

SENATE BILL No. 254

By Committee on Assessment and Taxation

2-1

9 AN ACT concerning district attorneys; relating to the creation of the
10 office of district attorney in certain judicial districts; expenses of office;
11 amending K.S.A. 22a-106 and K.S.A. 2006 Supp. 22a105, 22a-107, 75-
12 3718 and 75-3721 and repealing the existing sections.
13

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

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

17 (b) (1) Each county commission in a judicial district may pass a res-
18 olution submitting to the qualified electors in each judicial district the
19 proposition of creating the office of district attorney in such judicial dis-
20 trict. If all county commissions in each of the counties in the judicial
21 district pass such a resolution, the secretary of state shall place on the
22 ballot at the next election in which all of the qualified electors of the
23 judicial district are entitled to vote the proposition stated in paragraph
24 (3).

25 (2) The secretary of state shall place on the ballot at the next election
26 in which all of the qualified electors of the judicial district are entitled to
27 vote the proposition stated in paragraph (3), if the secretary of state re-
28 ceives a petition requesting an election on the proposition, signed by not
29 less than 5% of the qualified electors in each of the counties in the judicial
30 district. The following shall appear on the petition:

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

35 (3) The proposition on the ballot at an election held pursuant to this
36 subsection for the adoption of the office of district attorney in the judicial
37 district shall be as follows:

38 “The present method of selecting county attorneys in this judicial dis-
39 trict shall be discontinued and there is hereby adopted in this judicial
40 district the office of district attorney, which shall be elected by the voters
41 of this judicial district.” Provision shall be made for marking the question
42 “Yes” or “No.”

43 (4) If a majority of the votes cast and counted in the judicial district

1 on the proposition is in favor of the establishment of the office of district
2 attorney, the provisions of this act shall govern the selection of the district
3 attorney in the judicial district. In those counties where a majority of the
4 votes cast and counted on the proposition in favor of the establishment
5 of the office of the district attorney, there is hereby established such office
6 pursuant to the provisions of section 2, and amendments thereto. If a
7 majority of the votes cast and counted in any county in the judicial district
8 is against the establishment of the office of district attorney, the offices
9 of the county attorney in such county or counties shall continue.

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

17 (c) (1) If a judicial district has established an office of the district
18 attorney but a majority of the votes cast and counted in a county in such
19 judicial district were against the establishment of the office of district
20 attorney and in such county the office of the county attorney is continuing,
21 the county commission of such county may pass a resolution submitting
22 to the qualified electors in the county the proposition of joining the office
23 of district attorney in such judicial district. If the county commission
24 passes such a resolution, the secretary of state shall place on the ballot at
25 the next election in which all of the qualified electors of the county are
26 entitled to vote the proposition stated in paragraph (3).

27 (2) The secretary of state shall place on the ballot at the next election
28 in which all of the qualified electors of the county are entitled to vote the
29 proposition stated in paragraph (3), if the secretary of state receives a
30 petition requesting an election on the proposition, signed by not less than
31 5% of the qualified electors of the county. The following shall appear on
32 the petition:

33 “We request an election to determine whether the present method of
34 selecting a county attorney in this county shall be discontinued and the
35 county shall join the office of district attorney in this judicial district.”

36 (3) The proposition on the ballot at an election held pursuant to this
37 subsection for the county to join the office of district attorney in such
38 judicial district shall be as follows:

39 “The present method of selecting a county attorney shall be discontin-
40 ued and the county is hereby joining the office of district attorney in this
41 judicial district, which shall be elected by the voters of the counties of
42 the judicial district which are a part of the office of the district attorney.”
43 Provision shall be made for marking the question “Yes” or “No.”

