

SENATE BILL No. 502

By Senator O'Connor

2-11

10 AN ACT concerning elections; relating to proxy voting at district con-
11 ventions; amending K.S.A. 25-3902, 25-3902a, 25-3904 and 25-3904a
12 and repealing the existing sections.
13

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

15 Section 1. K.S.A. 25-3902 is hereby amended to read as follows: 25-
16 3902. (a) Except as provided in K.S.A. 25-312a and amendments thereto
17 when a district convention is provided by law to be held to elect a person
18 to be appointed to fill a vacancy in a district office, the county chairperson
19 designated in subsection (b) or (c), within 21 days of receipt of notice that
20 a vacancy has occurred or will occur, shall call and convene a convention
21 of all committeemen and committeewomen of the party of the precincts
22 in such district for the purpose of electing a person to be appointed by
23 the governor to fill the vacancy. If such county chairperson is absent or
24 for any reason is unable to call, or refuses to call such convention, then
25 the county vice-chairperson shall call the convention and perform the
26 other duties under this section required of such chairperson.

27 (b) If the district lies within a single county, the county chairperson
28 of such county shall call the convention by mailing a notice, at least seven
29 days before the date of the convention, to each precinct committeeman
30 and committeewoman who is entitled to vote at the convention pursuant
31 to subsection (e).

32 (c) If all or part of more than one county lies within the district, the
33 county chairperson of the county in which the greatest number of qual-
34 ified voters of the district reside shall call the convention by mailing a
35 notice of the convention to each county chairperson of the party in each
36 such county at least 10 days before the date of the convention. Such
37 convention shall be held at a location within the district selected by the
38 chairperson calling the convention. Such county chairperson, within three
39 days after receipt of such notice, shall mail notice of the convention to
40 the committeemen and committeewomen in their counties who are en-
41 titled to vote at the convention pursuant to subsection (e).

42 (d) The notice of such convention shall state: (1) The place where
43 the convention is to be held; (2) the time when the convention will con-

1 vene; and (3) the purpose for which the convention is to be held.
 2 (e) At the time and place fixed for holding the convention, the county
 3 chairperson who called the convention shall act as temporary chairperson
 4 and shall call the convention to order. One-third of the eligible members
 5 of the convention shall constitute a quorum for such election. In the event
 6 a quorum is not present at the time and place that such convention is
 7 called, the members present shall adjourn the convention to a day and
 8 time certain, which shall be not later than 14 days after such adjournment
 9 of such convention, and provide for notification of the time and place of
 10 such adjourned convention to be given to the eligible members not pres-
 11 ent. The convention shall organize by electing a permanent chairperson
 12 and such other officers as necessary. After the convention is organized,
 13 it shall elect a person to be appointed by the governor to fill the vacancy.
 14 Such election shall be by secret ballot and the person elected shall be the
 15 one who receives the majority of all the votes cast. If no person receives
 16 a majority of all votes cast on any ballot, the balloting shall continue until
 17 some person receives a majority of all the votes cast. Each committeeman
 18 and committeewoman of the party of the precincts in such district shall
 19 be entitled to vote. *Except as provided in subsection (f)*, no precinct com-
 20 mitteeman or committeewoman shall be represented or shall vote by
 21 proxy. The convention may adopt such rules necessary to govern its pro-
 22 cedure in making nominations, voting, counting, and canvassing votes and
 23 for the conduct of any business which may properly be brought before
 24 the convention, but such rules shall not be in conflict with the provisions
 25 of this section.

