

HOUSE BILL No. 2142

By Committee on Judiciary

1-30

AN ACT concerning the courts; relating to the nonpartisan selection of judges of the district court; amending K.S.A. 20-2908 and repealing the existing section.

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

Section 1. K.S.A. 20-2908 is hereby amended to read as follows: 20-2908. (a) Following the approval of nonpartisan selection of judges of the district court in a judicial district as provided in K.S.A. 20-2901 and amendments thereto, there shall not be an election or reelection of a judge of the district court at any succeeding general election, but any judge of the district court in the judicial district whose term of office expires on the second Monday in January next following any such succeeding general election shall be eligible for retention in office as provided in this section.

(b) No later than 12:00 noon on the Monday preceding the first Tuesday of August preceding the expiration of the judge's term of office, the judge may file in the office of the secretary of state a declaration of candidacy for retention in office. Such declaration shall be prescribed by the secretary of state. If a declaration is not so filed, the position held by the judge shall be vacant upon the expiration of the judge's term of office.

(c) (1) If a declaration is filed, the judge's name shall be submitted in a bifurcated retention election of the registered lawyers of such judicial district and the electors of such judicial district or county as provided in this section.

(2) In the first phase of such bifurcated retention election, on or before the September 1 preceding the expiration of the judge's term of office, the clerk of the supreme court shall mail by ordinary first class mail one ballot and instructions for voting such ballot to each lawyer who is a qualified elector in the judicial district and who is registered with the clerk of the supreme court pursuant to rule 201 of such court. The ballot, without party designation, shall read substantially as follows:

"Shall _____

(Here insert name of judge.)

(Here insert the title of the court.)

1 *be retained in office?"*

2 *Each such ballot shall be accompanied by a certificate to be signed and*
 3 *returned by the lawyer voting such ballot, evidencing the qualifications*
 4 *of such lawyer to vote and certifying that the ballot was voted by such*
 5 *person. In order to insure that the election of lawyer members is by secret*
 6 *ballot, the clerk shall provide a separate envelope for the ballot, in which*
 7 *the voted ballot only shall be placed, and the envelope containing the voted*
 8 *ballot shall be placed in another envelope, also to be supplied by the clerk,*
 9 *together with the signed certificate, and returned to the clerk of the su-*
 10 *preme court prior to October 1 of such year. The ballots so returned shall*
 11 *be canvassed within five days thereafter. The canvasser shall be the clerk*
 12 *of the supreme court. The canvasser shall open and canvass the ballots*
 13 *and shall tabulate and sign the results as a record in the office of the clerk.*
 14 *The canvasser shall forward the results to the secretary of state and shall*
 15 *publish the results of the first phase of the bifurcated retention election*
 16 *once a week for two consecutive weeks in a newspaper authorized to*
 17 *publish legal notices in the county the election is conducted.*

18 (2) *In the second phase of such bifurcated retention election, the name*
 19 *of each judge seeking retention shall be submitted at the next general*
 20 *election to the electors of the judicial district, if the judge is a district*
 21 *judge, or to the electors of the county, if the judge is a district magistrate*
 22 *judge. The name shall be submitted on a separate judicial ballot, without*
 23 *party designation, reading substantially as follows:*

24 "Shall _____

25 (Here insert name of judge.)

26 _____
 27 (Here insert the title of the court.)

28 *be retained in office?"*

29 (3) ~~If a majority of those voting on the question vote against retaining~~
 30 ~~the person in office, the position or office which the person holds shall~~
 31 ~~be vacant upon the expiration of the person's term of office; otherwise,~~
 32 ~~such judge receives: (A) At least an aggregate total of 100% after adding~~
 33 ~~the percentage of votes for retention in the first phase of the bifurcated~~
 34 ~~retention election by the registered lawyers of such judicial district to the~~
 35 ~~percentage of votes for retention in the second phase of the bifurcated~~
 36 ~~retention election by the electors of such judicial district or county at the~~
 37 ~~general election; and (B) a majority of those voting on the question in the~~
 38 ~~second phase of the bifurcated retention election by the electors of such~~
 39 ~~judicial district or county at the general election vote in favor of retaining~~
 40 ~~the judge in office, then the judge, unless removed for cause, the person~~
 41 ~~shall remain in office for the regular term of four years from the second~~
 42 ~~Monday in January following the election. At the expiration of each term,~~
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1 unless by law the person is compelled to retire, the person shall be eligible
2 for retention in office by election in the manner prescribed in this section.

3 (4) *If a majority of those voting on the question in the second phase*
4 *of the bifurcated retention election by the electors of the such judicial*
5 *district or county at the general election vote against retaining the judge*
6 *in office, the position or office which the judge holds shall be vacant upon*
7 *the expiration of the judge's term of office.*

8 (d) Wherever a majority of those voting on the question of retaining
9 any judge in office *in the general election* vote against retention, *or when*
10 *a judge filing for retention fails to receive the aggregate total of 100%*
11 *after adding the percentage of votes for retention in the first and second*
12 *phase of the bifurcated retention election, the secretary of state and the*
13 *clerk of the supreme court, following the final canvass of votes on the*
14 *question, shall jointly certify the results to the chief justice of the supreme*
15 *court. Any judge who has not been retained in office pursuant to this*
16 *section shall not be eligible for nomination or appointment to the office*
17 *of judge of the district court in the judicial district prior to the expiration*
18 *of four years after the expiration of the judge's term of office.*

19 (e) Election laws applicable to the general elections of other state
20 officers shall apply to elections upon the question of retention of judges
21 of the district court pursuant to this section, to the extent that they are
22 consistent with the provisions of this act.

23 (f) *As used in this section, the percentages voting for or against re-*
24 *retention shall be based on the number actually voting on the retention issue*
25 *of the particular judge.*

26 Sec. 2. K.S.A. 20-2908 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after its
28 publication in the statute book.

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