

As Amended by House Committee

Session of 2004

HOUSE BILL No. 2811

By Representatives Huy, Brunk, Goering, Goico, Huebert, E. Johnson, Kauffman, Mays, Merrick, Judy Morrison, Novascone, Patterson, Pauls, Sawyer, Thimesch, Toelkes, D. Williams

2-11

12 AN ACT concerning municipal judges; relating to the election thereof;  
13 amending K.S.A. 12-1036g, 12-4105, 12-4107, 13-527, 13-628a, 14-  
14 201, 14-205, 14-1501, 14-1502, 14-1503, 15-204, 15-209, 15-1601, 15-  
15 1602 and 15-1603 and repealing the existing sections, also repealing  
16 K.S.A. 13-628l.  
17

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

19 Section 1. K.S.A. 12-1036g is hereby amended to read as follows: 12-  
20 1036g. The governing body and the city manager of a city adopting this  
21 act shall be governed by the provisions of K.S.A. 12-1000 to 12-1014,  
22 both sections inclusive, and any amendments thereto, and K.S.A. 12-1015,  
23 and any *through 12-1015, and* amendments thereto, in the organization  
24 and administration of such city, except that. The governing body may, by  
25 ordinance, *may* provide that the governing body shall appoint either or  
26 all of the following city officers: City attorney, city clerk, and city police  
27 judge *a city attorney and city clerk*, to hold office at the pleasure of the  
28 governing body.

29 Section 2. K.S.A. 12-4105 is hereby amended to read as follows: 12-  
30 4105. The municipal court shall be presided over by a municipal judge.  
31 The judge shall be selected in the manner provided by statute *elected in*  
32 *the manner provided by this act*. The person who is selected shall be:

33 —(a) A citizen of the United States;

34 —(b) a graduate of a high school or secondary school or the equivalent  
35 thereof, and

36 —(c) (1) in cities other than cities of the first class, an attorney regularly  
37 admitted to practice law in the state of Kansas or certified by the supreme  
38 court in the manner prescribed by K.S.A. 12-4114, *and amendments*  
39 *thereto*, as qualified to serve as a municipal judge; or

40 —(2) in cities of the first class an attorney regularly admitted to practice  
41 law in the state of Kansas.

42 —The municipal judge shall receive a monthly or annual salary set by  
43 ordinance of the city in which such municipal judge presides, except

1 where otherwise provided by law.

2 — Sec. 3. — K.S.A. 12-4107 is hereby amended to read as follows: 12-  
3 4107. In the event the ~~If a~~ municipal judge is temporarily unable to pre-  
4 side due to absence, illness or disqualification, the municipal judge shall  
5 designate an attorney or other qualified person to act as judge pro tem-  
6 pore. In the event the municipal judge fails to appoint a judge pro tem-  
7 pore, the judge pro tempore shall be appointed in the same manner as  
8 the municipal judge is selected ~~by the governing body of the city~~. The  
9 judge pro tempore shall receive compensation as shall be provided by  
10 ordinance, payable in the same manner as the compensation of the regular  
11 municipal judge.

12 — In the event a vacancy shall occur in the office of municipal judge, a  
13 successor shall be appointed to fill the unexpired term in the same man-  
14 ner as the municipal judge was appointed ~~by the governing body of the~~  
15 ~~city~~.

16 — Sec. 4. — K.S.A. 13-527 is hereby amended to read as follows: 13-527.  
17 The mayor, by and with the consent of the council, may appoint a city  
18 attorney, city prosecutor, city clerk, city treasurer, municipal judge of the  
19 municipal court, city engineer, director of public works, chief of police,  
20 policemen, and such other officers and employees as they may deem  
21 necessary for the best interests of the city, but. No such officer shall be  
22 appointed until his or her ~~the~~ term of office and salary shall have been  
23 fixed by ordinance; and. All contracts of employment of auditors, ac-  
24 countants, engineers, attorneys, counselors and architects for any special  
25 purpose shall be authorized by ordinance.

