Session of 2015

HOUSE BILL No. 2104

By Committee on Elections


Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 22a-102 is hereby amended to read as follows: 22a-102. No person shall be eligible for nomination to the office of district attorney unless such person shall have been regularly admitted to practice law in the state of Kansas for five years next preceding his nomination for such office. An attorney who shall have been a county attorney, assistant county attorney or assistant district attorney for the three years immediately preceding nomination as district attorney shall be eligible for nomination. A person so qualified may become a candidate for election to the office of district attorney by either one of the following methods:

(a) Any person who is a qualified elector of any judicial district in which a district attorney is to be elected and who is otherwise qualified under this act may petition to be a candidate for district attorney of such judicial district by filing in the office of the secretary of state a petition for candidacy, signed by not less than 5% of the qualified electors of such judicial district who voted for the office of secretary of state at the last preceding general election; or

(b) Any person who is a qualified elector of any judicial district in which a district attorney is to be elected and who is otherwise qualified under this act may become a candidate for district attorney of such judicial district by filing in the office of the secretary of state a declaration of intent to be such a candidate and payment therewith of a filing fee in an amount equal to 1% of the annual salary for such office.

(c) Any such petition or declaration of intent filed by a candidate to run in the primary election held in accordance with K.S.A. 25-203, and amendments thereto, shall be filed no later than 12:00 noon, June 10, prior to such primary election, or if such date falls on Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or a holiday on the date described in K.S.A. 25-205(a), and amendments thereto. Any such petition or declaration of intent filed by an independent candidate for the office of district attorney shall be filed no later than 12:00 noon on the Monday preceding the date fixed for the
holding of primary elections in accordance with K.S.A. 25-203, and
amendments thereto. All laws applicable to the election of other state
officers shall apply to elections of district attorneys to the extent the same
are not in conflict with this act.

Sec. 2. K.S.A. 25-306b is hereby amended to read as follows: 25-
306b. (a) Except as provided by this section, no person who has been
nominated by any means for any national, state, county or township office
may cause such person's name to be withdrawn from nomination after the
day of the primary election.

(b) Any person who has been nominated by any means for any
national, state, county or township office who declares that they are
incapable of fulfilling the duties of office if elected may cause such
person's name to be withdrawn from nomination by a request in writing,
signed by the person and acknowledged before an officer qualified to take
acknowledgments of deeds. Any such request shall be filed with the
secretary of state in the case of national and state offices and with the
county election officer in the case of county and township offices. Except
as provided in subsection (d), in the case of national and state offices, any
such request shall be filed within seven days, including Saturdays,
Sundays and holidays, after the meeting of the state board of canvassers
for the final canvass of primary election provided for in K.S.A. 25-3205,
and amendments thereto. Except as provided in subsection (d), in the case
of county and township offices, any such request shall be filed within 10
days after the meeting of the county board of canvassers to canvass the
primary election as provided in K.S.A. 25-3104, and amendments thereto.
No name withdrawn as provided in this section shall be printed on the
ballots for such office for the general election.

(c) In the case of the death of a person who has been nominated for
any national, state, county or township office, the county chairperson of
the political party of which such nominee was a member may cause which
occurs on or before the first day of September following a primary
election, such nominee's name to be withdrawn from nomination by a
request in writing, signed by the chairperson and acknowledged before an
officer qualified to take acknowledgements of deeds. Any such request
shall be filed with the secretary of state in the case of national and state
offices and with the county election officer in the case of county and
township offices. Except as provided in subsection (d), in the case of
national and state offices, any such request shall be filed within seven
days, including Saturdays, Sundays and holidays, after the meeting of the
state board of canvassers for the final canvass of primary election provided
for in K.S.A. 25-3205, and amendments thereto. Except as provided in
subsection (d), in the case of county and township offices, any such
request shall be filed within 10 days after the meeting of the county board.
of canvassers to canvass the primary election as provided in K.S.A. 25-3104, and amendments thereto. No name withdrawn as provided in this section shall be printed on the ballots for such office for the general election.