- 1 (4) If a majority of the votes cast and counted in such county on the
2 proposition is in favor of joining the office of district attorney in such
3 judicial district, the provisions of this act shall govern the selection of the
4 district attorney in the judicial district. If a majority of the votes cast and
5 counted in the county is against the joining of the office of district attor-
6 ney, the office of the county attorney shall continue.
- 7 (5) It shall be the duty of the state board of canvassers to canvass the
8 votes in each county voting on the proposition of joining the office of
9 district attorney in the judicial district in the manner prescribed by K.S.A.
10 25-3206, and amendments thereto. Upon completion of the final canvass
11 and certification of the results, the secretary of state shall transmit a copy
12 of the results to the board of county commissioners of such county.
- 13 (d) The proposition may be resubmitted to the electors in the judicial
14 district not more often than once every four years thereafter.
- 15 New Sec. 2. (a) Whenever the majority of the votes cast and counted
16 in the judicial district on the proposition is in favor of the establishment
17 of the office of district attorney pursuant to section 1, and amendments
18 thereto, there is hereby established the office of district attorney in such
19 judicial district. The office of district attorney in such judicial district shall
20 be for those counties where a majority of the votes cast and counted on
21 the proposition in favor of the establishment of the office of the district
22 attorney.
- 23 (b) Commencing with the next general election following the certi-
24 fication date of the election on the office of district attorney, and at the
25 general election every four years thereafter, a district attorney shall be
26 elected in the judicial district for a four-year term, commencing on the
27 second Monday in January next following the election. Upon such date,
28 the offices of county attorney in such counties in such judicial district
29 which voted by the majority for the office of the district attorney shall be
30 and is hereby abolished.
- 31 (c) The district attorney authorized by this section is hereby declared
32 to be an executive officer of the judicial district in which such attorney is
33 elected, with the office constituting a separate entity within the district
34 for administrative purposes. In no event shall the district attorney be
35 deemed an officer of any county.
- 36 (d) Before entering upon the duties of the office, the district attorney
37 shall take the oath of office required by law for public officers and shall
38 execute a good and sufficient surety bond in the manner prescribed by
39 K.S.A. 75-4101 *et seq.*, and amendments thereto.
- 40 (e) If the office of district attorney is established pursuant to this
41 section, the duration of the office of the district attorney shall be
42 perpetual.
- 43 (f) The provisions of article 1 of chapter 22a of the Kansas Statutes

1 Annotated, and amendments thereto, shall be applicable to the office of
2 district attorney established pursuant to sections 1 and 2, and amend-
3 ments thereto.

4 New Sec. 3. (a) It is the duty of the office of attorney general to
5 coordinate, determine and submit the budget estimates of each office of
6 the district attorney to the legislature. Each district attorney, not later
7 than August 1 of each year, shall file with the attorney general the budget
8 estimate for the office of the district attorney for the next fiscal year and
9 any amendments and revisions thereof. All such budget estimates shall
10 be in the form provided by the attorney general. Each office's budget
11 estimates shall include a full explanation of the office's request for any
12 appropriations. The attorney general shall review the budget estimates
13 and shall cause to be made such further inquiries and investigations as
14 needed. The attorney general may revise the budget estimate for each
15 office of a district attorney as the attorney general may deem necessary.
16 Each such budget estimate shall be prepared and submitted by the at-
17 torney general in the manner provided by K.S.A. 75-3716 and 75-3717,
18 and amendments thereto.

19 (b) When an office of the district attorney is established pursuant to
20 sections 1 and 2, and amendments thereto, the attorney general shall
21 prepare and submit an initial budget estimate for such newly created
22 office of the district attorney for the remainder of the fiscal year in which
23 such office will commence operation on the second Monday in January
24 next following the election.

25 New Sec. 4. For the tax year following the year in which the qualified
26 voters elected a district attorney in a newly established office of the dis-
27 trict attorney in the judicial district pursuant to sections 1 and 2, and
28 amendments thereto, the tax statement required pursuant to K.S.A. 79-
29 2001, and amendments thereto, shall contain a notification of the de-
30 crease in the mill levy specifically attributable to the establishment of
31 such office. Upon approval of the board of county commissioners, the
32 county treasurer of the county or counties comprising the judicial district
33 shall place such notification with the tax statement specifically stating the
34 mill levy decrease.

35 Sec. 5. K.S.A. 2006 Supp. 22a-105 is hereby amended to read as
36 follows: 22a-105. (a) Each of the district attorneys elected under ~~this act~~
37 *article 1 of chapter 22a of the Kansas Statutes Annotated, and amend-*
38 *ments thereto*, shall receive an annual salary in the amount of no less than
39 the salary provided for district judges in K.S.A. 75-3120g and amend-
40 ments thereto.

41 (b) (1) *Prior to July 1, 2008*, the salary of each district attorney shall
42 be paid by the county comprising the judicial district in which the district
43 attorney is elected in equal monthly installments and in the manner

1 county officers and employees are paid. *Prior to July 1, 2008*, the district
2 attorneys and their deputies and assistants shall be reimbursed *by the*
3 *county* for their actual travel and subsistence expenses incurred while in
4 the performance of their official duties within or without the district.

