

[As Amended by House Committee of the Whole]

Session of 2003

Substitute for HOUSE BILL No. 2307

By Committee on Judiciary

2-26

AN ACT concerning district magistrate judges; relating to the reassignment of positions; amending K.S.A. 20-327, 20-333, 20-336, 20-354 and 20-2908 and K.S.A. 2002 Supp. 20-348 and repealing the existing sections.

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

Sec. 1. K.S.A. 20-327 is hereby amended to read as follows: 20-327. All judges of district courts elected under the provisions of this act shall be elected for terms of four years and until their successors are elected and qualified unless otherwise provided pursuant to K.S.A. 20-354, and amendments thereto.

Sec. 2. K.S.A. 20-333 is hereby amended to read as follows: 20-333. Whenever under the provisions of this act provision is made for the abolishment of the office of district judge or district magistrate judge in any judicial district, and the district judge or district magistrate judge holding any such office shall die, resign or retire during the four (4) years next preceding the date fixed for the abolishment of such office, such office shall be and is hereby abolished at the time of such death, resignation or retirement.

Sec. 3. K.S.A. 20-336 is hereby amended to read as follows: 20-336. In any judicial district which has not approved the proposition of non-partisan selection of district court judges, election laws applicable to the election of county officers district judges shall govern every election of district magistrate judges. Each district magistrate judge shall be elected by the electors of the county or counties where the judge's position is located and assigned by the chief judge of the judicial district.

Sec. 4. K.S.A. 20-354 is hereby amended to read as follows: 20-354. (a) Notwithstanding the provisions of K.S.A. 20-301b or 20-338, and amendments thereto, if, upon the death, resignation, retirement or removal of a district magistrate judge of a county in which there are two or more district magistrate judge positions or in which there also is at least one district judge position, the supreme court determines that the continuation of the vacant a district magistrate judge position is unnecessary, due to the yearly average caseload of the district magistrate judge

1 *being less than ~~1,200~~ [600] cases and the ability of the remaining judges*  
2 *of the ~~district court in the county~~ judicial district to assume the entire*  
3 *judicial workload of the county, the supreme court shall certify the elim-*  
4 *ination and reassignment of the district magistrate judge position to the*  
5 *secretary of state. Where the position to be eliminated is in a judicial*  
6 *district in which the proposition of nonpartisan selection of district court*  
7 *judges has been approved, such certification also shall be made to the*  
8 *chairperson of the district judicial nominating commission of the judicial*  
9 *district. The terms of office of district magistrate judges determined to be*  
10 *unnecessary and reassigned for district magistrate judges holding office*  
11 *in January of the year following the determination, shall expire on the last*  
12 *day of the term for which the district magistrate judge is currently holding*  
13 *office. The supreme court shall designate any district magistrate positions*  
14 *to be abolished no later than one year prior to the end of the term for*  
15 *which the current district magistrate judge is serving.*

16 *(b) In counties where district magistrate judge positions are elimi-*  
17 *nated, the chief judge of such judicial district shall assign a district mag-*  
18 *istrate judge from another county in the judicial district to be the district*  
19 *magistrate judge for such county. If a district magistrate judge is assigned*  
20 *to more than one county in a judicial district in which the proposition of*  
21 *nonpartisan selection of district court judges has been approved, the dis-*  
22 *trict magistrate judge shall be subject to retention by the electors of the*  
23 *counties to which such district magistrate judge has been assigned. If a*  
24 *district magistrate judge is assigned to more than one county in a judicial*  
25 *district in which the proposition of nonpartisan selection of district court*  
26 *judges has not been approved, the district magistrate judge shall be elected*  
27 *at the next general election held in November by the electors of the coun-*  
28 *ties to which such district magistrate judge has been assigned.*

29 **[(c) In counties where district magistrate judge positions are**  
30 **eliminated or from which district magistrate judge positions are**  
31 **reassigned, the county commission may elect to retain the position**  
32 **and pay the salary of the current district magistrate judge. Counties**  
33 **may elect to pay the salary of the successor district magistrate**  
34 **judges in accordance with the provisions of K.S.A. 20-310a, and**  
35 **amendments thereto.]**

36 **[(d) As used in this section, the yearly average caseload shall**  
37 **not include those cases which are traffic infractions or violations.]**

38 **[(e) As used in this section, the yearly average caseload shall**  
39 **include those cases which are filed pursuant to the Kansas code**  
40 **for the care of children, article 15 of chapter 38 of the Kansas**  
41 **Statutes Annotated, and amendments thereto; the Kansas juvenile**  
42 **justice code, article 16 of chapter 38 of the Kansas Statutes An-**  
43 **notated, and amendments thereto; and the probate code, chapter**

