

As Amended by House Committee

{As Amended by Senate Committee of the Whole}

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Session of 2013

SENATE BILL No. 8

By Senator King

1-9

1 AN ACT concerning judicial appointments; creating the Kansas
2 commission on judicial qualifications **nominations**appointments;
3 relating to senate confirmation; **amending K.S.A. 2012 Supp. 75-4319**
4 **and repealing the existing section.**

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 **New** Section 1. (a) There is hereby created the Kansas commission on
8 judicial qualifications **nominations**appointments. The commission shall
9 be composed of ~~seven~~**nine** members, appointed as follows:

10 (1) ~~Two~~**Four** non-lawyer members, **one member from each**
11 **congressional district**, appointed by the speaker of the house;

12 (2) one non-lawyer member **from the first congressional district**
13 appointed by the minority leader of the house;

14 (3) one non-lawyer member **from the fourth congressional district**
15 appointed by the state treasurer;

16 (4) one lawyer member **from the third congressional district**
17 appointed by the chief justice of the supreme court;

18 (5) one lawyer member **from the second congressional district**
19 appointed by the attorney general; and

20 (6) one retired district judge appointed by the Kansas county and
21 district attorneys association **who shall serve as chairperson of the**
22 **commission.**

23 (b) Members shall be appointed for terms of two years. All members
24 may be reappointed. Members shall serve without salary, but may be
25 reimbursed for travel and other expenses actually and necessarily incurred
26 in the performance of their duties.

27 ~~(e) The commission shall elect from its membership a chairperson~~
28 ~~who shall serve in such capacity for two years and until their successor has~~
29 ~~been elected.~~

30 ~~(d)~~ (c) A majority of the commission shall constitute a quorum to do
31 business, but no final action shall be taken except upon a vote of the
32 majority of the members of the commission. The commission shall *not* be

1 subject to the open meetings act, K.S.A. 75-4317 through 75-4320a, and
2 amendments thereto. *The commission, in accordance with K.S.A. 75-*
3 *4319, and amendments thereto, may recess for a closed or executive*
4 *meeting when it is considering confidential information related to the*
5 *appointee's qualifications for office. Any confidential documents or*
6 *other confidential information obtained by the commission shall be*
7 *privileged and confidential, shall not be a public record and shall not be*
8 *subject to discovery or subpoena in a civil or criminal action.*

9 ~~(e)~~ (d) Whenever the governor or the chief justice of the supreme
10 court makes an appointment to the position of justice of the supreme court
11 or judge of the court of appeals, subject to senate confirmation, the
12 commission shall hold a meeting to interview such appointee within 30
13 days after the appointment is made. The commission shall obtain any
14 information related to the appointee's qualifications for office that the
15 commission deems necessary. The commission shall prepare a written
16 report of its assessment of the appointee's qualifications for office. A
17 majority of the commission shall approve the written report and submit
18 such report to the president of the senate and the chairperson of the
19 judiciary committee of the senate not later than 30 days after the
20 appointment is made.

21 *New Sec. 2.* (a) Notwithstanding any other law to the contrary, all
22 appointments to the position of justice of the supreme court or judge of the
23 court of appeals made by the governor or the chief justice of the supreme
24 court, which are subject to senate confirmation, ~~may~~ *{shall}* be considered
25 and acted upon by the senate ~~in either executive or regular session except~~
26 ~~that no final action thereon may be taken in executive~~ *{only in open}*
27 session.

28 (b) When any appointment described in subsection (a) is received by
29 the senate, such appointment shall be referred to the judiciary committee
30 of the senate by the president of the senate immediately after the written
31 report concerning such appointment is received from the Kansas
32 commission on judicial ~~qualifications~~ **appointments** or, if no written report
33 is received within the time specified in section 1, and amendments thereto,
34 on the next legislative day following the last day of the period of time
35 specified for submission of such report in section 1, and amendments
36 thereto.

37 (c) Such appointment referred to the judiciary committee shall be
38 returned to the senate within 15 legislative days after the same are referred,
39 together with a report thereon. If the appointment is not returned to the
40 senate within the period of time specified for its return, the appointment
41 shall be considered to be returned to the senate without recommendation
42 on the next legislative day following the last day of the period of time
43 specified for its return.

1 (d) Any such appointment may be considered and acted upon by the
2 senate at any time after the appointment is returned to the senate. No
3 motion to confirm any such appointment shall be in order without the
4 unanimous consent of the senate until the appointment is returned to the
5 senate.

