

## HOUSE BILL No. 2718

By Committee on Appropriations

3-1

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9 AN ACT concerning the office of legislative counsel; relating to the pow-  
10 ers and duties thereof; amending K.S.A. 2009 Supp. 46-1222a and 72-  
11 64b02 and repealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2009 Supp. 46-1222a is hereby amended to read  
15 as follows: 46-1222a. (a) There is hereby established the office of legis-  
16 lative counsel. The legislative counsel shall be appointed by the legislative  
17 coordinating council and shall be an attorney in the private practice of  
18 law employed by the legislative coordinating council pursuant to a con-  
19 tract entered into by the legislative coordinating council and such  
20 attorney.

21 (b) No person shall be eligible for appointment as legislative counsel  
22 unless: (1) Such person has been admitted to practice law in Kansas for  
23 not less than five years prior to appointment; and (2) such person is ad-  
24 mitted to practice in the federal court. In addition to the foregoing qual-  
25 ifications, in considering a person for appointment as legislative counsel  
26 the legislative coordinating council shall investigate such person's expe-  
27 rience in legal research, trial and appellate practice and related areas in  
28 order that such person shall possess the experience and judgment deemed  
29 necessary to fulfill the duties and responsibilities of the office. The leg-  
30 islative coordinating council shall further make such investigation of a  
31 person considered for appointment as will ensure that such person is of  
32 high professional standing.

33 (c) No person who is a member of the legislature and no person who  
34 is a member or partner of a firm, partnership, corporation, limited liability  
35 company or other business entity of which a legislator is a member or  
36 partner shall be eligible for appointment as legislative counsel.

37 (d) The provisions of the contract entered into by the legislative co-  
38 ordinating council and the legislative counsel shall provide that the leg-  
39 islative counsel may be removed from the position and the contract ter-  
40 minated by a vote of five members of the legislative coordinating council  
41 taken at any regular meeting of the council. The legislative counsel shall  
42 receive compensation fixed by the legislative coordinating council in ac-  
43 cordance with the contract. The contract shall provide for such other

1 matters as the parties to the contract deem appropriate.

2 (e) Expenditures provided for in this act shall not be subject to ap-  
3 proval under any other statute and shall be paid from appropriations for  
4 the legislature. No contract made under authority of this act shall require  
5 approval under any other statute.

6 (f) The legislative counsel shall represent the legislature, or either  
7 house thereof, in any ~~school finance~~ litigation or other cause or matter as  
8 directed by the legislative coordinating council. In cases of quo warranto  
9 and mandamus the legislative counsel shall have the same powers and  
10 standing in all courts of this state as any county attorney or district attor-  
11 ney has in such attorney's county or in the supreme court and as the  
12 attorney general has in any court. When the legislature is in session, either  
13 house thereof by its resolution, or both houses by concurrent resolution  
14 may authorize the legislative coordinating council to direct the legislative  
15 counsel to bring or participate in any cause or action by representing the  
16 legislature or either house thereof or the legislative coordinating council  
17 in any court of this state or of the United States. When the legislature is  
18 not in session, the legislative coordinating council may direct the legis-  
19 lative counsel to bring or participate in any cause or action by representing  
20 the legislature or either house thereof or the legislative coordinating  
21 council in any court of this state or of the United States in accordance  
22 with directions of the legislative coordinating council.

23 (g) The legislative counsel shall render unofficial advisory opinions  
24 upon such legal questions submitted by any member or any standing or  
25 special committee of the legislature, all in accordance with policies to be  
26 established by the legislative coordinating council. Upon direction of the  
27 legislative coordinating council, the legislative counsel shall act as counsel  
28 to special committees of the legislature and shall provide investigative  
29 assistance, conduct examination of witnesses and participate in committee  
30 hearings and deliberations as deemed necessary by the committee  
31 chairpersons.

32 (h) The legislative counsel shall perform such other duties as are di-  
33 rected by the legislative coordinating council.

34 Sec. 2. K.S.A. 2009 Supp. 72-64b02 is hereby amended to read as  
35 follows: 72-64b02. (a) Before commencing an action pursuant to K.S.A.  
36 2009 Supp. 72-64b03, and amendments thereto, a party alleging a viola-  
37 tion of article 6 of the Kansas constitution shall file a written notice as  
38 provided in this section. The notice shall be filed with the chief clerk of  
39 the house of representatives and the secretary of the senate and shall  
40 contain the following: (1) The name and address of the party or parties  
41 and the name and address of the party's or parties' attorney, if any; (2) a  
42 concise statement of the factual basis of the alleged violation, including  
43 supporting documentation; and (3) a statement of the amount of mone-

1 tary damages a specific relief that is being requested. In the filing of a  
2 notice of claim, substantial compliance with the provisions and require-  
3 ments of this subsection shall constitute valid filing of a claim. The con-  
4 tents of such notice shall not be admissible in any subsequent action  
5 arising out of the claim. Once notice of the alleged violation is filed, no  
6 action shall be commenced until after the party has received a written  
7 response by the legislature or until after 120 days has passed following  
8 the filing of the notice of claim, whichever occurs first.

9 (b) Except as otherwise provided, before any alleged violation is pre-  
10 sented to the legislature or before any alleged violation is acted upon by  
11 the legislature, the alleged violation shall be investigated by the ~~legislative~~  
12 ~~counsel~~ *revisor of statutes or an assistant revisor designated by the revisor*  
13 *of statutes.*

14 Sec. 3. K.S.A. 2009 Supp. 46-1222a and 72-64b02 are hereby  
15 repealed.

16 Sec. 4. This act shall take effect and be in force from and after its  
17 publication in the Kansas register.