

SESSION OF 2018

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2129**

As Agreed to April 6, 2018

Brief*

Senate Sub. for HB 2129 would remove the requirement to perform an energy audit where it would not be feasible; remove a cover page requirement from contracts and leases of a period less than one year; exempt the Legislative Division of Post Audit (LPA) from paying the Monumental Building Surcharge; and extend the Kansas State Employees Health Care Commission (HCC) authority to offer indemnity insurance through the use of payroll deductions.

Energy Audits

The bill would permit the Secretary of Administration (Secretary) to approve a new lease or renew or extend an existing lease without an energy audit being performed if the Secretary determines an energy audit is not economically feasible. The Secretary would inform the Joint Committee on State Building Construction in writing of any such determination when it is made.

Contract and Lease Filing Requirements

The bill would remove the requirement that state agency contracts or leases extending for a period longer than one year be filed with the Director of Accounts and Reports. The

*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>

bill would also remove the requirement that contracts subject to approval by the Attorney General be countersigned by the Director of Accounts and Reports. Finally, the bill would remove the requirement that orders or requisitions for contractual services be made on a prescribed form unless a purchase order is required for each contracted payment.

Monumental Building Surcharge

The bill would exempt LPA from paying the Monumental Building Surcharge assessed by the Department of Administration for maintenance of the Capitol Complex.

Indemnity Insurance

The bill would require the HCC to offer indemnity insurance to all state employees and would allow the use of payroll deductions for the payment of the insurance.

“Indemnity insurance” would mean any supplemental liability insurance policy that protects an individual against loss arising from a specific cause and that is authorized to be sold in Kansas.

The HCC would be authorized to negotiate and enter into contracts with qualified insurers for the purpose of providing indemnity insurance as detailed in the bill and to adopt rules and regulations as necessary.

The HCC would be exempt from open meetings requirements when meeting solely for the purpose of discussing and preparing strategies for negotiations for contracts for indemnity insurance. Contracts for indemnity insurance entered into pursuant to the bill would not be subject to competitive bid statutes, would not be more than three-year terms, could be renegotiated and renewed, and would be subject to appropriations limits as specified in the bill.

The purchase of indemnity insurance would be voluntary and would be paid for by the employee. The cost would be established by the HCC.

Conference Committee Action

The Conference Committee agreed to the provisions of Senate Sub. for HB 2129, as amended by the Senate Committee of the Whole. The Conference Committee also added the contents of HB 2784 as passed by the House Committee of the Whole to the bill.

Background

The Conference Committee report combines provisions of Senate Sub. for HB 2129 and HB 2784.

Senate Sub. for HB 2129 (Energy Audits)

In the House Committee on General Government Budget hearing on HB 2129, a representative of the Office of Facilities and Procurement Management and the Director of Legislative and Public Affairs for the Department of Administration testified in support of the bill. The representatives stated the bill would not eliminate the requirement for an energy audit, but would allow the Secretary to waive the requirement in specific instances. The representatives provided an example of a lease negotiated for an outdoor structure, such as a tower, land, or a boat dock, that is not conducive to an audit. In addition, the representatives stated agencies are sometimes leasing only a small portion of a much larger facility and it is not feasible for a landlord to conduct an audit. No neutral or opposition testimony was provided.

In the Senate Committee on Ways and Means hearing, a representative of the Office of Facilities and Procurement Management and the Director of Legislative and Public Affairs

for the Department of Administration testified in support of the bill. The representative stated the bill would not eliminate the requirement for an energy audit, but would allow the Secretary to waive the requirement in specific instances. The representative for Facilities and Procurement Management responded to questions regarding maintenance on the Mills Building. No neutral or opposition testimony was provided.

The Senate Committee on Ways and Means recommended a substitute bill. The substitute incorporates the contents of HB 2002 (as recommended by House Committee) and HB 2130 (as recommended by House Committee). Background information on the two bills, including the fiscal effect of HB 2002, follows.

According to the fiscal note prepared by the Division of the Budget, the Department of Administration estimates enactment of HB 2129, as introduced, would have no fiscal effect on agency operations.

HB 2002 (Monumental Building Surcharge)

The Monumental Building Surcharge is assessed by the Department of Administration on state agencies located within Shawnee County for support of the State Capitol, Judicial Center, Cedar Crest, and the Capitol Complex parking lots, at a rate of \$2.66 per square foot of rentable space in state buildings or leased space. This fee cannot be paid with federal funds by any agency. For FY 2017, a budget *proviso* exempts LPA from the surcharge. However, because this policy was enacted by a budget bill *proviso*, the exemption was effective only during FY 2017.

The bill was introduced by the Legislative Post Audit Committee and was referred to the House Committee on Appropriations. The Post Auditor testified as a proponent of the bill. He indicated LPA is the only legislative agency subject to this surcharge.

In the Senate Ways and Means Committee, the Post Auditor testified as a proponent of the bill. No opponent or neutral testimony was presented.

According to the fiscal note prepared by the Division of the Budget, enactment of HB 2002 would reduce revenue to the Department of Administration for maintenance of the Capitol Complex by \$16,928 for FY 2018. Any fiscal effect associated with the bill is not reflected in *The FY 2018 Governor's Budget Report*.

HB 2130 (Contractual Approval Procedure)

In the House Committee on General Government Budget hearing, the Director of Legislative and Public Affairs for the Department of Administration testified in support of the bill. The Director indicated the bill was a product of the Office of the Repealer and the goal was to remove a redundant contractual cover page requirement after the development of alternative contractual approval procedures in the Statewide Management Accounting and Reporting System. No other testimony was provided.

The House Committee recommended the bill be placed on the Consent Calendar.

In the Senate Committee on Ways and Means hearing, the Director of Legislative and Public Affairs for the Department of Administration testified in support of the bill. No other testimony was provided.

According to the fiscal note prepared by the Division of the Budget, enactment of HB 2130 would have no fiscal effect on agency operations.

HB 2784 (Indemnity Insurance)

The bill was introduced by the House Committee on Appropriations and referred to the House Committee on General Government Budget. In the House Committee hearing, the Committee noted the contents of the bill are identical to the contents of HB 2634, previously recommended by the Committee.

No testimony was provided on HB 2784. However, in the House Committee hearing on HB 2634, a representative of the Department of Administration testified in support of the bill, noting the bill would codify current practice as established in a recent appropriations bill, and representatives of the HCC also were available to answer questions.

According to the fiscal note prepared by the Division of the Budget on HB 2784, enactment of the bill would not have a fiscal effect on the Kansas Department of Health and Environment.

Legislative Division of Post Audit; Department of Administration; Monumental Building Surcharge; indemnity insurance

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