

SESSION OF 2008

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2799

As Amended by House Committee on
Federal and State Affairs

Brief*

HB 2799 would create a nine-member Court of Appeals Nominating Commission. The Governor, the President of the Senate and the Speaker of the House of Representatives would each appoint three members to the Commission. One member from each of the three appointing authorities would be a member of the bar who resides and is licensed in Kansas. The chairperson would be selected by members of the Commission.

Commission members could not hold public office by appointment, an official position in a political party, and for six months after leaving the Commission, could not be appointed a judge of the Court of Appeals. Commission members would serve four-year terms or until a successor is appointed and certified by the Clerk of the Supreme Court. Vacancies would have to be filled by appointment within ten days of a vacancy notice. Each member would receive \$15 per day of attendance at meetings as compensation for services and would be reimbursed for subsistence allowances, mileage, and other related expenses.

The bill also would require that any vacancy on the Court of Appeals be filled by appointment of the Governor from nominees of the Commission or any person possessing the qualification of office, subject to confirmation by the Senate. The appointee could not take office until the confirmation has occurred. If the Governor fails to make an appointment within 90 days, the Chief Justice with the consent of the Senate would make the appointment. If the Senate does not confirm the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

appointment, the Governor, would have 30 days after the vote to appoint another person. The bill would provide that no person who has been previously appointed but was not confirmed by the Senate could be appointed again for the same vacancy. If the Senate fails to vote on an appointment within the 30-day time limitation, the Senate would be deemed to have confirmed such appointment.

Background

Proponents of the bill included: Representative Lance Kinzer; Alan Cobb, Americans for Prosperity; Lt. Colonel William Richards, Topeka Branch of the NAACP; Ronald Cass, Chairman of Center for the Rule of Law; and Stephen Ware, Professor, University of Kansas.

Opponents of the bill included: Justice Fred Six, Kansas Supreme Court Justice (Retired); Dick Hite, Supreme Court Nominating Commission Chairperson; Professor Robert Casad, University of Kansas School of Law; David Rebein, Dodge City, Kansas Bar Association; Jim Robinson, Kansas Association of Defense Counsel; Janis McMillen, League of Women Voters of Kansas; and Callie Denton Hartle, Kansas Association of Justice.

Appearing as neutral was Kellyanne Conway, CEO, Polling Company, Inc.

The House Committee on Federal and State Affairs amended the bill by changing the approval process from consent of the Senate to subject to confirmation of the Senate.

The fiscal note indicates that the Office of Judicial Administration reports that it could absorb the expenses of the Court of Appeals Nominating Commission in its operating budget. Those expenses would include member compensation and reimbursement, staffing, and official hospitality.