26 (f) (1) *A precinct committeeman or committeewoman may vote by*
 27 *proxy at a convention called pursuant to this section ~~only under the fol-~~*
 28 *lowing conditions:*

- 29 ~~—(A) The convention occurs when the legislature is in session;~~
- 30 ~~—(B) the precinct committeeman or committeewoman is a duly elected~~
~~or appointed legislator; and~~
- 31 ~~—(C) [whenever] such precinct committeeman or committeewoman is~~
~~unable to attend the convention and cast such precinct committeeman's~~
~~or committeewoman's ballot because of legislative business.~~

32 (2) A precinct committeeman or committeewoman ~~who is a duly~~
 33 ~~elected or appointed legislator~~ may designate another precinct commit-
 34 teeman or committeewoman to cast such ~~legislator's~~ **[precinct commit-**
 35 **teeman's or precinct committeewoman's]** ballot at such convention by
 36 proxy. Any proxy authorized by this subsection shall:

37 (A) Designate the precinct committeeman or committeewoman who
 38 shall cast the ~~legislator's~~ **[precinct committeeman's or precinct com-**
 39 **mitteewoman's]** vote by proxy;

40 (B) be signed by the ~~legislator~~ **[precinct committeeman or precinct**

1 **committeewoman**] *authorizing the proxy; and*
2 (C) *contain an acknowledgment of such* ~~legislator's~~ **[precinct com-**
3 **mitteeman's or precinct committeewoman's]** *signature which complies*
4 *with K.S.A. 53-509 and amendments thereto.*

5 ~~(f)~~(g) After a person has been elected to be appointed to fill a vacancy
6 in a district office, the chairperson or vice-chairperson of the convention
7 shall execute a certificate, under oath, stating that such person has been
8 duly elected to be appointed to fill such vacancy and shall transmit such
9 certificate either by hand delivery by a person designated by such chair-
10 person or vice-chairperson or by registered mail, return receipt re-
11 quested, to the governor and a copy thereof to the secretary of state. If
12 transmitted by registered mail, such certificate and the copy thereof shall
13 be mailed within 24 hours of such election, unless the day following such
14 election is a Sunday or legal holiday, in which case it shall be mailed by
15 the next regular business day. Thereupon, and not later than seven days
16 after such certificate is received in the office of the governor, the gov-
17 ernor, or in the governor's absence the lieutenant governor, shall fill such
18 vacancy by appointing to such district office the person so elected. In the
19 event the governor or lieutenant governor fails to appoint any person as
20 required by this subsection after receiving a lawfully executed certificate
21 hereunder, such person shall be deemed to have been so appointed not-
22 withstanding such failure. The person so appointed may qualify and enter
23 upon the duties of the district office immediately after appointment.

24 Sec. 2. K.S.A. 25-3902a is hereby amended to read as follows: 25-
25 3902a. (a) When a vacancy occurs in the office of member of the state
26 board of education, the county chairperson designated in subsection (b),
27 (c) or (d), within 21 days of receipt of notice that a vacancy has occurred
28 or will occur shall call and convene a district convention for the purpose
29 of electing a person to be appointed by the governor to fill the vacancy.
30 Such person shall be an elector of the same political party as that of the
31 board member vacating such position and shall reside in the board mem-
32 ber district corresponding to such board member position. If such county
33 chairperson is absent or for any reason is unable to call or refuses to call
34 such convention, then the county vice-chairperson shall call the conven-
35 tion and perform the other duties required of such chairperson under
36 this section.

37 (b) If the board member district lies within a single county, the
38 county chairperson of such county shall call a convention of all precinct
39 committeemen and committeewomen of the party of the precincts in such
40 district in the manner provided by subsections (b) and (d) of K.S.A. 25-
41 3902 and amendments thereto, and such convention shall be conducted
42 as provided in subsection (e).

43 (c) If all or part of more than one and less than five counties lie within

1 the board member district, the county chairperson of the county in which
2 the greatest number of qualified voters of the district reside shall call a
3 convention of all precinct committeemen and committeewomen of the
4 party of the precincts in such district in the manner provided by subsections
5 (c) and (d) of K.S.A. 25-3902 and amendments thereto, and such
6 convention shall be conducted as provided in subsection (e). Such convention
7 shall be held at a location within the district selected by the chair-
8 person calling the convention.

