

As Amended by House Committee

Session of 2015

HOUSE BILL No. 2214

By Committee on Elections

2-3

1 AN ACT concerning filling vacancies of certain offices and candidacies;  
2 relating to the procedure of appointment; amending K.S.A. 2014 Supp.  
3 25-3902 and ~~25-3904~~ and repealing the existing sections **section**.  
4

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

6 Section 1. K.S.A. 2014 Supp. 25-3902 is hereby amended to read as  
7 follows: 25-3902. (a) (1) Except as provided in K.S.A. 25-312a, and  
8 amendments thereto, when a district convention is provided by law to be  
9 held to elect a person to be appointed to fill a vacancy in a district office,  
10 the county chairperson designated in subsection (b) or (c), within 21 days  
11 of receipt of notice that a vacancy has occurred or will occur, shall call and  
12 convene a convention of all committeemen and committeewomen of the  
13 party of the precincts in such district for the purpose of electing a person to  
14 be appointed by the governor to fill the vacancy. If such county  
15 chairperson is absent or for any reason is unable to call, or refuses to call  
16 such convention, then the county vice-chairperson shall call the  
17 convention and perform the other duties under this section required of such  
18 chairperson. **If both the chairperson and the vice-chairperson are  
19 absent or for any reason are unable or refuse to call such convention,  
20 then the state party chairperson shall call the convention and perform  
21 the other duties under this section required of such chairperson.**

22 (2) *In the case of a vacancy in a district office resulting from the*  
23 *death of an officer, the date of death shall be deemed to be the date of*  
24 *notice for the purposes of subsection (a)(1).*

25 (b) If the district lies within a single county, the county chairperson of  
26 such county shall call the convention by mailing a notice, at least seven  
27 days before the date of the convention, to each precinct committeeman and  
28 committeewoman who is entitled to vote at the convention pursuant to  
29 subsection (e).

30 (c) If all or part of more than one county lies within the district, the  
31 county chairperson of the county in which the greatest number of qualified  
32 voters of the district reside shall call the convention by mailing a notice of  
33 the convention to each county chairperson of the party in each such county  
34 at least 10 days before the date of the convention. Such convention shall  
35 be held at a location within the district selected by the chairperson calling  
36 the convention. Such county chairperson, within three days after receipt of

1 such notice, shall mail notice of the convention to the committeemen and  
2 committeewomen in their counties who are entitled to vote at the  
3 convention pursuant to subsection (e).

4 (d) The notice of such convention shall state:

5 (1) The place where the convention is to be held;

6 (2) the time when the convention will convene; and

7 (3) the purpose for which the convention is to be held.

8 (e) At the time and place fixed for holding the convention, the county  
9 chairperson who called the convention shall act as temporary chairperson  
10 and shall call the convention to order. One-third of the eligible members of  
11 the convention shall constitute a quorum for such election. In the event a  
12 quorum is not present at the time and place that such convention is called,  
13 the members present shall adjourn the convention to a day and time  
14 certain, which shall be not later than 14 days after such adjournment of  
15 such convention, and provide for notification of the time and place of such  
16 adjourned convention to be given to the eligible members not present. The  
17 convention shall organize by electing a permanent chairperson and such  
18 other officers as necessary. After the convention is organized, it shall elect  
19 a person to be appointed by the governor to fill the vacancy. Such election  
20 shall be by secret ballot and the person elected shall be the one who  
21 receives the majority of all the votes cast. If no person receives a majority  
22 of all votes cast on any ballot, the balloting shall continue until some  
23 person receives a majority of all the votes cast. Each committeeman and  
24 committeewoman of the party of the precincts in such district shall be  
25 entitled to vote. Except as provided in subsection (f), no precinct  
26 committeeman or committeewoman shall be represented or shall vote by  
27 proxy. The convention may adopt such rules necessary to govern its  
28 procedure in making nominations, voting, counting, *eligibility of member*  
29 *to constitute quorum, administrative rules regarding proxy votes* and  
30 canvassing votes and for the conduct of any business which may properly  
31 be brought before the convention, but such rules shall not be in conflict  
32 with the provisions of this section.

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

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

42 (A) Designate the precinct committeeman or committeewoman who  
43 shall cast the precinct committeeman's or precinct committeewoman's vote

1 by proxy;

2 (B) be signed by the precinct committeeman or precinct  
3 committeewoman authorizing the proxy; and

4 (C) contain an acknowledgment of such precinct committeeman's or  
5 precinct committeewoman's signature which complies with K.S.A. 53-509,  
6 and amendments thereto.