(d) Whenever there has been a vacancy which occurred from a withdrawal under this section, and such vacancy was filled according to law, the person filling the vacancy may cause such person’s name to be withdrawn from nomination in the manner provided in subsection (b) or (c) of this section at any time prior to the 40th day before the general election and such nominee’s name shall not be printed on the ballots for such office for the general election. The secretary of state in the case of national and state offices, or the county election officer in the case of county or township offices, shall notify the chairperson or the vice-chairperson of the party committee of the congressional district, county or state, as the case may be, of such vacancy within 48 hours of receiving notification of such death.

Sec. 3. K.S.A. 2014 Supp. 25-3904 is hereby amended to read as follows: 25-3904. (a) When a district convention is provided by law to be held to elect a person to fill a vacancy in a party candidacy for a district office, the county chairperson designated in subsection (b) or (c), within 2±14 days of the receipt of the notice that the vacancy has occurred or will occur shall call and convene a convention of all committeemen and committeewomen of the political party from the precincts in such district. If such county chairperson is absent or for any reason is unable to call, or refuses to call such convention, then the corresponding county vice-chairperson shall call the convention and perform the other duties under this section required of such chairperson.

(b) If the district lies within a single county, the county chairperson of such county shall call the convention by mailing a notice at least seven days before the date of the convention to the committeemen and committeewomen in such county who are entitled to vote at such convention pursuant to subsection (e).

(c) If all or part of more than one county lies within the district, the county chairperson of the county in which the greatest number of qualified voters of the district reside shall call the convention by mailing a notice of such convention to each county chairperson of the party in each such county, at least 40 seven days before the date of the convention. Such convention shall be held at a location within the district selected by the chairperson calling the convention. Such county chairpersons shall, within three days after receipt of such notice, mail notice of such convention to the committeemen and committeewomen in their counties who are entitled to vote at such convention pursuant to subsection (e).

(d) The notice of such convention shall state: (1) The place where the
convention is to be held; (2) the time when the convention will convene; and (3) the purpose for which the convention is to be held.

(e) At the time and place fixed for holding the convention, the county chairperson who called the convention shall act as temporary chairperson and shall call the convention to order. One-third of the eligible members of the convention shall constitute a quorum for such election. In the event a quorum is not present at the time and place that such convention is called, the members present shall adjourn the convention to a day and time certain, which shall not be later than 14 six days after such adjournment of such convention, and provide for notification of the time and place of such adjourned convention to be given to the eligible members not present. The convention shall organize by electing a permanent chairperson and such other officers as necessary. After the convention is organized, it shall elect a person to fill such vacancy in the party candidacy. Such election shall be by secret ballot and the person elected shall be the one who receives the majority of all the votes cast. If no person receives a majority of all votes cast on any ballot, the balloting shall continue until some person receives a majority of all the votes cast. Each committeeman and committeewoman of the party of the precincts in such district shall be entitled to vote. Except as provided in subsection (f), no precinct committeeman or committeewoman shall be represented or shall vote by proxy. The convention may adopt rules as necessary to govern its procedure in making nominations, voting, counting and canvassing votes and for the conduct of any business which may properly be brought before the convention, but such rules shall not be in conflict with the provisions of this section.

(f) (1) A precinct committeeman or committeewoman may vote by proxy at a convention called pursuant to this section whenever such precinct committeeman or committeewoman is unable to attend the convention and cast such precinct committeeman's or committeewoman's ballot.

(2) A precinct committeeman or committeewoman may designate another precinct committeeman or committeewoman to cast such precinct committeeman's or precinct committeewoman's ballot at such convention by proxy. Any proxy authorized by this subsection shall:

(A) Designate the precinct committeeman or committeewoman who shall cast the precinct committeeman's or precinct committeewoman's vote by proxy;
(B) be signed by the precinct committeeman or precinct committeewoman authorizing the proxy; and
(C) contain an acknowledgment of such precinct committeeman's or precinct committeewoman's signature which complies with K.S.A. 53-509, and amendments thereto.

