



OVERLAND PARK

K A N S A S

CHAMBER OF COMMERCE

Written Testimony in Support of Merit-Based Judicial Selection
Senate Judiciary Committee
Thursday, January 17, 2013

Mr. Chairman and Senate Judiciary Committee Members:

My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am submitting written testimony today in support of retaining a merit-based judicial selection process for both the Kansas Court of Appeals and the Kansas Supreme Court.

The Overland Park Chamber of Commerce believes that a fair and impartial judicial system is extremely important in maintaining a stable and prosperous business climate. When making financial and investment decisions, businesses believe an evenhanded justice approach is best to reduce the perception of risk and demonstrate that all competing businesses start and remain on a level playing field.

Justice for businesses and individuals is more likely attained when judges are able to perform their role based on constitutional principles and the rule of the law, free from partisanship and the political and financial pressures of special interests. Recently at a seminar on "Politics and the Courts" sponsored by the Overland Park Chamber, Landon Rowland, chairman of Lead Bank, said, "The free market depends on the rule of law, and the rule of law depends on an independent judiciary." Indeed, further research indicates that where private parties reasonably expect that judges will enforce contracts and settle disputes impartially, transaction costs are lower, which in turn leads to a greater number of welfare-enhancing transactions. ("Partial Justice: The Peril of Judicial Elections", The Committee for Economic Development Subcommittee on Money in Politics, 2011).

These analyses are supported even further by the 2012 State Liability Systems Ranking Study conducted by the U.S. Chamber Institute for Legal Reform which ranks Kansas fifth nationally for having a fair and reasonable state judicial system as perceived by business (<http://www.instituteforlegalreform.com/states>). While not perfect, it is evident that our current merit-based selection process works well and that business and industry are fairly treated.

For the reasons stated above, the Overland Park Chamber of Commerce supports a non-partisan merit system for selection of judges, including periodic retention elections to ensure a reasonable level of accountability, and we oppose all efforts to impose partisan judicial elections for trial and appellate court judges. We understand that critics of the current judicial selection system believe that the majority of lawyers on the Kansas Supreme Court Nominating Commission wield too much political influence, but we urge the Committee to not abolish the Commission and instead look for ways to reform it while retaining judicial selection based on merit as its primary component.

Thank you for your consideration.

Senate Judiciary Committee

Date: 1-17

Attachment: 16