26 — The term of all such officers shall be provided by ordinance: ~~Provided,~~  
27 In case of an appointment to fill a vacancy such appointee shall only serve  
28 for the remainder of the term for which his or her ~~such person's~~ prede-  
29 cessor was appointed. ~~Vacancies shall be filled by the governing body of~~  
30 ~~the city~~.

31 — Sec. 5. — K.S.A. 13-628a is hereby amended to read as follows: 13-  
32 628a. ~~The municipal judges~~ in all cities of the first class which have a  
33 population of one hundred thousand (100,000) ~~100,000~~ or more, and  
34 which shall have the city-manager plan of government at the effective  
35 date of this act, the court shall be designated the municipal court, and  
36 the judge of the municipal court shall be appointed by the judges of the  
37 district court of the district in which said city is located in each odd-  
38 numbered year, commencing in 1929, to take office on the third Tuesday  
39 in April in such year, or as soon thereafter as appointed, and hold the  
40 same until a successor shall have been appointed and shall have qualified  
41 and said judge shall be designated judge of division No. 1. ~~Provided,~~ That  
42 the judges of the district court of the district in which such city is located  
43 shall appoint two additional judges to said municipal court, to take office

1 commencing on the third Tuesday in April, 1967, and until their succes-  
2 sors are appointed and qualified in each odd-numbered year thereafter;  
3 said judges to be designated judges of division No. 2 and division No. 3  
4 respectively. Said municipal judges so appointed shall have concurrent  
5 jurisdiction in said municipal court with the judge of division No. 1 *shall*  
6 *be elected in the manner provided by this act. Municipal judges shall have*  
7 *jurisdiction* over all traffic and criminal violations in the city and all said  
8 judges are authorized to direct the police department of the city to issue  
9 all notices of traffic violations in duplicate and to require the duplicate  
10 notice of such violation to be filed with the clerk of said *the municipal*  
11 *court.*

12 —The said *Municipal* judges, in exercising jurisdiction over traffic viola-  
13 tions, shall record or cause to be recorded on the copy of the notice filed  
14 with said clerk, *the clerk and* the disposition of each traffic violation. The  
15 provisions of K.S.A. 13-628b to 13-628h, both sections inclusive, and  
16 amendments thereto, relating to qualifications, powers, duties, bonds,  
17 vacancies, salaries and judges pro tem, shall apply to all of the judges of  
18 the municipal court in said city. *Provided*, That only one clerk shall be  
19 appointed by said court, said clerk to be appointed by the judge of division  
20 No. 1. *Provided further*, The judges of the district court of the district in  
21 which such city is located shall designate no more than two divisions of  
22 said municipal court to try and otherwise process traffic violations.

23 —Sec. 6. — K.S.A. 14-201 is hereby amended to read as follows: 14-201.  
24 Except as provided in K.S.A. 12-1028a, and amendments thereto, there  
25 shall be elected on the first Tuesday in April of each odd-numbered year  
26 a mayor, councilmembers and city treasurer. The mayor shall appoint, by  
27 and with the consent of the council, a municipal judge of the municipal  
28 court, a city marshal-chief of police, city clerk, city attorney, and may  
29 appoint police officers and any other officers deemed necessary. Any of-  
30 ficers appointed and confirmed shall hold an initial term of office of not  
31 to exceed one year and until their successors are appointed and qualified.  
32 Any officers who are reappointed shall hold their offices for a term of  
33 one year and until their successors are appointed and qualified. The coun-  
34 cil shall by ordinance specify the duties and compensation of the office  
35 holders, and by ordinance may abolish any office created by the council  
36 whenever deemed expedient.

37 —The mayor, councilmembers and city treasurer shall hold their offices  
38 for a term of two years.

39 —Sec. 7. — K.S.A. 14-205 is hereby amended to read as follows: 14-205.  
40 *Except as provided herein*, all officers elected or appointed shall be qual-  
41 ified electors of said *the* city, except that the city may appoint nonresidents  
42 as *The* city attorney, municipal judge and as *and* law enforcement officers  
43 when deemed necessary, including the appointment of nonresidents who

1 also serve as city attorney, municipal judge or law enforcement officers  
2 of another municipality or public agency. *Provided, That may be nonres-*  
3 *idents of the city.* Nothing herein shall authorize the appointment of non-  
4 residents of this state. The city attorney shall be a qualified elector of the  
5 county in which said *the* city is located or of an adjoining county. The  
6 removal from such city of any officer required to be a qualified elector  
7 shall occasion *create* a vacancy in such office. The clerk shall enter every  
8 appointment to office, and the date thereof, on the journal of proceedings.  
9 The council may require all city officers, elected or appointed, to take  
10 and subscribe an oath and give bonds and security for the faithful per-  
11 formances of their duties.

