

Senate Concurrent Resolution No. 1619

By Senators Wagle and D. Schmidt

2-19

9 A PROPOSITION to amend section 5 of article 3 of the constitution of
10 the state of Kansas, relating to the selection of justices of the supreme
11 court.

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

17 Section 1. The following proposition to amend the constitution of the
18 state of Kansas shall be submitted to the qualified electors of the state
19 for their approval or rejection: Section 5 of article 3 of the constitution
20 of the state of Kansas is hereby amended to read as follows:

21 “**§ 5 Selection of justices of the supreme court.** (a) Any va-
22 cancy occurring in the office of any justice of the supreme court
23 and any position to be open thereon as a result of enlargement
24 of the court, or the retirement or failure of an incumbent to file
25 ~~his~~ *such justice's* declaration of candidacy to ~~succeed himself~~ *be*
26 *retained in office* as hereinafter required, or failure of a justice
27 to be elected to ~~succeed himself~~ *be retained in office*, shall be
28 filled by appointment by the governor, *with the consent of the*
29 *senate*, of one of ~~three~~ *six* persons possessing the qualifications
30 of office who shall be nominated and whose names shall be sub-
31 mitted to the governor by the supreme court nominating com-
32 mission established as hereinafter provided.

33 (b) In event of the failure of the governor to make the appoint-
34 ment within sixty days from the time the names of the nominees
35 are submitted to ~~him~~ *the governor*, the chief justice of the su-
36 preme court, *with the consent of the senate*, shall make the ap-
37 pointment from such nominees.

38 (c) *No person appointed pursuant to subsection (a) or (b) of this*
39 *section shall assume the office of justice of the supreme court*
40 *until the senate, by an affirmative vote of the majority of all*
41 *members of the senate then elected or appointed and qualified,*
42 *consents to such appointment. The senate shall vote to consent*
43 *to any such appointment not later than 30 days after such ap-*

1 the expiration of each term ~~he~~ *such justice* shall, unless by law
2 ~~he~~ *such justice* is compelled to retire, be eligible for retention in
3 office by election in the manner prescribed in this section.

4 ⊕ (e) A nonpartisan nominating commission whose duty it shall
5 be to nominate and submit to the governor the names of persons
6 for appointment to fill vacancies in the office of any justice of
7 the supreme court is hereby established, and shall be known as
8 the “supreme court nominating commission.” Said commission
9 shall be organized as hereinafter provided.

10 ⊕ (f) The supreme court nominating commission shall be com-
11 posed as follows: One member, who shall be ~~chairman~~ *chair-*
12 *person*, chosen from among their number by the members of
13 the bar who are residents of and licensed in Kansas; one member
14 from each congressional district chosen from among their num-
15 ber by the resident members of the bar in each such district; ~~and~~
16 one member, who is not a lawyer, from each congressional dis-
17 trict, appointed by the governor from among the residents of
18 each such district; *one member, who is not a lawyer, appointed*
19 *by the speaker of the house of representatives; and one member,*
20 *who is not a lawyer appointed by the president of the senate.*

21 ⊕ (g) The terms of office, the procedure for selection and certi-
22 fication of the members of the commission and provision for
23 their compensation or expenses shall be as provided by the
24 legislature.

25 ⊕ (h) No member of the supreme court nominating commission
26 shall, while ~~he~~ *such person* is a member, hold any other public
27 office by appointment or any official position in a political party
28 or for six months thereafter be eligible for nomination for the
29 office of justice of the supreme court. The commission may act
30 only by the concurrence of a majority of its members.”

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

33 “*Explanatory statement.* The purpose of this amendment is to re-
34 quire persons appointed by the governor or the chief justice to
35 the office of justice of the supreme court to be consented to by
36 the senate. A procedure is established whereby senate consent
37 would occur with 30 days of receiving the appointment. If the
38 senate does not consent by a majority vote, the supreme court
39 nominating commission would submit six more names to the
40 governor. The governor would then select an appointment which
41 would again go to the senate for consent. The same nomination,
42 appointment and consent procedure would be followed until a
43 valid appointment is made. If the senate fails to vote on an ap-

1 pointment within 30 days, it will be considered that the senate
2 has consented to the appointment.
3 “A vote for this proposition would provide a procedure whereby the
4 senate, by majority vote, would consent to the appointment, by
5 the governor or chief justice, of supreme court justices.
6 “A vote against this proposition would continue in effect the current
7 provision whereby the supreme court nominating commission
8 nominates three persons for the office of the supreme court and
9 the governor appoints one of such persons.”
10 Sec. 3. This resolution, if approved by two-thirds of the members
11 elected (or appointed) and qualified to the Senate, and two-thirds of the
12 members elected (or appointed) and qualified to the House of Repre-
13 sentatives shall be entered on the journals, together with the yeas and
14 nays. The secretary of state shall cause this resolution to be published as
15 provided by law and shall cause the proposed amendment to be submitted
16 to the electors of the state at the general election in November in the
17 year 2008 unless a special election is called at a sooner date by concurrent
18 resolution of the legislature, in which case it shall be submitted to the
19 electors of the state at the special election.