

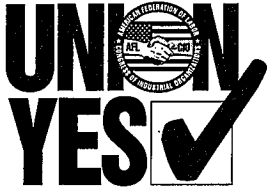
# Kansas AFL-CIO

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## TESTIMONY OF KANSAS AFL-CIO IN OPPOSITION TO HB 2558

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**February 9, 2012**

Mr. Chairman and Members of the Committee:

The Kansas AFL CIO opposes the passage of House Bill 2558 as it relates to the recusal procedure of judges (page 4, lines 1-19). The Kansas AFL-CIO believes this is a uniquely judicial function and should not be controlled by a political appointee nor an administrative officer.

Recusal proceedings have been a part of this country's judicial process since very early in our history. Judges are specifically trained in this area of law and are ethically bound by precedent, the Canons of Judicial Ethics, and any statutory requirements. In addition, they handle such actions from a neutral perspective.

This is not an issue which often arises in workers compensation. For many years, there was no procedure with in the Act, simply because of its infrequent occurrence. More than 10 years ago the Kansas legislature adopted the existing procedure, and in doing so, followed a well traveled road. Since adoption of the new procedure, we are unaware of a singular case going through the process.

The director represents a political appointee, and is not bound by judicial procedure, judicial precedent, or the Canon of Judicial Ethics. The director is also in a quasi-employment relationship with the judges. The director also has budget concerns. These and other factors may influence any decision relative to recusal. There is simply not the appearance of impartiality.



Under the current law, there is no concern of forum shopping. The county is predetermined by the place of accident. If either party disagrees with the decision of the district court, there is a procedure in place for appeal to the Court of Appeals and/or the Supreme Court. On the other hand, if the director issues a decision which either party disagrees with, the remedy is to file a lawsuit against the director. This places the parties in exactly the same courtroom where current law places the decision.

In summary, we believe this is a judicial proceeding by its very nature and belongs to the courts. The courts are best equipped to handle these matters for a variety of reasons, some of which are expressed above. Furthermore, this change simply creates a two-step process to place the parties back before the same court in which they would appear under current law.

Based on common sense and judicial economy, the Kansas AFL-CIO would urge rejection of the change relative to recusal.

Respectfully submitted