12 — Sec. 8. — K.S.A. 14-1501 is hereby amended to read as follows. 14-  
13 1501. (a) The board of commissioners shall appoint, by a majority vote of  
14 all the members thereof, the following officers, to wit: A city attorney, a  
15 city clerk, a city treasurer, a municipal judge of the municipal court, a  
16 city marshal, a fire chief, and such other officers, assistants and employees  
17 as they may deem necessary for the best interests of the city, but. No  
18 such officer shall be appointed until the term and salary of the office to  
19 which he or she *such officer* is appointed shall be prescribed by ordinance  
20 as hereinafter provided.

21 — (b) — An ordinance prescribing a salary for any such office or position  
22 shall either *shall* (1) fix a specific salary, or (2) prescribe a minimum salary  
23 and a maximum salary, and, in the latter case, the maximum salary shall  
24 not be more than twenty-five percent (25%) 25% greater than the min-  
25 imum salary, and the salary to be paid shall be fixed within such limits by  
26 resolution of the board of commissioners but said board, at any time it  
27 deems such action advisable, *The board* may adjust or change such salary  
28 within such limits by resolution.

29 — (c) — The board of commissioners may retain a licensed professional  
30 engineer to act in the capacity of city engineer for specifically defined  
31 duties, and provide for reasonable compensation for the services ren-  
32 dered. The terms of all appointive officers shall be for two (2) years and  
33 until their successors are appointed and qualified. In case of an appoint-  
34 ment to fill a vacancy such appointee shall only serve for the remainder  
35 of the term for which his or her predecessor was appointed.

36 — Sec. 9. — K.S.A. 14-1502 is hereby amended to read as follows. 14-  
37 1502. No person shall be eligible to any appointive office unless he or she  
38 shall be a bona fide *such person is a* resident of the city or of the territory  
39 within a two (2) mile radius of such city prior to his or her appointment,  
40 except that. *The board of commissioners of* the city may hire nonresident  
41 expert employees or appoint nonresidents as a municipal judge or as law  
42 enforcement officers when deemed necessary by the board of commis-  
43 sioners, including the appointment of nonresidents who also serve as mu-

1 nicipal judge or law enforcement officers of another municipality or pub-  
2 lic agency. *Provided, That.* Nothing herein shall authorize the  
3 appointment of nonresidents of this state.

4 —Sec. 10. K.S.A. 14-1503 is hereby amended to read as follows: 14-  
5 1503. The board of commissioners shall have power by a majority vote of  
6 all the members thereof to remove, for cause, the city attorney, city clerk,  
7 city treasurer, police judge, city engineer, or the incumbent of any other  
8 appointive city office or employment whatever, and may by ordinance  
9 prescribe, *may* limit or change the compensation of such officers or em-  
10 ployees. *Provided, however,* That. No fees whatever *shall* be paid to or  
11 allowed any such officer or employee as compensation for the services  
12 thereof. The chief of police, chief of the fire department, or any super-  
13 intendent or foreman in charge of municipal work, may, with the consent  
14 of the board of commissioners, *may* suspend or discharge any subordinate  
15 under his or her *such person's* direction for neglect of duty or disobedi-  
16 ence of his or her orders.

17 —Sec. 11. K.S.A. 15-204 is hereby amended to read as follows: 15-204.  
18 The mayor, with the consent of the council, may appoint, at the first  
19 regular meeting of the governing body in May of each year, the following  
20 city officers: A municipal judge of the municipal court, a clerk, a treasurer,  
21 a marshal-chief of police, law enforcement officers and such other officers  
22 as deemed necessary. Such officers shall hold an initial term of office of  
23 not to exceed one year and until their successors have been appointed  
24 and qualified. Any officers who are reappointed shall hold their offices  
25 for a term of one year and until their successors are appointed and qual-  
26 ified. The duties and pay of the various officers shall be regulated by  
27 ordinance. Any officer may be removed by a majority vote of the total  
28 membership elected or appointed to the council and may be suspended  
29 at any time by the mayor.