1 **59 of the Kansas Statutes Annotated, and amendments thereto.]**

2 Sec. 5. K.S.A. 20-2908 is hereby amended to read as follows: 20-  
3 2908. Following the approval of nonpartisan selection of judges of the  
4 district court in a judicial district as provided in K.S.A. 20-2901 and  
5 amendments thereto, there shall not be an election or reelection of a  
6 judge of the district court at any succeeding general election, but any  
7 judge of the district court in the judicial district whose term of office  
8 expires on the second Monday in January next following any such suc-  
9 ceeding general election shall be eligible for retention in office as pro-  
10 vided in this section. No later than 12:00 noon on the Monday preceding  
11 the first Tuesday of August preceding the expiration of the judge's term  
12 of office, the judge may file in the office of the secretary of state a dec-  
13 laration of candidacy for retention in office. Such declaration shall be  
14 prescribed by the secretary of state. If a declaration is not so filed, the  
15 position held by the judge shall be vacant upon the expiration of the  
16 judge's term of office. If a declaration is filed, the judge's name shall be  
17 submitted at the next general election to the electors of the judicial dis-  
18 trict, if the judge is a district judge, or to the electors of the county *or*  
19 *counties*, if the judge is a district magistrate judge *and assigned to such*  
20 *counties*. The name shall be submitted on a separate judicial ballot, with-  
21 out party designation, reading substantially as follows:

22 "Shall \_\_\_\_\_  
23 (Here insert name of judge.)

24 \_\_\_\_\_  
25 (Here insert the title of the court.)  
26 be retained in office?"

27 If a majority of those voting on the question vote against retaining the  
28 person in office, the position or office which the person holds shall be  
29 vacant upon the expiration of the person's term of office; otherwise, unless  
30 removed for cause, the person shall remain in office for the regular term  
31 of four years from the second Monday in January following the election.  
32 At the expiration of each term, unless by law the person is compelled to  
33 retire, the person shall be eligible for retention in office by election in  
34 the manner prescribed in this section.

35 Wherever a majority of those voting on the question of retaining any  
36 judge in office vote against retention, the secretary of state, following the  
37 final canvass of votes on the question, shall certify the results to the chief  
38 justice of the supreme court. Any judge who has not been retained in  
39 office pursuant to this section shall not be eligible for nomination or  
40 appointment to the office of judge of the district court in the judicial  
41 district prior to the expiration of four years after the expiration of the  
42 judge's term of office.

43 Election laws applicable to the general elections of other state officers

1 shall apply to elections upon the question of retention of judges of the  
2 district court pursuant to this section, to the extent that they are consistent  
3 with the provisions of this act.

4 Sec. 6. K.S.A. 2002 Supp. 20-348 is hereby amended to read as fol-  
5 lows: 20-348. Except for expenses required by law to be paid by the state,  
6 the board of county commissioners of each have an obligation to ade-  
7 quately fund the operation of the district court in the county and shall be  
8 responsible for all expenses incurred for the operation of the district court  
9 in the county. *Counties from which district magistrate judge positions*  
10 *have been eliminated pursuant to K.S.A. 20-333 or 20-354, and amend-*  
11 *ments thereto, shall remain responsible for all expenses incurred as that*  
12 *county's share of the operations of the district court within the judicial*  
13 *district, as determined by the chief judge of the judicial district.*

14 **[New Sec. 7. Notwithstanding any other law to the contrary, if**  
15 **the supreme court determines that, in order to effectively expedite**  
16 **the business of the district court in any judicial district, the district**  
17 **judge position should be eliminated and that an additional position**  
18 **or positions of district magistrate judge should be created in any**  
19 **judicial district, the supreme court shall certify to the secretary of**  
20 **state the elimination of the district judge position and the creation**  
21 **of the additional position or positions of district magistrate judge.**  
22 **If the position or positions are to be created in a judicial district**  
23 **in which the proposition of nonpartisan selection of district court**  
24 **judges has been approved, certification also shall be made to the**  
25 **chairperson of the district judicial nominating commission of the**  
26 **judicial district. When the certification has been made, the position**  
27 **or division shall be deemed created and the judgeship therefor**  
28 **shall be deemed vacant, to be filled in the manner provided by law**  
29 **for filling vacancies in judgeships in the judicial district. If the**  
30 **position or positions are to be created in a judicial district in which**  
31 **the proposition of nonpartisan selection of district court judges has**  
32 **not been approved, the district magistrate judge shall be selected**  
33 **at the next general election held in November by the electors of**  
34 **the county to which such district magistrate judge has been as-**  
35 **signed.]**

36 Sec. ~~7~~ [8.] K.S.A. 20-327, 20-333, 20-336, 20-354 and 20-2908 and  
37 K.S.A. 2002 Supp. 20-348 are hereby repealed.

38 Sec. ~~8~~ [9.] This act shall take effect and be in force from and after  
39 its publication in the statute book.

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