(g) After a person has been elected to fill a vacancy in a party
candidacy for a district office, the chairperson or vice-chairperson of the
convention shall execute a certificate, under oath, stating that such person
has been duly elected to fill such vacancy and that such person has agreed
to accept the nomination. The person elected to fill such vacancy shall
execute a notarized written statement stating that such person agrees to
accept the nomination. The chairperson or vice-chairperson shall transmit
such certificate to the secretary of state or appropriate county election
officer, as the case may be, within 21 days of receipt of the notice that the
vacancy has occurred or will occur.

(h) For the purposes of this section, the word "shall" imposes a
mandatory duty and no court may construe that word in any other way.

Sec. 4. K.S.A. 2014 Supp. 25-3904a is hereby amended to read as
follows: 25-3904a. (a) When a vacancy occurs in a party candidacy for the
office of member of the state board of education, the county chairperson
designated in subsection (b), (c) or (d), within 21 days of receipt of
notice that the vacancy has occurred or will occur, shall call and convene a
district convention for the purpose of electing a person to fill such
vacancy. If such county chairperson is absent or for any reason is unable to
call or refuses to call such convention, then the county vice-chairperson
shall call the convention and perform the other duties required of such
chairperson under this section.

(b) If the board member district lies within a single county, the county
chairperson of such county shall call a convention of all precinct
committeemen and committeewomen of the party of the precincts in such
district in the manner provided by subsections (b) and (d) of K.S.A. 25-
3904(b) and (d), and amendments thereto, and such convention shall be
conducted in the manner provided in subsection (e) of K.S.A. 25-3904(e),
and amendments thereto.

(c) If all or part of more than one and less than five counties lie within
the board member district, the county chairperson of the county in which
the greatest number of qualified voters of the district reside shall call a
convention of all precinct committeemen and committeewomen of the
party of the precincts in such district in the manner provided by
subsection (c) and (d) of K.S.A. 25-3904(c) and (d), and amendments
thereto, and such convention shall be conducted as provided in subsection
(e) of K.S.A. 25-3904(e), and amendments thereto. Such convention shall
be held at a location within the district selected by the chairperson calling
the convention.

(d) If all or part of five or more counties lie within the board member
district, the county chairperson of the county in which the greatest number
of qualified voters of the district reside shall call a convention of all county
chairpersons and vice-chairpersons of the party of the counties in such
district. Such convention shall be held at a location within the district
selected by the chairperson calling the convention. Such county
county chairperson shall call the convention by mailing a notice to each such
county chairperson and vice-chairperson at least seven days before the
date of the convention. Such notice shall state: (1) The place where the
convention is to be held; (2) the time when the convention will convene;
and (3) the purpose for which the convention is to be held.

(e) At the time and place fixed for holding the convention, the county
chairperson who called the convention shall act as temporary chairperson
and shall call the convention to order. One-third of the eligible members of
the convention shall constitute a quorum for such election. In the event a
quorum is not present at the time and place that such convention is called,
the members present shall adjourn the convention to a day and time
certain, which shall be not later than three days after such adjournment
of such convention and provide for notification of the time and place of
such adjourned convention to be given to the eligible members not present.
The convention shall proceed to organize by electing a permanent
chairperson and such other officers as necessary. After the convention is
organized, it shall proceed to elect a person to fill the vacancy in the party
candidacy. Such election shall be by secret ballot and the person elected
shall be the one who shall receive the majority of all the votes cast. If no
person receives a majority of all votes cast on any ballot, the balloting
shall continue until some person receives a majority of all the votes cast.
Each county chairperson and vice-chairperson of the party of the counties
in such district shall be entitled to vote. Except as provided in subsection
(f), no county chairperson or vice-chairperson shall be represented or shall
vote by proxy. The convention may adopt rules necessary to govern its
procedure in making nominations, voting, counting and canvassing votes
and for the conduct of any business which may properly be brought before
the convention, but such rules shall not be in conflict with the provisions
of this section.