9 (d) If all or part of five or more counties lie within the board member
10 district, the county chairperson of the county in which the greatest number
11 of qualified voters of the district reside shall call a convention of all
12 county chairpersons and vice-chairpersons of the party of the counties in
13 such district. Such convention shall be held at a location within the district
14 selected by the chairperson calling the convention. Such county chair-
15 person shall call the convention by mailing a notice to each such county
16 chairperson and vice-chairperson, at least seven days before the date of
17 the convention. Such notice shall state: (1) The place where the conven-
18 tion is to be held; (2) the time when the convention will convene; and (3)
19 the purpose for which the convention is to be held, and such convention
20 shall be conducted as provided in subsection (e).

21 (e) At the time and place fixed for holding the convention, the county
22 chairperson who called the convention shall act as temporary chairperson
23 and shall call the convention to order. One-third of the eligible members
24 of the convention shall constitute a quorum for such election. In the event
25 a quorum is not present at the time and place that such convention is
26 called, the members present shall adjourn the convention to a day and
27 time certain, which shall be not later than 14 days after adjournment of
28 such convention, and provide for notification of the time and place of
29 such adjourned convention to be given to the eligible members not present.
30 The convention shall proceed to organize by electing a permanent
31 chairperson and such other officers as necessary. After the convention is
32 organized, it shall proceed to elect a person to be appointed by the governor
33 to fill the vacancy. Such election shall be by secret ballot and the
34 person elected shall be the one who shall receive the majority of all the
35 votes cast. If no person receives a majority of all votes cast on any ballot,
36 the balloting shall continue until some person receives a majority of all
37 the votes cast. Each county chairperson and vice-chairperson of the party
38 of the counties in such district shall be entitled to vote. *Except as provided*
39 *in subsection (f)*, no county chairperson or vice-chairperson shall be represented
40 or shall vote by proxy. The convention may adopt such rules as
41 necessary to govern its procedure in making nominations, voting, counting
42 and canvassing votes and for the conduct of any business which may
43 properly be brought before the convention, but such rules shall not be in

1 conflict with the provisions of this section.

2 (f) (1) A precinct committeeman or committeewoman who serves as
3 county chairperson or vice-chairperson may vote by proxy at a convention
4 called pursuant to this section ~~only under the following conditions:~~

5 ~~(A) The convention occurs when the legislature is in session;~~

6 ~~(B) such precinct committeeman or committeewoman is a duly elected
7 or appointed legislator; and~~

8 ~~(C) [whenever] such precinct committeeman or committeewoman is
9 unable to attend the convention and cast such precinct committeeman's
10 or committeewoman's ballot because of legislative business.~~

11 (2) A precinct committeeman or committeewoman ~~who is a duly~~
12 ~~elected or appointed legislator~~ may designate another precinct commit-
13 teeman or committeewoman to cast such ~~legislator's~~ **[precinct commit-**
14 **teeman's or precinct committeewoman's]** ballot at such convention by
15 proxy. Any proxy authorized by this subsection shall:

16 (A) Designate the precinct committeeman or committeewoman who
17 shall cast the ~~legislator's~~ **[precinct committeeman's or precinct com-**
18 **mitteewoman's]** vote by proxy;

19 (B) be signed by the ~~legislator~~ **[precinct committeeman or precinct**
20 **mitteewoman]** authorizing the proxy; and

21 (C) contain an acknowledgment of such ~~legislator's~~ **[precinct com-**
22 **mitteeman's or precinct committeewoman's]** signature which complies
23 with K.S.A. 53-509 and amendments thereto.