30 —Sec. 12. K.S.A. 15-209 is hereby amended to read as follows: 15-209.  
31 The officers elected or appointed under this act shall be qualified electors  
32 of said city, except the city may appoint nonresidents as city attorney,  
33 municipal judge and as law enforcement officers when deemed necessary,  
34 including the appointment of nonresidents who also serve as city attorney,  
35 municipal judge or law enforcement officers of another municipality or  
36 public agency. *Provided, That.* Nothing herein shall authorize the ap-  
37 pointment of nonresidents of this state. The city attorney, shall be a qual-  
38 ified elector of the county in which said *the* city is located or of an ad-  
39 joining county. The removal from such city of any officer elected or  
40 appointed under this act, who is required to be a qualified elector thereof,  
41 shall occasion *create* a vacancy in such office. All vacancies in office, ex-  
42 cept in the offices of mayor and councilman, may be filled until the next  
43 regular time for appointment by appointment by the governing body.

1 Every appointment to office, and the date thereof, shall be entered on  
2 the journal of proceedings of the council.

3 — Sec. 13. — K.S.A. 15-1601 is hereby amended to read as follows. 15-  
4 1601. The board of commissioners shall appoint, for a term of one (1)  
5 year, by a majority vote of all the members thereof, the following officers,  
6 to wit: A city clerk, a city treasurer, a municipal judge of the municipal  
7 court, a city marshal-chief of police, and may appoint the following offi-  
8 cers, to wit: A city attorney, a fire chief, and such other officers, assistants,  
9 and employees as they deem necessary for the best interests of the city;  
10 but. No such officer shall be appointed until his or her *the* term and salary  
11 shall have been fixed by ordinance. Such persons shall hold their respec-  
12 tive offices until their successors shall have been appointed and qualified.  
13 In case of appointment to fill a vacancy, such appointee shall only serve  
14 for the remainder of the term for which his or her *such person's* prede-  
15 cessor was appointed. The board of commissioners may retain a licensed  
16 professional engineer to act in the capacity of city engineer for specifically  
17 defined duties, and provide for reasonable compensation for the services  
18 rendered.

19 — Sec. 14. — K.S.A. 15-1602 is hereby amended to read as follows. 15-  
20 1602. No person shall be eligible to any appointive office unless he or she  
21 shall be a bona fide *such person is a* resident of the city at least one (1)  
22 year prior to his or her appointment, except that. *The board of commis-*  
23 *sioners of the city may hire nonresident expert employees or appoint*  
24 *nonresidents as a municipal judge or as law enforcement officers when*  
25 *deemed necessary by the board of commissioners, including the appoint-*  
26 *ment of nonresidents who also serve as a municipal judge or law enforce-*  
27 *ment officers of another municipality or public agency. Provided, That.*  
28 *Nothing herein shall authorize the appointment of nonresidents of this*  
29 *state.*

30 — Sec. 15. — K.S.A. 15-1603 is hereby amended to read as follows. 15-  
31 1603. The board of commissioners shall have power to remove the city  
32 attorney, city clerk, city treasurer, police judge, city engineer or city as-  
33 sessor for incompetency, neglect of duty, or malfeasance in office, upon  
34 charges preferred, after due notice in writing and opportunity to be heard  
35 in their defense. When such charges are sustained any such officers shall  
36 be removed by resolution of the board of commissioners, passed by a vote  
37 of at least two of the members of said *the* board, declaring that the charges  
38 preferred have been proven and that such office is vacant. But said board  
39 may *The board*, in its discretion, by a majority vote of all the members  
40 thereof, *may* remove with or without cause the incumbent of any other  
41 appointive city office or employment whatever, and may by ordinance  
42 *may* prescribe, limit or change the salary of all appointive officers or  
43 employees, except that. The salary of all appointive officers shall not be

1 ~~increased or diminished during the term for which they are appointed.~~

2 ~~—New Sec. 16. Section 1.~~ As used in this act:

3 (a) “City election” means the election at which the governing body  
4 of the city is elected.

