for the oper-
4 ation of the office of district attorney any federal moneys made available
5 therefor.

6 Sec. 5. K.S.A. 2002 Supp. 22a-107 is hereby amended to read as
7 follows: 22a-107. Whenever in any of the statutes of this state the term
8 “county attorney” is used, it shall be construed to include district attor-
9 neys provided for by K.S.A. 22a-101, 22a-108 ~~and~~, K.S.A. 2002 Supp.
10 22a-109 *and section 2*, and amendments thereto, unless the context oth-
11 erwise requires.

12 Sec. 6. K.S.A. 22a-106 and K.S.A. 2002 Supp. 22a-105 and 22a-107
13 are hereby repealed.

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

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