24 ~~(g)~~ (g) After a person has been elected to be appointed to fill a vacancy
25 in the office of member of the state board of education, the chairperson
26 or vice-chairperson of the convention shall execute a certificate, under
27 oath, stating that such person has been duly elected to be appointed to
28 fill such vacancy and shall transmit such certificate to the governor. There-
29 upon, and not later than seven days after such certificate is received in
30 the office of the governor, the governor, or in the governor's absence the
31 lieutenant governor, shall fill such vacancy by appointing to the office of
32 member of the state board of education the person so elected. In the
33 event the governor or lieutenant governor fails to appoint any person as
34 required by this subsection after receiving a lawfully executed certificate
35 hereunder, such person shall be deemed to have been so appointed not-
36 withstanding such failure. The person so appointed may qualify and enter
37 upon the duties of office immediately after appointment.

38 (h) A person shall be elected to be appointed to fill a vacancy in the
39 office of member of the state board of education within 35 days after such
40 vacancy occurs. If no person is so elected within the 35-day period, the
41 governor shall fill such vacancy by appointment of an elector of the same
42 political party as that of the board member vacating such position and
43 who resides in the board member district corresponding to such board

1 member position. The person so appointed may qualify and enter upon
2 the duties of office immediately after appointment.

3 Sec. 3. K.S.A. 25-3904 is hereby amended to read as follows: 25-
4 3904. (a) When a district convention is provided by law to be held to elect
5 a person to fill a vacancy in a party candidacy for a district office, the
6 county chairperson designated in subsection (b) or (c), within 21 days of
7 the receipt of the notice that the vacancy has occurred or will occur shall
8 call and convene a convention of all committeemen and committee-
9 women of the political party from the precincts in such district. If such
10 county chairperson is absent or for any reason is unable to call, or refuses
11 to call such convention, then the corresponding county vice-chairperson
12 shall call the convention and perform the other duties under this section
13 required of such chairperson.

14 (b) If the district lies within a single county, the county chairperson
15 of such county shall call the convention by mailing a notice at least seven
16 days before the date of the convention to the committeemen and com-
17 mitteewomen in such county who are entitled to vote at such convention
18 pursuant to subsection (e).

19 (c) If all or part of more than one county lies within the district, the
20 county chairperson of the county in which the greatest number of qual-
21 ified voters of the district reside shall call the convention by mailing a
22 notice of such convention to each county chairperson of the party in each
23 such county, at least 10 days before the date of the convention. Such
24 convention shall be held at a location within the district selected by the
25 chairperson calling the convention. Such county chairpersons shall, within
26 three days after receipt of such notice, mail notice of such convention to
27 the committeemen and committeewomen in their counties who are en-
28 titled to vote at such convention pursuant to subsection (e).

29 (d) The notice of such convention shall state: (1) The place where
30 the convention is to be held; (2) the time when the convention will con-
31 vene; and (3) the purpose for which the convention is to be held.

32 (e) At the time and place fixed for holding the convention, the county
33 chairperson who called the convention shall act as temporary chairperson
34 and shall call the convention to order. One-third of the eligible members
35 of the convention shall constitute a quorum for such election. In the event
36 a quorum is not present at the time and place that such convention is
37 called, the members present shall adjourn the convention to a day and
38 time certain, which shall not be later than 14 days after such adjournment
39 of such convention, and provide for notification of the time and place of
40 such adjourned convention to be given to the eligible members not pres-
41 ent. The convention shall organize by electing a permanent chairperson
42 and such other officers as necessary. After the convention is organized,
43 it shall elect a person to fill such vacancy in the party candidacy. Such

1 election shall be by secret ballot and the person elected shall be the one
 2 who receives the majority of all the votes cast. If no person receives a
 3 majority of all votes cast on any ballot, the balloting shall continue until
 4 some person receives a majority of all the votes cast. Each committeeman
 5 and committeewoman of the party of the precincts in such district shall
 6 be entitled to vote. *Except as provided in subsection (f), no precinct com-*
 7 *mitteeman or committeewoman shall be represented or shall vote by*
 8 *proxy. The convention may adopt rules as necessary to govern its proce-*
 9 *cedure in making nominations, voting, counting and canvassing votes and*
 10 *for the conduct of any business which may properly be brought before*
 11 *the convention, but such rules shall not be in conflict with the provisions*
 12 *of this section.*

