



To: Representative Lance Kinzer, Chairman
Members of the House Judiciary Committee

From: Callie Jill Denton JD
Director of Public Policy

Date: February 20, 2013

RE: SB 8 concerning judicial appointments; creating the commission on judicial nominations (OPPOSED)

The Kansas Association for Justice (KsAJ) is a statewide, nonprofit organization of trial attorneys. KsAJ has long supported the current system of selecting appellate court judges, known as merit selection. Kansas' current merit selection process is the best means to identify judicial candidates based on their qualifications and to avoid the risk of bias, undue influence, and partisan politics in the courts.

KsAJ opposes SB 8. SB 8 does not and cannot replicate the prospective process of the current Nominating Commission. The current laws on judicial selection establish a competitive and thorough "front end" process for identifying and evaluating professionally qualified appellate court judges. The current Nominating Commission process produces a slate of candidates that have been fully evaluated before they are presented to the governor for final selection. SB 8 is a non-competitive "back door" review. SB 8 does not provide the same assurances to the public that a judicial nominee is competitively scrutinized and is truly the most professionally qualified to serve, *before* he or she is nominated.

SB 8 does not fix the problem created by abandoning Kansas' merit selection process, i.e., placing sole discretion in the executive branch to nominate appellate court judges. The judicial branch must be protected as an independent and co-equal branch of state government. Allowing the executive to single-handedly identify appellate court judges, based on criteria of his or her own choosing, places too much power in the hands of one person. The risk of bias and undue influence on the judicial branch is too great.

Jeff Carmichael
Wichita
President

Dale Bennett
Westwood
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Patrik Neustrom
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In the current merit selection process, Nominating Commission members constitute a diverse cross section of citizens and lawyers whose sole goal is to find qualified candidates for the appellate courts. The nonpartisan Nominating Commission conducts a thorough analysis of judicial applicants to provide the governor with the best three candidates. From those three options, the governor makes a final appointment selection. The nonpartisan Nominating Commission process combines the expertise of the legal community and non-lawyer citizens. Every governor has the power to appoint judges as well as select members of the Nominating Commission, reducing any party's political influence on the court or the selection process.

The importance of a professionally qualified, independent, and impartial judicial branch cannot be overstated. Opponents of merit selection cannot provide hard evidence of how the current Nominating Commission process has worked to the detriment of judicial independence, impartiality, or high-quality decision making. SB 8 does not provide assurances to the public that appellate court judges will be selected in a nonpartisan, merit-based process that protects the independence of the judicial branch.

Appellate court judges must be selected through a process that is as transparent, nonpartisan, and free from political influence as possible. Appellate court judges must be selected based on their professional qualifications, not partisan politics.

The Kansas Association for Justice supports that the current laws on judicial selection, and the current merit selection and Nominating Commission process for the appellate courts, and respectfully requests that the House Judiciary Committee oppose SB 8.

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