

House Concurrent Resolution No. 5039

By Committee on Judiciary

2-13

9 A PROPOSITION to amend the constitution of the state of Kansas by
10 revising article 3 thereof, relating to judiciary.

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12 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*
13 *members elected (or appointed) and qualified to the House of Repre-*
14 *sentatives and two-thirds of the members elected (or appointed) and*
15 *qualified to the Senate concurring therein:*

16 Section 1. The following proposition to amend the constitution of the
17 state of Kansas shall be submitted to the qualified electors of the state
18 for their approval or rejection: Article 3 of the constitution of the state of
19 Kansas shall be revised to read as follows:

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Article 3. — JUDICIAL

21

22 “§ 1. **Judicial power; seals; rules.** The judicial power of this
23 state shall be vested exclusively in one court of justice, which shall
24 be divided into one supreme court, district courts, and such other
25 courts as are provided by law; and all courts of record shall have a
26 seal. The supreme court shall have general administrative authority
over all courts in this state.

27

28 “§ 2. **Supreme court.** The supreme court shall consist of not
29 less than seven justices who shall be selected as provided by this
30 article. All cases shall be heard with not fewer than four justices
31 sitting and the concurrence of a majority of the justices sitting and
32 of not fewer than four justices shall be necessary for a decision. The
33 justice who is senior in continuous term of service shall be chief
34 justice, and in case two or more have continuously served during
35 the same period the senior in age of these shall be chief justice. A
36 justice may decline or resign from the office of chief justice without
37 resigning from the court. Upon such declination or resignation, the
38 justice who is next senior in continuous term of service shall become
39 chief justice. During incapacity of a chief justice, the duties, powers
40 and emoluments of the office shall devolve upon the justice who is
next senior in continuous service.

41

42 “§ 3. **Jurisdiction and terms.** The supreme court shall have
43 original jurisdiction in proceedings in quo warranto, mandamus, and
habeas corpus; and such appellate jurisdiction as may be provided

1 by law. It shall hold one term each year at the seat of government
2 and such other terms at such places as may be provided by law, and
3 its jurisdiction shall be co-extensive with the state.

4 “§ 4. **Reporter; clerk.** There shall be appointed, by the jus-
5 tices of the supreme court, a reporter and clerk of said court, who
6 shall hold their offices two years, and whose duties shall be pre-
7 scribed by law.

8 “§ 5. **Selection of justices of the supreme court.** (a) Any
9 vacancy occurring in the office of any justice of the supreme court
10 and any position to be open thereon as a result of enlargement of
11 the court or the retirement of a justice shall be filled by appoint-
12 ment by the governor of a person possessing the qualifications of
13 office. The term of office of the justices shall be 10 years.

14 (b) In event of the failure of the governor to make the appoint-
15 ment within sixty days from the date such vacancy occurred or po-
16 sition became open, the chief justice of the supreme court shall
17 make the appointment of a person possessing the qualifications of
18 office.

19 (c) A justice may continue to be reappointed to such position
20 by the governor, or the chief justice as the case may be, if such
21 person continues to possess the qualifications of office.

22 (d) Each justice of the supreme court who is holding office on
23 the effective date of this amendment shall remain in office for a
24 term ending on the second Monday in January following 10 years
25 from the date of the next general election in which such justice is
26 retained in office. Upon such Monday, the office shall be considered
27 vacant.

28 “§ 6. **District courts.** (a) The state shall be divided into judi-
29 cial districts as provided by law. Each judicial district shall have at
30 least one district judge. The term of office of each judge of the
31 district court shall be four years. District court shall be held at such
32 times and places as may be provided by law. The district judges
33 shall be elected by the electors of the respective judicial districts
34 unless the electors of a judicial district have adopted and not sub-
35 sequently rejected a method of nonpartisan selection. The legisla-
36 ture shall provide a method of nonpartisan selection of district
37 judges and for the manner of submission and resubmission thereof
38 to the electors of a judicial district. A nonpartisan method of selec-
39 tion of district judges may be adopted, and once adopted may be
40 rejected, only by a majority of electors of a judicial district voting
41 on the question at an election in which the proposition is submitted.
42 Whenever a vacancy occurs in the office of district judge, it shall
43 be filled by appointment by the governor until the next general

1 election that occurs more than thirty days after such vacancy, or as
2 may be provided by such nonpartisan method of selection.