5 (b) “Filing deadline” means the hour, date or time after which it is  
6 provided by law that no person may become a candidate for election to  
7 a city office.

8 (c) “Primary election” means the primary election of the governing  
9 body of a city.

10 (d) “General election” means the general election of the governing  
11 body of a city.

12 New Sec. ~~17.~~ **2.** From and after July 1, ~~2001~~ **2004**, municipal court  
13 judges shall be elected as provided by this act.

14 New Sec. ~~18.~~ **3.** (a) Municipal court judges shall be elected at the  
15 same time as all other city elections.

16 (b) Municipal court judges shall be elected for terms of four years  
17 and until their successors are elected and qualified.

18 (c) The filing deadline for the office of municipal court judge shall  
19 be the same as the filing deadline for candidates for office for members  
20 of the governing body of the city.

21 New Sec. ~~19.~~ **4.** (a) Except as provided by subsection (b), there shall  
22 be a primary election of municipal court judge at the same time for the  
23 holding of the primary election for members of the governing body of  
24 the city.

25 (b) No primary election of municipal court judge shall be held unless  
26 by holding such primary one or more persons will be eliminated as can-  
27 didates for office. In the event there are not more than two candidates  
28 for such office, the names of the candidates for such office shall not  
29 appear on the primary election ballots, and there shall be no primary  
30 election for such office, but the names of such candidates shall be placed  
31 on the general city election ballot.

32 New Sec. ~~20.~~ **5.** (a) Any person desiring to become a candidate for  
33 a municipal court judge shall file with the city clerk before the filing  
34 deadline a statement of such candidacy on a form furnished by the county  
35 election officer as specified by the secretary of state. The city clerk of any  
36 city upon receiving any filing under this section shall record the same and  
37 transmit it, together with the filing fee or petition herein provided, within  
38 three business days to the county election officer.

39 (b) ~~In cities having a population of less than 5,000, each such filing~~  
40 ~~shall be accompanied by a filing fee of \$5 or, in lieu of such filing fee, by~~  
41 ~~a petition signed by 25 qualified electors of the city or by a number of~~  
42 ~~such qualified electors of the city equal to not less than 10% of the ballots~~  
43 ~~cast at the last general city election, whichever is less.~~

1 — (c) In cities having a population of not less than 5,000 and not more  
2 than 100,000, each such filing shall be accompanied by a filing fee of \$10  
3 or, in lieu of such filing fee, by a petition signed by 50 qualified electors  
4 of the city or by a number of such qualified electors of the city equal to  
5 not less than 1% of the ballots cast and counted at the last general city  
6 election, whichever is less.

7 — (d) In cities having a population of more than 100,000, each **Each**  
8 such filing shall be accompanied by a filing fee of \$50; or, in lieu of such  
9 filing fee, by a petition signed by 100 qualified electors of the city or by  
10 a number of qualified electors of the city equal to 1% of the ballots cast  
11 at the last general city election, whichever is less.

12 ~~(e)~~ (c) All elections for municipal court judge shall be conducted by  
13 the county election officer of the county in which such city is located, or  
14 of the county in which the greater population of the city is located if the  
15 city extends into more than one county **Sedgwick county, Kansas.**

16 New Sec. ~~21~~ **6.** At all elections for municipal court judge the polls  
17 shall open at 7:00 a.m. and close at 7:00 p.m., unless different hours are  
18 set and publicly announced by the county election officer. In the event  
19 that different hours are so set, the polls shall be open at least 12 contin-  
20 uous hours commencing not earlier than 6:00 a.m. and ending not later  
21 than 8:00 p.m. The secretary of state shall adopt rules and regulations  
22 specifying the time and manner of setting and announcing any change of  
23 hours under authority of this section.

