

SESSION OF 2014

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2446**

As Agreed to April 3, 2014

Brief*

Senate Sub. for HB 2446 would amend portions of the law concerning courts. Specifically, the bill would revise dates in portions of the law amended by HB 2303, changing the effective date of the provisions enacted in that bill from 2013 to 2014 and a four-year sunset provision for those new provisions from 2017 to 2018. Additionally, the dates in a provision limiting the salaries of nonjudicial personnel based on approved salary adjustments would be changed from fiscal year (FY) 2009 to FY 2015 and from FY 2010 to FY 2016.

The bill also would allow the chief judge of a judicial district where the office of court trustee has ceased to exist to authorize expenditures from the Court Trustee Operations Fund for district court operations.

Finally, the bill would establish time limits for decisions by district courts, the Kansas Court of Appeals, and the Kansas Supreme Court.

A district court would be required to issue a decision on a motion or non-jury trial within 120 days after the matter is submitted for decision. If a decision is not issued within this time, all counsel would be required to, within 130 days of submission for decision, file a joint request for the decision to be entered without further delay, with a copy of this request to

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be sent to the chief judge of the judicial district. Within 30 days of this request, the district court would be required to enter a decision or provide a date by which a decision will be entered, with a copy of the notice of such date sent to the chief judge of the judicial district. If the district court fails to enter a decision or provide a date for decision within 30 days, all counsel would be required to file a joint request with the chief judge to establish an intended decision date, and the chief judge would then be required to establish such a date after consultation with the judge to whom the matter is assigned.

The Court of Appeals and the Supreme Court would be required to issue a decision on a motion or an appeal within 180 days after the matter is submitted for decision. If a decision is not issued within this time, all counsel would be required to, within 190 days of submission for decision, file a joint request for the decision to be entered without further delay, with a copy of the request to be sent to the chief judge (in Court of Appeals cases) or the chief justice (in Supreme Court cases). The same time line and process for issuing a decision or setting a decision date as established for district court cases would then be followed, with the chief judge or chief justice ultimately setting a final intended decision date, if necessary.

Any writing required by the bill would be made available to the public.

The bill would specify when, for purposes of the time limits, a motion, non-jury trial, or appeal would be deemed "submitted for decision."

Conference Committee Action

The Conference Committee agreed to the Senate's amendments and added to the bill the modified contents of Senate Sub. for HB 2070, which originally was introduced as SB 289. The Conference Committee agreed to amend the

provisions from Senate Sub. for HB 2070 to clarify that when no oral argument is conducted, an appeal would be deemed submitted for decision as of the date the case is considered on a non-argued calendar, rather than the date the last memorandum or other document is permitted to be filed.

Background

In the House Judiciary Committee, Representative Carlson and the Wabaunsee County Attorney appeared in support of HB 2446 and explained the bill was requested to access balances remaining in the Court Trustee Operations Fund in Wabaunsee and Pottawatomie Counties, where there is no longer a court trustee. The Wabaunsee County Attorney explained the Wabaunsee County fund has had a balance of \$2,118.87 since 1999, and the Pottawatomie County fund has a balance of \$36,099.68 with only interest adding to the balance and no expenditures since 1999.

In the Senate Committee on Judiciary, Representative Carlson submitted written testimony in support of the bill. No opponents offered testimony.

The Senate Committee amended HB 2446 by inserting the contents of SB 399 and recommended a substitute bill be passed. In the Senate Judiciary Committee hearing on SB 399, representatives of the Kansas District Judges Association and the Kansas Supreme Court offered testimony in support of the bill. The representative of the Kansas Supreme Court explained this bill was requested to correct date issues in HB 2303, which was enacted early in the 2014 Legislative Session, increasing DUI-related reinstatement fees and allocating a portion of funds generated by those fees to the Judicial Branch's Nonjudicial Salary Adjustment Fund. The amendments in SB 399 would include a change in the provision limiting the salaries of nonjudicial personnel based on approved salary adjustments from fiscal year 2009, the date of the last undermarket increase, to fiscal year 2015. No opponents offered testimony.

The fiscal note prepared by the Division of the Budget states that, according to the Office of Judicial Administration (OJA), HB 2446, as introduced, could increase revenues for district courts as access to monies in the Court Trustee Operations Fund would offset or supplement expenditures. OJA anticipates the amount would be negligible.

The fiscal note prepared by the Division of the Budget for SB 399 indicates that because the effective date of HB 2303 has already passed, the Department of Revenue would have to take funds that have already been transferred to the Department for Aging and Disability Services, the Department for Corrections, and the Kansas Bureau of Investigation and redistribute those funds based on the revised percentages in HB 2303. Passage of SB 399 would allow those funds to remain with the agencies, and distributions would be made based on the new percentages beginning in FY 2015.

Background of Senate Sub. for HB 2070

Current law (KSA 60-252a) requires a court, when a judgment or decision is not entered within 90 days of final submission of a trial by the court, motion, or objection, to file a written report with the Supreme Court stating why a judgment, ruling, or decision has not been entered. The substitute bill would not amend this statute.

The 2014 Senate Committee on Judiciary recommended a substitute bill be passed, containing language modified from SB 289. As introduced by the 2013 House Committee on Judiciary and amended by the 2013 House Committee on Corrections and Juvenile Justice, HB 2070 would have amended law related to appearance bonds and surety.

Background of SB 289

SB 289 was introduced by the Senate Judiciary Committee at the request of Senator King, who explained the

bill was derived from recommendations made in the 2012 report by the Kansas Supreme Court's Blue Ribbon Commission. The Blue Ribbon Commission was formed in late 2010 and was charged with reviewing the operations of Kansas court to determine how to improve their efficiency while maintaining access to justice for all Kansans.

In the Senate Committee, the Leavenworth County Attorney appeared in support of the bill, noting the bill could encourage a more timely and efficient judiciary. Court of Appeals Judge Patrick McAnany, Chair of the Blue Ribbon Commission, testified on behalf of the Commission and the Kansas Supreme Court in opposition to the bill, stating the Judicial Branch is undertaking internal efforts to provide more timely release of decisions.

The Senate Committee modified the language of SB 289 to make any writing required by the bill available to the public. The Committee then recommended the modified language be adopted as a substitute bill for HB 2070.

According to the fiscal note prepared by the Division of the Budget on SB 289, as introduced, the Office of Judicial Administration indicates the time standards could eventually require more judicial and nonjudicial staff. However, an accurate estimate of the fiscal effect cannot be determined until the courts have operated with the provisions of the bill in place.

Nonjudicial Salary Adjustment Fund, Court Trustees Operations Fund, time limits for decisions

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