5 (2) *On and after July 1, 2008, all expenses of the office of the district*
6 *attorney established in judicial districts 3, 7, 10, 18, 27 and 29 and any*
7 *office of the district attorney established pursuant to sections 1 and 2, and*
8 *amendments thereto, shall be paid by the state of Kansas. Expenses shall*
9 *include, but not be limited to, the salary of the district attorney, assistant*
10 *district attorneys, deputy district attorneys, investigative and clerical*
11 *staff; office space leases; and other expenses of such office as may be*
12 *necessary to carry out the functions of the district attorney's office in such*
13 *judicial district. On and after July 1, 2008, the district attorneys and their*
14 *deputies and assistants shall be reimbursed by the state for their actual*
15 *travel and subsistence expenses incurred while in the performance of their*
16 *official duties within or without the district.*

17 Sec. 6. K.S.A. 22a-106 is hereby amended to read as follows: 22a-
18 106. (a) (1) *Prior to July 1, 2008, and* within the limits of *county* appro-
19 priations therefor, the district attorney shall appoint such assistant district
20 attorneys, deputy district attorneys and other stenographic, investigative
21 and clerical hire as may be necessary to carry out the functions of the
22 district attorney's office in such judicial district, ~~and he shall determine~~
23 ~~the annual compensation of each assistant district attorney and other per-~~
24 ~~sons appointed pursuant to this subsection.~~ The county commissioners
25 shall determine and allow such reasonable sums from funds of the county
26 for the compensation of assistants, deputies and other stenographic, in-
27 vestigative and clerical hire and for other expenses of such office as may
28 be necessary to carry out the function of such office.

29 (2) *On and after July 1, 2008, and subject to the provisions of appro-*
30 *riation acts, the district attorney shall appoint such assistant district*
31 *attorneys, deputy district attorneys and other investigative and clerical*
32 *staff as may be necessary to carry out the functions of the district attor-*
33 *ney's office in such judicial district.*

34 (b) *The district attorney shall determine the annual compensation of*
35 *each assistant district attorney and other persons appointed pursuant to*
36 *this subsection.*

37 ~~(b)~~ (c) Each assistant and deputy district attorney shall have been
38 regularly admitted to practice law within the state of Kansas prior to ~~his~~
39 appointment. Each district attorney and ~~his~~ assistant district attorneys
40 shall devote full time to official duties and shall not engage in the civil
41 practice of law, except as required in performing ~~his~~ official duties while
42 serving as district attorney or assistant district attorney, and shall not refer
43 any client or other person or any matter to any designated attorney or

1 firm of attorneys.

2 ~~(c)~~ (d) The board of county commissioners of each county contained
3 in *any* judicial ~~districts 3, 10, 18 and 29~~ *district which has an office of*
4 *district attorney* shall provide suitable office space within such county for
5 the district attorney, ~~his~~ assistants, deputies, office personnel and equip-
6 ment. *On and after July 1, 2008, any county providing the required office*
7 *space for the office of the district attorney shall be reimbursed in an*
8 *amount equal to the rate being paid for comparable office space in the*
9 *city in which the office is located. Such rate shall be determined by the*
10 *attorney general.*

11 ~~(d)~~ (e) Notwithstanding any of the provisions of this act the district
12 attorney, with the approval of the board of county commissioners *prior*
13 *to July 1, 2008*, may appoint and employ special counsel when necessary
14 to assist the district attorney in the discharge of ~~his~~ *the district attorney's*
15 duties, such special counsel not to be subject to the restrictions contained
16 in ~~paragraph (b) herein~~ *subsection (c).*

17 ~~(e)~~ (f) *Prior to July 1, 2008*, any county contained in judicial districts
18 3, 7, 10, 18, 27 or 29 may receive and expend for the operation of the
19 office of district attorney any federal moneys made available therefor.

20 Sec. 7. K.S.A. 2006 Supp. 22a-107 is hereby amended to read as
21 follows: 22a-107. Whenever in any of the statutes of this state the term
22 "county attorney" is used, it shall be construed to include district attor-
23 neys provided for by ~~K.S.A. 22a-101, 22a-108 and K.S.A. 2006 Supp. 22a-~~
24 ~~109~~ *article 1 of chapter 22a of the Kansas Statutes Annotated*, and amend-
25 ments thereto, unless the context otherwise requires.

26 Sec. 8. K.S.A. 2006 Supp. 75-3718 is hereby amended to read as
27 follows: 75-3718. (a) The director of the budget shall have in continuous
28 process and revision a tentative budget for the coming years, in the light
29 of direct studies of the operations, plans and needs of the state agencies
30 and of the existing and prospective sources of revenue. Except as other-
31 wise provided by this section, after summarizing estimates of funds which
32 may be available and the estimated requirements for the several state
33 agencies, the director shall cause them to be reviewed in relation to the
34 general financial condition and needs of the state and shall cause to be
35 made such further inquiries and investigations, and such revision of the
36 tentative budget, as the director may deem necessary.

37 (b) Not later than November 10 of each year, the director of the
38 budget shall notify each state agency in writing of any revision of the
39 agency's requests and the agency affected may request a hearing on such
40 revision which request may be filed within 10 days after receipt of notice
41 but, in any case, not later than November 20 of such year. If requested,
42 the secretary of administration shall hold hearings on the tentative budget
43 at which the administrative head of each state agency or the representa-

1 tive of such administrative head shall be entitled to be heard. The hearings
2 provided for in this section shall be concluded not later than December
3 15 of such year.