3 (b) The district courts shall have such jurisdiction in their re-
4 spective districts as may be provided by law.

5 (c) The legislature shall provide for clerks of the district courts.

6 (d) Provision may be made by law for judges pro tem of the
7 district court.

8 (e) The supreme court or any justice thereof shall have the
9 power to assign judges of district courts temporarily to other
10 districts.

11 (f) The supreme court may assign a district judge to serve tem-
12 porarily on the supreme court.

13 **“§ 7. Qualifications of justices and judges.** Justices of the
14 supreme court and judges of the district courts shall be at least thirty
15 years of age and shall be duly authorized by the supreme court of
16 Kansas to practice law in the courts of this state and shall possess
17 such other qualifications as may be prescribed by law.

18 **“§ 8. Prohibition of political activity by justices and cer-
19 tain judges.** No justice of the supreme court who is appointed nor
20 any judge of the district court holding office under a nonpartisan
21 method authorized in subsection (a) of section 6 of this article, shall
22 directly or indirectly make any contribution to or hold any office in
23 a political party or organization or take part in any political
24 campaign.

25 **“§ 12. Extension of terms until successor qualified.** All ju-
26 dicial officers shall hold their offices until their successors shall have
27 qualified.

28 **“§ 13. Compensation of justices and judges; certain limi-
29 tation.** The justices of the supreme court and judges of the district
30 courts shall receive for their services such compensation as may be
31 provided by law, which shall not be diminished during their terms
32 of office, unless by general law applicable to all salaried officers of
33 the state. Such justices or judges shall receive no fees or perquisites
34 nor hold any other office of profit or trust under the authority of
35 the state, or the United States except as may be provided by law,
36 or practice law during their continuance in office.

37 **“§ 15. Removal of justices and judges.** Justices of the su-
38 preme court may be removed from office by impeachment and
39 conviction as prescribed in article 2 of this constitution. In addition
40 to removal by impeachment and conviction, justices may be retired
41 after appropriate hearing as provided by law, upon certification to
42 the governor, that such justice is so incapacitated as to be unable
43 to perform adequately such justice’s duties. Other judges shall be

1 subject to retirement for incapacity, and to discipline, suspension
2 and removal for cause by the supreme court after appropriate
3 hearing.”

4 Sec. 2. The following statement shall be printed on the ballot with
5 the amendment as a whole:

6 “*Explanatory statement.* The purpose of this amendment is to do away
7 with the nonpartisan supreme court nominating commission and
8 allow the governor to appoint a qualified person. If the governor
9 fails to act, the chief justice of the supreme court would appoint a
10 qualified person. Such person’s appointment would be effective for
11 ten years. Following the ten-year term, such position would be va-
12 cant and the governor would then select an appointment pursuant
13 to the same procedure. Current supreme court justices would hold
14 office for 10 years following the next general election in which such
15 justice is retained in office. At the time, the office shall be consid-
16 ered vacant. There is no change to the way in which district court
17 judges are elected or appointed.

18 “A vote for this proposition would provide a procedure whereby the
19 governor or chief justice would appoint a person to be a supreme
20 court justice and the term of such justice would be 10 years. At the
21 end of such term, the position would be vacant and the governor
22 or chief justice would make an appointment.

23 “A vote against this proposition would continue in effect the current
24 provision whereby the supreme court nominating commission nomi-
25 nates three persons for the office of the supreme court and the
26 governor appoints one of such persons.”

27 Sec. 3. This resolution, if approved by two-thirds of the members
28 elected (or appointed) and qualified to the House of Representatives, and
29 two-thirds of the members elected (or appointed) and qualified to the
30 Senate shall be entered on the journals, together with the yeas and nays.
31 The secretary of state shall cause this resolution to be published as pro-
32 vided by law and shall cause the proposed amendment to be submitted
33 to the electors of the state at the general election in the year 2006 unless
34 a special election is called at a sooner date by concurrent resolution of
35 the legislature, in which case it shall be submitted to the electors of the
36 state at the special election.