

As Amended by House Committee

Session of 2005

SENATE BILL No. 181

By Committee on Judiciary

2-2

10 AN ACT concerning civil procedure; relating to actions ~~filed in violation~~
11 **alleging violations** of Article 6 of the Kansas constitution; amending
12 K.S.A. 2004 Supp. 60-2102 and repealing the existing section.
13

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

15 New Section 1. (a) If a petition is filed in a district court of this state
16 alleging a violation of Article 6 of the Kansas constitution, the chief judge
17 of such district court shall notify the chief justice of the supreme court
18 of such petition within three business days thereafter.

19 (b) **Within three business days of receiving such notice, the**
20 **chief justice shall notify the chief judge of the court of appeals.**
21 Within 10 business days of ~~such notification, the chief justice receiving~~
22 **notice by the chief justice, the chief judge** shall appoint a panel of
23 three district court judges to preside over such civil action. **The chief**
24 **judge shall designate one of such judges to be the presiding judge**
25 **of the panel.** The judicial panel shall be considered a court of competent
26 jurisdiction to hear and decide the civil action.

27 (c) The judicial panel shall establish venue pursuant to section 2, and
28 amendments thereto.

29 New Sec. 2. In any civil action where the plaintiff is alleging a viola-
30 tion of Article 6 of the Kansas constitution, venue shall be brought in
31 the county as designated by the three judge panel appointed pursuant to
32 section 1, and amendments thereto. In making such designation, the ju-
33 dicial panel shall consider the location of the parties and the ~~parties'~~
34 ~~attorneys' witnesses.~~

35 (b) **In any action alleging a violation of article 6 of the consti-**
36 **tution of the state of Kansas, in which the plaintiff alleges that the**
37 **legislature has failed to provide intellectual, educational, voca-**
38 **tional and scientific improvement in public schools or has failed to**
39 **make suitable provision for finance of the educational interests of**
40 **the state, it shall be the plaintiff's burden to prove that moneys**
41 **appropriated and allocated by the legislature were not sufficient**
42 **to fund the cost of providing the subjects or areas of instruction**
43 **required by state law, including reasonable and necessary related**

1 **instruction, administration, support staff, supplies, equipment and**
2 **building costs.**

3 **(c) In determining whether a plaintiff has met its burden of**
4 **proof, the judicial panel shall make such determination based on**
5 **an analysis of adequacy had state moneys been utilized first to fund**
6 **the reasonable and necessary costs of providing the required sub-**
7 **jects or areas of instruction and related services specified in sub-**
8 **section (b). The judicial panel shall not be bound by the manner**
9 **in which state moneys were utilized, in fact, by the school district.**

10 Sec. 3. K.S.A. 2004 Supp. 60-2102 is hereby amended to read as
11 follows: 60-2102. (a) *As of right*. Except for any order or final decision of
12 a district magistrate judge, the appellate jurisdiction of the court of ap-
13 peals may be invoked by appeal as a matter of right from:

14 (1) An order that discharges, vacates or modifies a provisional
15 remedy.

16 (2) An order that grants, continues, modifies, refuses or dissolves an
17 injunction, or an order that grants or refuses relief in the form of man-
18 damus, quo warranto or habeas corpus.

19 (3) An order that appoints a receiver or refuses to wind up a receiv-
20 ership or to take steps to accomplish the purposes thereof, such as di-
21 recting sales or other disposal of property, or an order involving the tax
22 or revenue laws, the title to real estate, the constitution of this state or
23 the constitution, laws or treaties of the United States.

24 (4) A final decision in any action, except in an action where a direct
25 appeal to the supreme court is required by law. In any appeal or cross
26 appeal from a final decision, any act or ruling from the beginning of the
27 proceedings shall be reviewable.

28 (b) The appellate jurisdiction of the supreme court may be invoked
29 by appeal as a matter of right from a preliminary or final decision in which
30 a statute of this state has been held unconstitutional as a violation of
31 Article 6 of the Kansas constitution *pursuant to section 1, and amend-*
32 *ments thereto*. Any appeal filed pursuant to this subsection shall be filed
33 within 30 days of the date the preliminary or final decision is filed ~~or~~
34 ~~within 30 days of the effective date of this act, whichever is later. The~~
35 ~~provisions of this subsection shall expire on July 1, 2006.~~

36 (c) *Other appeals*. When a district judge, in making in a civil action
37 an order not otherwise appealable under this section, is of the opinion
38 that such order involves a controlling question of law as to which there is
39 substantial ground for difference of opinion and that an immediate appeal
40 from the order may materially advance the ultimate termination of the
41 litigation, the judge shall so state in writing in such order. The court of
42 appeals may thereupon, in its discretion, permit an appeal to be taken
43 from such order, if application is made to it within 10 days after the entry

1 of the order under such terms and conditions as the supreme court fixes
2 by rule. Application for an appeal hereunder shall not stay proceedings
3 in the district court unless the district judge or an appellate court or a
4 judge thereof so orders.

5 Sec. 4. K.S.A. 2004 Supp. 60-2102 is hereby repealed.

6 Sec. 5. This act shall take effect and be in force from and after its
7 publication in the statute book.