HOUSE BILL No. 2104

By Committee on Elections

1-23


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. 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.

(b)(1) A person who has been nominated by any means for any
national, state, county or township office may be withdrawn from
nomination if:

(A) The nominee certifies to the secretary of state a notice that such
nominee is withdrawing from nomination because of a severe medical
hardship on the nominee or the nominee’s immediate family. Such
nominee shall send the secretary a certification of the severe medical
hardship signed by a medical doctor; or

(B) the nominee certifies to the secretary of state that the nominee
does not reside in the state of Kansas.

(2) If the secretary of state receives either of the certifications listed
in paragraph (A) or (B) from a nominee on or before the first day of
September following a primary election, such nominee’s name shall be
withdrawn from nomination 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 a certification listed in paragraph (A) or (B).

(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 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
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quat 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 \[10\] 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
committeeewoman 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 subsections (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 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 agrees 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.