24 New Sec. ~~22~~ **7.** No notice of any election of municipal court judge  
25 shall be required.

26 New Sec. ~~23~~ **8.** Municipal court judge elections shall be nonparti-  
27 san. Laws applicable to elections occurring at the same time as municipal  
28 court judge elections shall apply to municipal court judge elections to the  
29 extent that the same are not in conflict with the provisions of this act.

30 New Sec. ~~24~~ **9.** Primary and general elections for municipal court  
31 judge shall be conducted jointly with other elections held at the same  
32 time insofar as is practicable. Any election officer having responsibility  
33 for any other such election shall cooperate with the election officer of the  
34 city, and if a difference arises which cannot be agreed upon, determina-  
35 tion of the difference shall be made by the county election officer, unless  
36 such difference involves a question the determination of which is pro-  
37 vided by law to be made by the secretary of state. If under the provisions  
38 of this act one election officer is required to make determination of a  
39 matter and under any other statute a different election officer is required  
40 to make determination of the same issue, the two election officers shall  
41 agree upon determination of such matter, or if they do not agree, either  
42 may submit the matter for determination to the secretary of state whose  
43 decision on such matter shall be final and conclusive.



1 New Sec. ~~25~~. **10.** Names of candidates for municipal court judge  
2 appearing on the ballots in primary and general elections shall be listed  
3 in the various possible orders in rotation.

4 New Sec. ~~26~~. **11.** (a) No blank lines for write-in candidates shall ap-  
5 pear on ballots for municipal court judge at primary elections.

6 (b) On the ballots in the general election for municipal court judge,  
7 blank lines for the name of write-in candidates shall be printed at the end  
8 of the list of candidates for such office equal to the number to be elected  
9 thereto. The purpose of such blank lines shall be to permit the voter to  
10 insert the name of any person not printed on the ballot for whom the  
11 voter desires to vote for such office.

12 New Sec. ~~27~~. **12.** Whenever any vacancy occurs in the office of mu-  
13 nicipal court judge office, the vacancy shall be filled by appointment by  
14 the governing body of the city.

15 New Sec. ~~28~~. **13.** The city clerk shall certify to the county election  
16 officer a list of municipal court judge offices to be voted upon at each  
17 city election not later than January 1 of every year that such city has an  
18 election for municipal court judge.

19 New Sec. ~~29~~. **14.** Ballots for primary and general elections for mu-  
20 nicipal court judge shall be prepared in such manner that each voter is  
21 instructed to vote for the same number of candidates as the number of  
22 positions to be filled, for which the voter is qualified to vote. When the  
23 voter may vote for more than one candidate, such instruction also shall  
24 specify that the voter may vote for fewer than the total number for which  
25 the voter is qualified to vote. Failure to vote for the maximum number  
26 of candidates for positions as the voter is qualified to vote shall not in-  
27 validate the ballot nor that portion of the ballot and votes for candidates  
28 fewer than the number directed shall be counted.

29 New Sec. ~~30~~. **15.** The county election officer who conducts the elec-  
30 tion for municipal court judge shall certify to the city governing body the  
31 determination of election results made by the county board of canvassers.  
32 The term of office for municipal court judge shall commence with the  
33 first regular meeting of the governing body of the city following certifi-  
34 cation of the election.

35 Every person elected or appointed to the office of municipal court  
36 judge, before entering upon the duties of such office, shall take and sub-  
37 scribe an oath or affirmation as specified in K.S.A. 54-106, and amend-  
38 ments thereto, and every such oath or affirmation shall be filed with the  
39 city clerk.

40 Sec. ~~31~~. **16.** ~~K.S.A. 12-1036g, 12-4105, 12-4107, 13-527, 13-628a,~~  
41 ~~13-628l, 14-201, 14-205, 14-1501, 14-1502, 14-1503, 15-204, 15-209, 15-~~  
42 ~~1601, 15-1602 and 15-1603 are hereby repealed (a) Sections 1 through~~  
43 **16, and amendments thereto, shall be known and may be cited as**

1 **the municipal judge election act.**

2 **(b) This act shall apply to the city of Wichita, Kansas.**

3 Sec. ~~32~~ **17.** This act shall take effect and be in force from and after

4 its publication in the statute book.