13 *(f) (1) A precinct committeeman or committeewoman may vote by*
 14 *proxy at a convention called pursuant to this section ~~only under the fol-~~*
 15 *lowing conditions:*

16 ~~—(A) The convention occurs when the legislature is in session;~~

17 ~~—(B) the precinct committeeman or committeewoman is a duly elected~~
 18 ~~or appointed legislator; and~~

19 ~~—(C) **[whenever]** such precinct committeeman or committeewoman is~~
 20 ~~unable to attend the convention and cast such precinct committeeman's~~
 21 ~~or committeewoman's ballot because of legislative business.~~

22 (2) A precinct committeeman or committeewoman ~~who is a duly~~
 23 ~~elected or appointed legislator~~ may designate another precinct commit-
 24 teeman or committeewoman to cast such legislator's **[precinct commit-**
 25 **teeman's or precinct committeewoman's]** ballot at such convention by
 26 proxy. Any proxy authorized by this subsection shall:

27 (A) Designate the precinct committeeman or committeewoman who
 28 shall cast the legislator's **[precinct committeeman's or precinct com-**
 29 **mitteewoman's]** vote by proxy;

30 (B) be signed by the legislator **[precinct committeeman or precinct**
 31 **committeewoman]** authorizing the proxy; and

32 (C) contain an acknowledgment of such legislator's **[precinct com-**
 33 **mitteeman's or precinct committeewoman's]** signature which complies
 34 with K.S.A. 53-509 and amendments thereto.

35 ~~(f)~~ (g) After a person has been elected to fill a vacancy in a party
 36 candidacy for a district office, the chairperson or vice-chairperson of the
 37 convention shall execute a certificate, under oath, stating that such person
 38 has been duly elected to fill such vacancy and shall transmit such certifi-
 39 cate to the secretary of state or appropriate county election officer.

40 Sec. 4. K.S.A. 25-3904a is hereby amended to read as follows: 25-
 41 3904a. (a) When a vacancy occurs in a party candidacy for the office of
 42 member of the state board of education, the county chairperson desig-
 43 nated in subsection (b), (c) or (d), within 21 days of receipt of notice that

1 the vacancy has occurred or will occur, shall call and convene a district
2 convention for the purpose of electing a person to fill such vacancy. If
3 such county chairperson is absent or for any reason is unable to call or
4 refuses to call such convention, then the county vice-chairperson shall call
5 the convention and perform the other duties required of such chairperson
6 under this section.

7 (b) If the board member district lies within a single county, the
8 county chairperson of such county shall call a convention of all precinct
9 committeemen and committeewomen of the party of the precincts in such
10 district in the manner provided by subsections (b) and (d) of K.S.A. 25-
11 3904 and amendments thereto, and such convention shall be conducted
12 in the manner provided in subsection (e) of K.S.A. 25-3904 and amend-
13 ments thereto.

14 (c) If all or part of more than one and less than five counties lie within
15 the board member district, the county chairperson of the county in which
16 the greatest number of qualified voters of the district reside shall call a
17 convention of all precinct committeemen and committeewomen of the
18 party of the precincts in such district in the manner provided by subsec-
19 tions (c) and (d) of K.S.A. 25-3904 and amendments thereto, and such
20 convention shall be conducted as provided in subsection (e) of K.S.A. 25-
21 3904 and amendments thereto. Such convention shall be held at a location
22 within the district selected by the chairperson calling the convention.

