

SENATE BILL No. 403

By Committee on Judiciary

2-11

1 AN ACT concerning the court of appeals; relating to judges; appointment
2 by governor; consent of senate; time limitations; withdrawal of
3 nominee; amending K.S.A. 2019 Supp. 20-3020 and repealing the
4 existing section.

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

7 Section 1. K.S.A. 2019 Supp. 20-3020 is hereby amended to read as
8 follows: 20-3020. (a) (1) ~~On and after July 1, 2013,~~ Any vacancy occurring
9 in the office of any judge of the court of appeals and any position to be
10 open on the court of appeals as a result of enlargement of such court, or the
11 retirement or failure of an incumbent to file such judge's declaration of
12 candidacy to be retained in office as hereinafter required, or failure of a
13 judge to be elected to be retained in office, shall be filled by appointment
14 by the governor, with the consent of the senate, of a person possessing the
15 qualifications of office.

16 (2) Whenever a vacancy occurs, will occur or position opens on the
17 court of appeals, the clerk of the supreme court shall promptly give notice
18 to the governor.

19 (3) If the governor is making an appointment to the court of appeals,
20 the governor shall make each applicant's name and city of residence
21 available to the public whenever the governor stops accepting applications
22 for such appointment, but not less than 10 days prior to making such
23 appointment.

24 ~~(4) In event of the failure of the governor to make the appointment~~
25 ~~within 60 days from the date such vacancy occurred or position became~~
26 ~~open, the chief justice of the supreme court, with the consent of the senate,~~
27 ~~shall make the appointment of a person possessing the qualifications of~~
28 ~~office.~~

29 ~~(5) If the chief justice of the supreme court is making an appointment~~
30 ~~to the court of appeals, the chief justice shall make each applicant's name~~
31 ~~and city of residence available to the public whenever the chief justice~~
32 ~~stops accepting applications for such appointment, but not less than 10~~
33 ~~days prior to making such appointment.~~

34 ~~(6) Whenever a vacancy in the office of judge of the court of appeals~~
35 ~~exists at the time the appointment to fill such vacancy is made pursuant to~~
36 ~~this section, the appointment shall be effective at the time it is made, but~~

1 ~~where an appointment is made pursuant to this section to fill a vacancy~~
2 ~~which will occur at a future date, such appointment shall not take effect~~
3 ~~until such date.~~

4 (b) (1) No person appointed pursuant to subsection (a) shall assume
5 the office of judge of the court of appeals until the senate, by an
6 affirmative vote of the majority of all members of the senate then elected
7 or appointed and qualified, consents to such appointment. ~~The senate shall~~
8 ~~vote to consent to any such appointment not later than 60 days after such~~
9 ~~appointment is received by the senate. If the senate is not in session and~~
10 ~~will not be in session within the 60-day time limitation, the senate shall~~
11 ~~vote to consent to any such appointment not later than 20 days after the~~
12 ~~senate begins its next session. In the event a majority of the senate does~~
13 ~~not vote to consent to the appointment, the governor, within 60 days after~~
14 ~~the senate vote on the previous appointee, shall appoint another person~~
15 ~~possessing the qualifications of office and such subsequent appointment~~
16 ~~shall be considered by the senate in the same procedure as provided in this~~
17 ~~section. The same appointment and consent procedure shall be followed~~
18 ~~until a valid appointment has been made. No A person who has been~~
19 ~~previously appointed but did not receive the consent of the senate shall not~~
20 ~~be appointed again for the same vacancy. If the senate fails to vote on an~~
21 ~~appointment within the time limitation imposed by this subsection, the~~
22 ~~senate shall be deemed to have given consent to such appointment.~~

23 (2) *The governor may withdraw an appointment from consideration*
24 *by the senate at any time before the senate consents to such appointment*
25 *by serving written notice of such withdrawal on the secretary of the senate*
26 *in accordance with K.S.A. 60-303, and amendments thereto.*

27 (c) Persons who are appointed as judges of the court of appeals
28 pursuant to K.S.A. 20-3005, prior to its repeal, and this section, shall
29 commence the duties of office upon appointment and consent, and each
30 judge shall have all the rights, privileges, powers and duties prescribed by
31 law for the office of judge of the court of appeals.

32 (d) Judges of the court of appeals shall possess the qualifications
33 prescribed by law for justices of the supreme court.

34 Sec. 2. K.S.A. 2019 Supp. 20-3020 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its
36 publication in the Kansas register.