7 (g) After a person has been elected to be appointed to fill a vacancy in  
8 a district office, the chairperson or vice-chairperson of the convention shall  
9 execute a certificate, under oath, stating that such person has been duly  
10 elected to be appointed to fill such vacancy and shall transmit such  
11 certificate either by hand delivery by a person designated by such  
12 chairperson or vice-chairperson *by email, by facsimile transmission* or by  
13 registered mail, return receipt requested, to the governor and a copy  
14 thereof to the secretary of state. If transmitted by registered mail, such  
15 certificate and the copy thereof shall be mailed within 24 hours of such  
16 election, unless the day following such election is a Sunday or legal  
17 holiday, in which case it shall be mailed by the next regular business day.  
18 Thereupon, and not later than seven days after such certificate is received  
19 in the office of the governor, the governor, or in the governor's absence the  
20 lieutenant governor, shall fill such vacancy by appointing to such district  
21 office the person so elected. In the event the governor or lieutenant  
22 governor fails to appoint any person as required by this subsection after  
23 receiving a lawfully executed certificate hereunder, such person shall be  
24 deemed to have been so appointed notwithstanding such failure. The  
25 person so appointed may qualify and enter upon the duties of the district  
26 office immediately after appointment.

27 ~~Sec. 2. K.S.A. 2014 Supp. 25-3904 is hereby amended to read as~~  
28 ~~follows: 25-3904. (a) When a district convention is provided by law to be~~  
29 ~~held to elect a person to fill a vacancy in a party candidacy for a district~~  
30 ~~office, the county chairperson designated in subsection (b) or (c), within~~  
31 ~~21 days of the receipt of the notice that the vacancy has occurred or will~~  
32 ~~occur shall call and convene a convention of all committeemen and~~  
33 ~~committeewomen of the political party from the precincts in such district.~~  
34 ~~If such county chairperson is absent or for any reason is unable to call, or~~  
35 ~~refuses to call such convention, then the corresponding county vice-~~  
36 ~~chairperson shall call the convention and perform the other duties under~~  
37 ~~this section required of such chairperson.~~

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

43 ~~(c) If all or part of more than one county lies within the district, the~~

1 county chairperson of the county in which the greatest number of qualified  
2 voters of the district reside shall call the convention by mailing a notice of  
3 such convention to each county chairperson of the party in each such  
4 county, at least 10 days before the date of the convention. Such convention  
5 shall be held at a location within the district selected by the chairperson  
6 calling the convention. Such county chairpersons shall, within three days  
7 after receipt of such notice, mail notice of such convention to the  
8 committeemen and committeewomen in their counties who are entitled to  
9 vote at such convention pursuant to subsection (e).

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

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

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

41 (2) A precinct committeeman or committeewoman may designate  
42 another precinct committeeman or committeewoman to cast such precinct  
43 committeeman's or precinct committeewoman's ballot at such convention

1 by proxy. Any proxy authorized by this subsection shall:

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

5 (B) be signed by the precinct committeeman or precinct  
6 committeewoman authorizing the proxy; and

7 (C) contain an acknowledgment of such precinct committeeman's or  
8 precinct committeewoman's signature which complies with K.S.A. 53-509,  
9 and amendments thereto.

10 (g) After a person has been elected to fill a vacancy in a party  
11 candidacy for a district office, the chairperson or vice-chairperson of the  
12 convention shall execute a certificate, under oath, stating that such person  
13 has been duly elected to fill such vacancy and shall transmit such  
14 certificate to the secretary of state or appropriate county election officer.

15 ~~(h) In the case of a vacancy in a party candidacy for district office  
16 which occurs at any time between the closing time for filing to be a  
17 candidate prescribed K.S.A. 25-205, and amendments thereto, and the  
18 final canvass of primary elections as provided in K.S.A. 25-3205, and  
19 amendments thereto, a district convention shall be called to fill such  
20 vacancy in the manner prescribed in this section within 21 days. After  
21 receipt of the notification prescribed in subsection (g), as soon thereafter  
22 as practicable, the secretary of state shall declare the person selected to  
23 fill the vacancy as the candidate for the party which selected such  
24 candidate.~~

25 ~~Sec. 3. 2. K.S.A. 2014 Supp. 25-3902 and 25-3904 are~~ is hereby  
26 repealed.

27 ~~Sec. 4. 3. This act shall take effect and be in force from and after its~~  
28 publication in the statute book.