

March 6, 2013

The Honorable Ralph Ostmeyer, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator Ostmeyer:

SUBJECT: Fiscal Note for SB 226 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 226 is respectfully submitted to your committee.

SB 226 would amend the Kansas Fireworks Act. If fireworks are found to be stored, possessed, or transported in violation of the Kansas Fireworks Act or any State Fire Marshal regulation, the fireworks may be seized. The owner of the seized fireworks may request a hearing from the State Fire Marshal. Unless necessary to protect against a substantial threat to the public health, safety, or welfare the fireworks would not be destroyed until the completion of the available procedures in the Kansas Administrative Procedure Act and the Kansas Judicial Review Act. If the State Fire Marshal finds there has been no violation, the fireworks would be returned to the owner.

When no claimant has appeared within 60 days of the seizure, the agency may destroy the fireworks. The bill would allow the State Fire Marshal to impose a civil penalty that could not exceed \$1,000 per violation for failure to obtain the appropriate licensure from the State Fire Marshal and a civil penalty that could not exceed \$1,000 per violation for all other violations of the Kansas Fireworks Act. Monies from the penalties would be credited to the State General Fund. SB 226 would allow the State Fire Marshal or authorized representative to destroy the fireworks if there is an immediate danger to public safety, health, or welfare by applying to the court, which has jurisdiction over the fireworks, for an emergency ex parte order authorizing the destruction or disposal of the fireworks without liability to the owner.

SB 226 would establish the Explosives Regulatory and Training Fund to be administered by the State Fire Marshal to support fireworks and explosives regulatory and training programs. Under current law, all fees collected under the Kansas Fireworks Act are credited to Fire Marshal Fee Fund. The bill would credit all fees under the Kansas Fireworks Act to the Explosives Regulatory and Training Fund. Proceedings under the Kansas Fireworks Act would be conducted in accordance with the Kansas Administrative Procedure Act and judicial review and civil enforcement of agency actions would be conducted in accordance with the Kansas Judicial Review Act.

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Page 2—SB 226

The State Fire Marshal indicates enactment of SB 226 would have no fiscal effect on agency operations. Funds currently credited to the Fire Marshal Fee Fund for fireworks licenses would be credited to the Explosives Regulatory and Training Fund, which would be administered by the State Fire Marshal so the agency would see no net change to their budget. The Division of the Budget notes that the State General Fund would see an increase in revenue because of the two new civil penalties that the State Fire Marshal could impose; however, the Division cannot estimate how much revenue that would be because it is not known how many civil penalties the State Fire Marshal might impose. The Office of Judicial Administration states that enactment of SB 226 could result in the collection of docket fees and penalties in those cases filed under the provisions of the bill. However, the Office indicates until the courts have had an opportunity to operate under the provisions of SB 226, an accurate estimate of the fiscal effect on the Judicial Branch cannot be estimated. The League of Kansas Municipalities states that enactment of SB 226 could have a fiscal effect upon Kansas cities; however, the League cannot predict the effect. Any fiscal effect associated with SB 226 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Becky Bahr, Fire Marshal's Office
Mary Rinehart, Judiciary
Larry Baer, LKM