

SESSION OF 2012

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE SUBSTITUTE FOR SENATE BILL NO. 425**

As Agreed to May 11, 2012

Brief*

House Sub. for SB 425 would delay by one year the statutory requirement that the Judicial Branch add the 14th Court of Appeals judge, from January 1, 2013, to January 1, 2014.

Conference Committee Action

The Conference Committee agreed to reduce the delay from five years to one year.

Background

The Senate Judiciary Committee introduced SB 425 at the request of the Kansas Judicial Branch. As introduced, the bill authorized the Kansas Supreme Court to impose e-filing fees. In the Senate Judiciary Committee, Chief Judge James Fleetwood, 18th Judicial District, testified on behalf of the Kansas District Judges' Association in support of the bill. Chief Judge Tom Foster, 10th Judicial District, submitted written testimony supporting the bill. District Magistrate Judge Mike Freelove submitted written opponent testimony on behalf of the Kansas District Magistrate Judges' Association. The Kansas Credit Attorneys Association and a Topeka attorney also submitted written opponent testimony.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

The Senate Committee amended the bill to set a cap on the amount of the fee of 10 cents per page accessed or \$10 per document filed, add a sunset date of June 30, 2013, and add the fee provision to the wildlife and parks reinstatement fee statute. The Committee recommended the bill be passed as amended.

The House Appropriations Committee heard testimony in support of the bill from Judge James Vano, 10th Judicial District, and Judge James Fleetwood, 18th Judicial District. A representative of the Kansas Credit Attorney Association testified in opposition. Representatives of the Kansas Sheriffs Association and the Johnson County Sheriff testified neutrally. Credit Management Services, Justice Information Management Systems, and a lieutenant in the Johnson County Sheriffs Office provided written opponent testimony.

The House Committee recommended a substitute bill containing text modified from HB 2746 be passed, delaying the 14th Court of Appeals position for five years, until January 1, 2018.

The fiscal note on the bill, as introduced, stated the Office of Judicial Administration indicates the bill would have no fiscal effect on expenditures. Any potential revenue from e-filing is dependent on a requested allocation for funding to implement a statewide e-filing system. The Kansas Department of Revenue indicates passage would have no fiscal effect on state highway funds. There is no fiscal note for the substitute bill.

Background of HB 2746

In 2001, the Legislature expanded the Court of Appeals from 10 judges to 14 judges. The expansion was to begin in 2003, and expand each year until reaching 14 members. Position number 11 was appointed in 2003. During the 2003 Session, the Legislature passed a bill to delay position number 12 to 2005, number 13 to 2006 and number 14 to 2007. Position number 12 was appointed in 2005. During the

2005 Session, the Legislature passed a bill to delay position number 13 to 2007 and number 14 to 2008. During the 2006 Session, the Legislature again delayed both positions a year. Position number 13 was appointed in 2008. During the 2008 Session, the Legislature passed a bill to delay position number 14 to 2010. Since then, the Legislature has continued to delay the 14th judge position on the Court of Appeals.

In the House Appropriations Committee, Kim Fowler, Chief Fiscal Officer with the Judicial Branch testified favorably to the bill, indicating the money for the positions had been lapsed by the House Appropriations Committee and the bill was necessary in order to avoid an unfunded mandate on the Judicial Branch. Chief Judge Richard Greene of the Kansas Court of Appeals testified in opposition to the bill. The Chief Judge indicated the additional Court of Appeals judge was necessary to handle a projected increase in appellate court filings together with additional and enhanced complexity of issues in criminal appeals. No conferees testified neutrally to the bill.

The original bill would have delayed the addition of the 14th Court of Appeals judge by one year from January 1, 2013, to January 1, 2014. The House Appropriations Committee amended the bill to delay the additional judge by five more years until January 1, 2019.

The fiscal note on the bill, as introduced, indicated the estimated cost of adding the 14th Court of Appeals judge in FY 2013 was \$371,570 for capital improvements and one-half year's worth of salaries, wages and operating expenses for the judge and the judge's staff.

ccrb_sb425_00_0000.odt

Court of Appeals; delaying 14th judge position.