

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2005

As Amended by Senate Committee on Ways
and Means

Brief*

HB 2005, as amended, would appropriate \$96.7 million in FY 2016 and FY 2017, all from the State General Fund, for Judicial Branch operations and provide the Chief Justice the authority to transfer funds from the Electronic Filing and Management Fund to the Docket Fee Fund in FY 2016.

The bill also would create or amend law related to docket fees, dispositive motion filing fees, and the Electronic Filing and Management Fund.

The provisions of the bill would be non-severable. The provisions also would be non-severable from the provisions of 2014 Senate Substitute for House Bill 2338.

Appropriations

FY 2016. The bill would appropriate \$96.7 million, all from the State General fund, a reduction of \$23.3 million, or 19.4 percent, from the FY 2016 Judicial Branch budget request. The bill would extend the authority from FY 2015 into FY 2016 for the Chief Justice to transfer funds from Electronic Filing and Management Fund to the Judicial Branch Docket Fee Fund with notice provided to the Director of Legislative Research.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Major changes would include:

- A reduction of \$13.9 million, all from the State General Fund, for agency enhancement requests for salary increases, judicial center remodeling, and new hires;
- A reduction of \$4.0 million, all from the State General Fund, for docket fee and other revenue shortfalls;
- A reduction of \$1.1 million, all from the State General Fund, for the Governor's health insurance employer contribution reductions;
- A reduction of \$4.3 million, all from the State General Fund, for other personnel cost increases including step movement, judicial retirement, and Kansas Public Employees Retirement System (KPERS) employer contributions.

FY 2017. The bill would appropriate \$96.7 million, all from the State General fund, a reduction of \$29.9 million, or 23.6 percent, from the FY 2017 Judicial Branch budget request.

Major changes would include:

- A reduction of \$15.8 million, all from the State General Fund, for agency enhancement requests for salary increases, judicial center remodeling, and new hires;
- A reduction of \$5.1 million, all from the State General Fund, for docket fee and other revenue shortfalls,
- A reduction of \$1.1 million, all from the State General Fund, for the Governor's health insurance employer contribution reductions;

- A reduction of \$4.1 million, all from the State General Fund, for the 27th payroll salary expenditures;
- A reduction of \$3.9 million, all from the State General Fund, for other personnel cost increases including step movement, judicial retirement, and KPERS employer contributions.

Statutory Fee and Fund Provisions

The bill would make permanent the Judicial Branch surcharge the Legislature authorized in 2010 Senate Sub. for HB 2476 to fund non-judicial personnel.

The bill also would extend from 2017 to 2018 a provision directing the first \$3.1 million collected in docket fee revenues to the Electronic Filing and Management Fund, and would defer from 2018 until 2019 a provision reducing this amount to \$1.0 million.

The bill would create a dispositive motion filing fee of \$195 and define “dispositive motion” to include a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment or partial summary judgment, or a motion for judgment as a matter of law. The fee would be applied to any motion seeking any of these dispositions, regardless of the title of the motion. The fee would not apply in limited actions under Chapter 61, and the State of Kansas and municipalities would be exempt from paying the fee. The fee would be allowed to be taxed as a cost, and a poverty affidavit would be allowed in lieu of the fee.

The bill would strike the current filing fee for motions for summary judgment.

(Note: The bill appears to raise the docket fee for a petition for expungement, but this change is current law, enacted by 2014 Senate Sub. for HB 2338 and included in

this bill to reconcile different versions of the statutes in which the provision appears.)

The bill would be in effect upon publication in the *Kansas Register*.

Background

As introduced and recommended by the House Committee on Appropriations, HB 2005 would have established the Office of Information Technology Services (OITS) as a separate state agency for budgetary purposes.

In the House Committee, the Legislative Post Auditor testified neutrally to the bill. No proponents or opponents testified.

The Senate Committee on Ways and Means amended the bill by striking the original contents and inserting the provisions of SB 236 (Judicial Branch appropriations for FY 2016 and FY 2017). The Senate Committee also added the provisions of the following bills as recommended or amended by the Senate Committee on Judiciary: SB 15 (creating a dispositive motion filing fee), SB 44 (regarding the Electronic Filing and Management Fund), and SB 51 (eliminating the Judicial Branch surcharge sunset date). Further background information regarding these bills is provided below.

SB 236. In the Senate Committee on Ways and Means, Chief District Court Judge Creitz testified in opposition to the bill. The Judge indicated the bill fails to adequately fund Judicial Branch operations and indicated opposition to the inclusion of the Judicial Branch Budget in a separate bill. There was no other testimony.

Background of SB 15

SB 15 was introduced by the Senate Committee on Judiciary at the request of Senator King.

In the Senate Committee, representatives of the Kansas District Judges Association testified in support of the bill, stating it would broaden the motion for summary judgment filing fee created by 2014 Senate Sub. for HB 2338. A representative of the Kansas Supreme Court also testified in support of the bill and asked the Committee to consider amendments to clarify that the fee cannot be avoided by changing the title of a motion and that this fee could be assessed as costs on an adverse party when a state or municipality files such a motion and prevails.

The Senate Committee adopted the Supreme Court's proposed amendment applying the fee regardless of the title of the motion.

According to the fiscal note prepared by the Division of the Budget on SB 15, as introduced, the Office of Judicial Administration (OJA) estimates the bill would increase revenues to the Judicial Branch by approximately \$574,000, although OJA notes the 2014 summary judgment filing fee generated 68 percent less revenue than expected, so an accurate estimate of the fiscal effect cannot be given.

Any fiscal effect associated with SB 15 is not reflected in *The FY 2016 Governor's Budget Report*.

Background of SB 44

SB 44 was introduced by the Senate Committee on Judiciary at the request of the Kansas Supreme Court.

In the Senate Committee, proponents testifying on behalf of the bill included representatives of the Kansas Supreme Court, the Kansas District Judges Association, and

the Kansas District Magistrate Judges Association. Written testimony in support of the bill was submitted by representatives of the Kansas Bar Association, the Kansas Association for Justice, and the Kansas Association of Defense Counsel. No opponent or neutral testimony was submitted to the Committee.

The Senate Committee adopted a technical amendment.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Office of Judicial Administration indicates SB 44 would not increase total expenditures for the Judicial Branch, but would result in more expenditures from the Docket Fee Fund and fewer expenditures from the Electronic Filing and Management Fund. Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.

Background of SB 51

The Senate Judiciary Committee introduced SB 51 at the request of the Kansas Judicial Branch. As introduced, the bill would have extended the sunset provision on judicial surcharges on a number of docket fees through July 1, 2017.

In the Senate Judiciary Committee hearing, a representative of the Judicial Branch and a representative of the Kansas District Judges Association testified in support of the bill. The Kansas Bar Association, the Kansas Association for Justice, and the Kansas Association of Defense Counsel submitted written testimony in support of the bill. No neutral or opponent testimony was provided to the Senate Committee.

The Senate Committee amended the bill to remove the sunset provision, making the surcharges a permanent source of funding.

According to the fiscal note prepared by the Division of the Budget on SB 51, as introduced, the Office of Judicial Administration indicates its budget would be reduced by \$9.5 million each fiscal year if the bill is not enacted.

Expenditures from the Judicial Branch surcharge are reflected in *The FY 2016 Governor's Budget Report* with estimated revenues to the Judicial Branch Docket Fee Fund of \$9.5 million in both FY 2016 and FY 2017.