6 ***Sec. 3. K.S.A. 2012 Supp. 75-4319 is hereby amended to read as***
7 ***follows: 75-4319. (a) Upon formal motion made, seconded and carried,***
8 ***all bodies and agencies subject to the open meetings act may recess, but***
9 ***not adjourn, open meetings for closed or executive meetings. Any motion***
10 ***to recess for a closed or executive meeting shall include a statement of***
11 ***(1) the justification for closing the meeting, (2) the subjects to be***
12 ***discussed during the closed or executive meeting and (3) the time and***
13 ***place at which the open meeting shall resume. Such motion, including***
14 ***the required statement, shall be recorded in the minutes of the meeting***
15 ***and shall be maintained as a part of the permanent records of the body***
16 ***or agency. Discussion during the closed or executive meeting shall be***
17 ***limited to those subjects stated in the motion.***

18 ***(b) No subjects shall be discussed at any closed or executive***
19 ***meeting, except the following:***

20 ***(1) Personnel matters of nonelected personnel;***

21 ***(2) consultation with an attorney for the body or agency which***
22 ***would be deemed privileged in the attorney-client relationship;***

23 ***(3) matters relating to employer-employee negotiations whether or***
24 ***not in consultation with the representative or representatives of the body***
25 ***or agency;***

26 ***(4) confidential data relating to financial affairs or trade secrets of***
27 ***corporations, partnerships, trusts, and individual proprietorships;***

28 ***(5) matters relating to actions adversely or favorably affecting a***
29 ***person as a student, patient or resident of a public institution, except that***
30 ***any such person shall have the right to a public hearing if requested by***
31 ***the person;***

32 ***(6) preliminary discussions relating to the acquisition of real***
33 ***property;***

34 ***(7) matters permitted to be discussed in a closed or executive***
35 ***meeting pursuant to K.S.A. 74-8804, and amendments thereto;***

36 ***(8) matters permitted to be discussed in a closed or executive***
37 ***meeting pursuant to subsection (d)(1) of K.S.A. 38-2212, and***
38 ***amendments thereto, or subsection (e) of K.S.A. 38-2213, and***
39 ***amendments thereto;***

40 ***(9) matters permitted to be discussed in a closed or executive***
41 ***meeting pursuant to subsection (j) of K.S.A. 22a-243, and amendments***
42 ***thereto;***

43 ***(10) matters permitted to be discussed in a closed or executive***

1 *meeting pursuant to subsection (e) of K.S.A. 44-596, and amendments*
2 *thereto;*

3 *(11) matters permitted to be discussed in a closed or executive*
4 *meeting pursuant to subsection (g) of K.S.A. 39-7,119, and amendments*
5 *thereto;*

6 *(12) matters required to be discussed in a closed or executive*
7 *meeting pursuant to a tribal-state gaming compact;*

8 *(13) matters relating to security measures, if the discussion of such*
9 *matters at an open meeting would jeopardize such security measures,*
10 *that protect: (A) Systems, facilities or equipment used in the production,*
11 *transmission or distribution of energy, water or communications*
12 *services; (B) transportation and sewer or wastewater treatment systems,*
13 *facilities or equipment; (C) a public body or agency, public building or*
14 *facility or the information system of a public body or agency; or (D)*
15 *private property or persons, if the matter is submitted to the agency for*
16 *purposes of this paragraph. For purposes of this paragraph, security*
17 *means measures that protect against criminal acts intended to intimidate*
18 *or coerce the civilian population, influence government policy by*
19 *intimidation or coercion or to affect the operation of government by*
20 *disruption of public services, mass destruction, assassination or*
21 *kidnapping. Security measures include, but are not limited to,*
22 *intelligence information, tactical plans, resource deployment and*
23 *vulnerability assessments;*

24 *(14) matters permitted to be discussed in a closed or executive*
25 *meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments*
26 *thereto;*

27 *(15) matters permitted to be discussed in a closed or executive*
28 *meeting pursuant to K.S.A. 2012 Supp. 75-7427, and amendments*
29 *thereto; and*

30 *(16) matters permitted to be discussed in a closed or executive*
31 *meeting pursuant to K.S.A. 2012 Supp. 46-3801, and amendments*
32 *thereto; and*

33 *(17) matters permitted to be discussed in a closed or executive*
34 *meeting pursuant to section 1, and amendments thereto.*

35 *(c) No binding action shall be taken during closed or executive*
36 *recesses, and such recesses shall not be used as a subterfuge to defeat*
37 *the purposes of this act.*

38 *(d) (1) Any confidential records or information relating to security*
39 *measures provided or received under the provisions of subsection (b)*
40 *(13), shall not be subject to subpoena, discovery or other demand in any*
41 *administrative, criminal or civil action.*

42 *(2) (A) Except as otherwise provided by law, any confidential*
43 *documents, records or reports relating to the prisoner review board*

1 *provided or received under the provisions of subsection (b)(16) shall not*
2 *be subject to subpoena, discovery or other demand in any administrative,*
3 *criminal or civil action.*

4 *(B) Notwithstanding any other provision of law to the contrary, any*
5 *summary statement provided or received under the provisions of*
6 *subsection (b)(16) shall not be subject to subpoena, discovery or other*
7 *demand in any administrative, criminal or civil action.*

8 *Sec. 4. K.S.A. 2012 Supp. 75-4319 is hereby repealed.*

9 ~~Sec. 5.~~ 5. This act shall take effect and be in force from and after
10 approval by the qualified electors of the state of a proposition to amend the
11 constitution of the state of Kansas by revising article 3 thereof and its
12 publication in the statute book.