23 (d) If all or part of five or more counties lie within the board member
24 district, the county chairperson of the county in which the greatest num-
25 ber of qualified voters of the district reside shall call a convention of all
26 county chairpersons and vice-chairpersons of the party of the counties in
27 such district. Such convention shall be held at a location within the district
28 selected by the chairperson calling the convention. Such county chair-
29 person shall call the convention by mailing a notice to each such county
30 chairperson and vice-chairperson at least seven days before the date of
31 the convention. Such notice shall state: (1) The place where the conven-
32 tion is to be held; (2) the time when the convention will convene; and (3)
33 the purpose for which the convention is to be held.

34 (e) At the time and place fixed for holding the convention, the county
35 chairperson who called the convention shall act as temporary chairperson
36 and shall call the convention to order. One-third of the eligible members
37 of the convention shall constitute a quorum for such election. In the event
38 a quorum is not present at the time and place that such convention is
39 called, the members present shall adjourn the convention to a day and
40 time certain, which shall be not later than 14 days after such adjournment
41 of such convention and provide for notification of the time and place of
42 such adjourned convention to be given to the eligible members not pres-
43 ent. The convention shall proceed to organize by electing a permanent

1 chairperson and such other officers as necessary. After the convention is
 2 organized, it shall proceed to elect a person to fill the vacancy in the party
 3 candidacy. Such election shall be by secret ballot and the person elected
 4 shall be the one who shall receive the majority of all the votes cast. If no
 5 person receives a majority of all votes cast on any ballot, the balloting
 6 shall continue until some person receives a majority of all the votes cast.
 7 Each county chairperson and vice-chairperson of the party of the counties
 8 in such district shall be entitled to vote. *Except as provided in subsection*
 9 *(f)*, no county chairperson or vice-chairperson shall be represented or
 10 shall vote by proxy. The convention may adopt rules necessary to govern
 11 its procedure in making nominations, voting, counting and canvassing
 12 votes and for the conduct of any business which may properly be brought
 13 before the convention, but such rules shall not be in conflict with the
 14 provisions of this section.

15 (f) (1) *A precinct committeeman or committeewoman who serves as*
 16 *county chairperson or vice-chairperson may vote by proxy at a convention*
 17 *called pursuant to this section only under the following conditions:*

18 ~~—(A) The convention occurs when the legislature is in session;~~

19 ~~—(B) such precinct committeeman or committeewoman is a duly elected~~
 20 ~~or appointed legislator; and~~

21 ~~—(C) [whenever] such precinct committeeman or committeewoman is~~
 22 ~~unable to attend the convention and cast such precinct committeeman's~~
 23 ~~or committeewoman's ballot because of legislative business.~~

24 (2) *A precinct committeeman or committeewoman who is a duly*
 25 *elected or appointed legislator may designate another precinct commit-*
 26 *teeman or committeewoman to cast such legislator's [precinct commit-*
 27 ***teeman's or precinct committeewoman's*** *ballot at such convention by*
 28 *proxy. Any proxy authorized by this subsection shall:*

29 (A) *Designate the precinct committeeman or committeewoman who*
 30 *shall cast the legislator's [precinct committeeman's or precinct com-*
 31 ***mitteewoman's*** *vote by proxy;*

32 (B) *be signed by the legislator [precinct committeeman or precinct*
 33 ***committeewoman*** *authorizing the proxy; and*

34 (C) *contain an acknowledgment of such legislator's [precinct com-*
 35 ***mitteeman's or precinct committeewoman's*** *signature which complies*
 36 *with K.S.A. 53-509 and amendments thereto.*

37 (g) *After a person has been elected to fill a vacancy in a party can-*
 38 *didacy for the office of member of the state board of education, the*
 39 *chairperson or vice-chairperson of the convention shall execute a certif-*
 40 *icate, under oath, stating that such person has been duly elected to fill*
 41 *such vacancy and shall transmit such certificate to the secretary of state.*

42 Sec. 5. K.S.A. 25-3902, 25-3902a, 25-3904 and 25-3904a are hereby
 43 repealed.

1 Sec. 6. This act shall take effect and be in force from and after its
2 publication in the statute book.