4 (c) The director of the budget shall not revise the budget estimate
5 for the judicial branch of state government that is submitted pursuant to
6 K.S.A. 20-158, and amendments thereto, *or the budget estimates for the*
7 *offices of district attorney's that are submitted pursuant to section 3, and*
8 *amendments thereto.*

9 Sec. 9. K.S.A. 2006 Supp. 75-3721 is hereby amended to read as
10 follows: 75-3721. (a) On or before the eighth calendar day of each regular
11 legislative session, the governor shall submit the budget report to the
12 legislature, except that in the case of the regular legislative session im-
13 mediately following the election of a governor who was elected to the
14 office of governor for the first time, that governor shall submit the budget
15 report to the legislature on or before the 21st calendar day of that regular
16 legislative session.

17 (b) The budget report of the governor shall be set up in three parts,
18 the nature and contents of which shall include the following:

19 (1) Part one shall consist of a budget message by such governor, in-
20 cluding the governor's recommendations with reference to the fiscal pol-
21 icy of the state government for the current fiscal year and the ensuing
22 fiscal year, describing the important features of the budget plan for each
23 of the fiscal years included, embracing a general budget summary setting
24 forth the aggregate figures of the budget so as to show the balanced
25 relation between the total proposed expenditures and the total anticipated
26 income for the current fiscal year and the ensuing fiscal year, with the
27 basis and factors upon which the estimates were made, and the means of
28 financing the budget plan for the each of the fiscal years included, com-
29 pared with the corresponding figures for at least the last completed fiscal
30 year, and the director of the budget shall prepare the figures for the
31 governor for such comparisons.

32 (A) The budget plan shall not include (i) any proposed expenditures
33 of anticipated income attributable to proposed legislation that would pro-
34 vide additional revenues from either current or new sources of revenue,
35 or (ii) any proposed expenditures of moneys in the ending balance in the
36 state general fund required by K.S.A. 75-6702, and amendments thereto.

37 (B) The general budget summary may be supported by explanatory
38 schedules or statements, classifying the expenditures contained therein
39 by state agencies, objects, and funds, and the income by state agencies,
40 funds, sources and types. The general budget summary shall include all
41 special or fee funds as well as the state general fund, and shall include
42 the estimated amounts of federal aids, for whatever purpose provided,
43 together with estimated expenditures therefrom.

1 (2) Part two shall embrace the detailed budget estimates for each of
2 the fiscal years included, both of expenditures and revenues, showing the
3 requests of the state agencies, if any, and the governor's recommendations
4 thereon, which shall include amounts for payments by the state board of
5 regents pursuant to K.S.A. 75-4364 and amendments thereto. It shall also
6 include statements of the bonded indebtedness of the state, showing the
7 actual amount of the debt service for at least the last completed fiscal
8 year, and the estimated amount for the current fiscal year and for each
9 of the ensuing fiscal years included, the debt authorized and unissued,
10 and the condition of the sinking funds.

11 (3) Part three shall consist of a draft of a legislative measure or meas-
12 ures reflecting the governor's budget for all of the fiscal years included
13 in the budget report.

14 (c) The division of the budget shall compile a children's budget doc-
15 ument consisting of the information contained in agency budget estimates
16 regarding programs that provide services for children and their families.
17 Such document shall be provided to the Kansas children's cabinet estab-
18 lished by K.S.A. 38-1901, and amendments thereto, and other persons or
19 entities on request.

20 (d) The division of the budget, upon request, shall furnish the gov-
21 ernor or the legislature with any further information required concerning
22 the budget.

23 (e) Nothing in this section shall be construed to restrict or limit the
24 privilege of the governor to present supplemental budget messages or
25 amendments to previous budget messages, which may include proposals
26 for expenditure of new or increased sources of revenue derived from
27 proposed legislation.

28 (f) The budget estimate for the judicial branch of state government
29 as submitted to the director of the budget pursuant to K.S.A. 20-158, and
30 amendments thereto, *and the budget estimates for the office of district*
31 *attorney's as submitted to the director of the budget pursuant to section*
32 *3, and amendments thereto*, shall be included in the governor's budget
33 report.

34 (g) The division of the budget shall compile a Kansas homeland se-
35 curity budget document consisting of the information contained in agency
36 budget estimates under subsection (a)(3) of K.S.A. 75-3717, and amend-
37 ments thereto. Such document shall be provided to the house of repre-
38 sentatives committee on appropriations, the senate committee on ways
39 and means and such other committees upon request.

40 Sec. 10. K.S.A. 22a-106 and K.S.A. 2006 Supp. 22a-105, 22a-107, 75-
41 3718 and 75-3721 are hereby repealed.

42 Sec. 11. This act shall take effect and be in force from and after its
43 publication in the statute book.