(f) (1) A precinct committeeman or committeewoman who serves as
county chairperson or vice-chairperson may vote by proxy at a convention
called pursuant to this section whenever such precinct committeeman or
committeewoman is unable to attend the convention and cast such precinct
committeeman's or committeewoman's ballot.

(2) A precinct committeeman or committeewoman may designate
another precinct committeeman or committeewoman to cast such precinct
committeeman's or precinct committeewoman's ballot at such convention
by proxy. Any proxy authorized by this subsection shall:

(A) Designate the precinct committeeman or committeewoman who
shall cast the precinct committeeman's or precinct committeewoman's vote
by proxy;

(B) be signed by the precinct committeeman or precinct
committeewoman authorizing the proxy; and
(C) contain an acknowledgment of such precinct committeeman's or
precinct committeewoman's signature which complies with K.S.A. 53-509,
and amendments thereto.
(g) After a person has been elected to fill a vacancy in a party
candidacy for the office of member of the state board of education, the
chairperson or vice-chairperson of the convention shall execute a
certificate, under oath, stating that such person has been duly elected to fill
such vacancy and that such person has agreed to accept the nomination. The
person elected to fill such vacancy shall execute a notarized written
statement stating that such person agrees to accept the nomination. The
chairperson or vice-chairperson shall transmit such certificate to the
secretary of state, within 14 days of receipt of the notice that the vacancy
has occurred or will occur.
(h) For the purposes of this section, the word "shall" imposes a
mandatory duty and no court may construe that word in any other way.
Sec. 5. K.S.A. 25-3905 is hereby amended to read as follows: 25-
3905. (a) When a vacancy occurs after a primary election in a party
candidacy, such vacancy shall be filled by the party committee of the
congressional district, county or state, as the case may be, except if the
vacancy is in a party candidacy for a district office or for the office of
member of the state board of education, it shall be filled by district
convention held as provided in K.S.A. 25-3904, and amendments thereto,
or as provided in K.S.A. 25-3904a, and amendments thereto, and except as
otherwise provided in subsection (c). Such The meeting or convention
shall be called and convened by the party committee chairperson or vice-
chairperson within 10 days of receipt of the notice that the vacancy has
occurred or will occur. If only one political party nominates a candidate at
the primary election and thereafter a vacancy occurs in such party
candidacy, any political party may fill such vacancy in the manner
specified in this section.
(b) In addition to other vacancies in party candidacies to which this
section applies, this section shall also apply when a vacancy occurs in an
office, and it is provided by law that such vacancy shall be filled by
appointment until the next general election at which time a person is to be
elected to fill the unexpired term, or words of like effect, and such vacancy
occurs after the primary election.
(c) When a vacancy occurs after a primary election in a party
candidacy for governor or lieutenant governor, a vacancy shall thereby
also occur for the other of such two offices. Such vacancies shall be filled
by a state party delegate convention. The convention shall be called by the
state party chairperson. The delegates to the convention shall be the state
party committee members, and the officers of the convention shall be the
officers of the state party committee. At such convention the vote to fill
such vacancies shall be taken such that each convention vote shall be for a
candidate for governor and lieutenant governor running together. If the
initial vacancy that has occurred is for the office of lieutenant governor,
the person who is the candidate for governor of such pair of candidates
shall be the only governor candidate at such convention.

(d) After a person has been elected to fill a vacancy in a party
candidacy pursuant to this section, the chairperson or vice-chairperson of
the party committee shall execute a certificate, under oath, stating that
such person has been duly elected to fill such vacancy and that such
person has agreed to accept the nomination. The person elected to fill
such vacancy shall execute a notarized written statement stating that such
person agrees to accept the nomination. The chairperson or vice-
chairperson shall transmit such certificate and the nominee's written
statement accepting the nomination to the secretary of state or appropriate
county election officer, as the case may be, within 14 days of receipt of the
notice that the vacancy has occurred or will occur:

(e) For the purposes of this section, the word "shall" imposes a
mandatory duty and no court may construe that word in any other way.

25-3904 and 25-3904a are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its
publication in the statute book.