



TO: Representative Marc Rhoades, Chairman
Members of the House Appropriations Committee

FROM: Callie Jill Denton
Director of Public Affairs

DATE: March 29, 2011

RE: HB 2396—An Act Abolishing the Commission on Judicial
Performance

The Kansas Association for Justice (KsAJ) is a statewide, nonprofit organization of trial lawyers. KsAJ members support protection of the right to trial by jury and laws that are fair to all parties to a dispute. KsAJ members support policies that promote the independence of the judiciary so that all citizens are assured they will be treated with fairness and impartiality in a court of law.

KsAJ opposes HB 2396, which abolishes the Commission on Judicial Performance. **The Commission on Judicial Performance provides a vital, nonpartisan source of information on Kansas judges and justices to the citizens of Kansas.**

- The Commission is statutorily charged with evaluating judges and justices based on confidential surveys.
- Based on the survey results, the Commission is required by statute to publicly recommend that judges and justices subject to retention election either “be retained” or “not be retained”.
- Survey respondents are both attorneys and non-attorneys that have had sufficient experience with a judge or justice that allow them to form an opinion. Evaluations are based on legal ability, integrity, impartiality, communication skills, professionalism, temperament, and administrative performance. The Commission also considers

Appropriations Committee
Date March 29, 2011
Attachment 6

the judge's or justice's self-evaluation and decisions of the Commission on Judicial Qualifications, which handles disciplinary matters.

- To promote the availability of the Commission's work to all Kansans, evaluation results are publicized throughout the state through radio spots, the Commission's website, paid advertising, informational brochures, press releases and other earned media opportunities.

Judicial performance evaluation is a process worth retaining in Kansas. At least 21 states, plus the District of Columbia, have evaluating procedures and official bodies for evaluating the members of their judicial branch. Abolishing Kansas' Commission would be a step in the wrong direction.

In addition to enabling voters to make informed decisions about retention elections, performance evaluations dovetail with many other initiatives underway that are intended to assure that scarce resources are targeted effectively in the judicial branch. A January 2010 Legislative Post Audit study recommended the performance of a weighted caseload study and the creation of a judicial advisory committee to review potential efficiencies and cost savings in the judicial branch. The Supreme Court has responded proactively to both recommendations; implementation is underway.

Now is not the time to eliminate the Commission, or its work. Since its establishment by the Legislature in 2006, the Commission has completed one full cycle of evaluations for all merit-selected trial judges and all appellate judges. Based on the practical experience gained, the Commission is implementing changes to make the process even more effective in Kansas, including increasing the score required for a presumptive "Retain" recommendation.

KsAJ respectfully urges the House Appropriations Committee to exercise caution in its consideration of HB 2396. In these lean budget times, no area of state government can be exempt from scrutiny—even the judiciary. At the same time, over the past few years, the Legislature and the Supreme Court have begun implementing practices that will result in improved fiscal efficiencies as well as better public information and transparency about the courts. Judicial performance evaluations, and the Commission on Judicial Performance, have been an important investment and should not be eliminated, especially at this crucial point.

On behalf of our members and their clients, KsAJ respectfully requests that the House Appropriations Committee oppose HB 2396.

Appropriations Committee

Date March 29, 2011

Attachment 6-2