

SESSION OF 2018

SUPPLEMENTAL NOTE ON SENATE BILL NO. 199

As Amended by Senate Committee on Judiciary

Brief*

SB 199 would amend law concerning stay of enforcement of a judgment while on appeal, which specifies that if an appellant seeks such a stay, the supersedeas bond shall be set at the full amount of the judgment. An exception exists if the appellant proves by a preponderance of the evidence that this amount will result in an undue hardship or a denial of the right to an appeal and allows the court to reduce the amount with certain limitations. The bill would delete language stating these limitations would not apply if the court makes a finding on the record that the appellant bringing the appeal is likely to disburse assets reasonably necessary to satisfy the judgment and allowing the court to increase the amount of such bond required not to exceed the full amount of the judgment.

The bill would also add exceptions to the requirement to set the bond at the full amount of the judgment to provide the amount of a supersedeas bond of any individual appellant and its successors or corporate affiliates, individually or collectively, would not exceed \$25.0 million regardless of the full amount of the judgment. If the appellant is a small business, the bill would prohibit the appellant's supersedeas bond from exceeding \$2.5 million or the amount of the judgment, whichever is less. The bill would define "small business" as an independently owned and operated business or nonprofit organization with not more than 50 full-time employees and not more than \$25.0 million in annual revenue.

*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>

The bill would apply to any proceeding filed on or after the effective date of the bill. The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of the Kansas Chamber of Commerce. In the Senate Committee on Judiciary hearing, representatives of the American Tort Reform Association, Kansas Chamber of Commerce, Kansas Society of CPAs, and National Federation of Business (NFIB) appeared in support of the bill. Additional proponent testimony was provided by representatives of the Greater Kansas City Chamber of Commerce, Kansas Association of Defense Counsels, and NFIB. Representatives of Aeroflex/Cobham AvComm and the Kansas Trial Lawyers Association appeared as opponents. No other testimony was provided.

The Senate Committee adopted amendments to make a technical correction, increase the maximum amount of a supersedeas bond for a small business from \$1.0 million to \$2.5 million, amend the definition of “small business” for these purposes to reduce the maximum annual revenue from \$50.0 million to \$25.0 million, and to delete language that would have allowed the bill to apply to a proceeding filed prior to the effective date that is pending or on appeal on or after the effective date.

The fiscal note prepared by the Division of the Budget on the original bill indicates any fiscal effect would be negligible.