

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Jeff King at 10:45am on Wednesday, January 28, 2015, 346-S of the Capitol.

All members were present

Committee staff present:

Lauren Douglass, Legislative Research Department
Robert Allison-Gallimore, Legislative Research Department
Natalie Nelson, Legislative Research Department
Suzanne Nelson, Kansas Legislative Committee Assistant
Katherine Goyette, Office of Revisor of Statutes
Jason Thompson, Office of Revisor of Statutes

Conferees appearing before the Committee:

Helen Pedigo, Judicial Council;
Hon. Merlin Wheeler o/b/o Hon. Dan Creitz, KS District Judges Association;
Hon. James Fleetwood o/b/o Hon. Dan Creitz, KS District Judges Association;
Hon. Sheila Hochhauser, District Magistrate Judge, and KS District Magistrate Judges Association;
Hon. Guy R. Steier, District Magistrate Judge, and KS District Magistrate Judges Association;

Others in attendance:

[See Attached List](#)

Bill introductions

The Chair opened the meeting with a request for bill introductions. Seeing none from committee members, he recognized Chris Tymeson, Kansas Department of Wildlife, Parks and Tourism. Mr. Tymeson had two requests:

- a measure regarding when Citations are issued; and
- a measure regarding working with the court system on electronic hunting and fishing licenses and violations;

There were no other bills introduced at this time.

Hearing on: SB15 — Relating to dispositive motions.

Chair King opened the hearing on **SB15** with an overview of the bill by Jason Thompson.

Judge Merlin Wheeler appeared for Chief Judge Daniel Creitz and the Executive Board of the Kansas District Judges Association (KDJA). The KDJA supports the bill but is concerned about the revenue projections. Passage of **SB15** will help ensure that all revenue possible is collected by the courts for all types of dispositive motions. ([Attachment 1](#))

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Judge James Fleetwood presented oral proponent testimony. He, also, was concerned about the revenue estimates, but said that the inclusion of all types of dispositive motions would increase revenue. Further assurance for collection of the appropriate fees will be gained by training court clerks to recognize questionable pleadings and to bring them to the attention of the civil assignment judge, who can direct attorneys to re-file their pleadings and to pay the appropriate filing fee. ([Attachment 2](#))

Helen Pedigo also presented oral proponent testimony. She proposed a balloon amendment with two changes: 1) clarify that the filer of a dispositive motion cannot avoid paying the fee simply by calling the motion something else that isn't listed in the bill; and 2) make it clear that costs, including the \$195 fee, shall be allowed to the party in whose favor judgment is rendered. ([Attachment 3](#))

There was discussion and the proponents answered questions from committee members. The Chair asked for any other questions, or neutral or opponent testimony. Seeing none, Chair King closed the hearing on **SB15**.

Hearing on: SB44 — Docket fees; electronic filing and management fund.

Chair King opened the hearing on **SB44**. Jason Thompson gave a brief overview of the bill.

Judge James Fleetwood gave oral proponent testimony on behalf of Judge Daniel Creitz and the Executive Board of the Kansas District Judges Association (KDJA). KDJA strongly supports **SB44**. The bill would grant the Kansas Supreme Court in FY 2015 the flexibility to transfer any amount of the electronic filing management fund to the judicial branch docket fee fund so it could be used to cover the budget shortfall. It was also requested that the bill become effective upon publication in the *Kansas Register*. ([Attachment 4](#))

Helen Pedigo testified in support of the bill. She clarified that the revenues mentioned in this bill are already going to the Judicial Branch now, created through the payment of docket fees. Passage of **SB44** would allow the Judicial Branch to access money presently earmarked for e-filing and e-courts to be transferred into a fund where it may be used for operations. The authority to transfer funds for a one-year period would allow the Court to substantially fill the gap created by the budget shortfall this fiscal year. ([Attachment 5](#))

Sheila Hochhauser, District Magistrate Judge, Riley County, and President of the Kansas District Magistrate Judges Association (KDMJA), stood to be recognized to speak in favor of the bill. She related that KDMJA supports passage of **SB44** and urged favorable passage by the Committee. Judge Hochhauser did not submit any written testimony.

Proponent written-only testimony was provided by:

- Joe Molina on behalf of the Kansas Bar Association; ([Attachment 6](#))
- Callie Jill Denton on behalf of the Kansas Association for Justice; ([Attachment 7](#)) and

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- Mark Katz and Sarah Warner on behalf of the Kansas Association for Defense Counsel. ([Attachment 8](#))

There being no other proponent, opponent, or neutral testimony, Chair King closed the hearing on **SB44**.

Hearing on: SB51 — Relating to court fees and costs; judicial branch surcharge fund.

The Chair opened the hearing on **SB51**. Jason Thompson gave a summary of the bill which relates to court fees, costs, and the judicial branch surcharge fee.

Judge James Fleetwood again spoke on behalf of Chief Judge Dan Creitz and the KDJA in support of the bill, which they view as essential for the long-term stability of the judicial branch budget.

([Attachment 9](#))

Helen Pedigo supported the surcharge extension, which would extend the sunset to June 30, 2017.

([Attachment 10](#))

Proponent written-only testimony was submitted by:

- Joe Molina for the Kansas Bar Association; ([Attachment 11](#)) and
- Mark Katz and Sarah Warner for the Kansas Association of Defense Counsel ([Attachment 8](#)).

Ms. Pedigo answered questions from the Committee relating to the sunset provision.

Chair King, seeing no other proponent, opponent, or neutral testimony, closed the hearing on **SB51**.

Hearing on: SB59 — Clarifying district magistrate judge jurisdiction.

Chairperson King opened the hearing on **SB59** with an overview from Jason Thompson.

Magistrate Judges Guy Steier and Sheila Hochhauser appeared also as the Legislative Chair and the President, respectively, for the KDMJA. They distributed an amendment to the bill which the KDMJA believes will further clarify the Magistrate Judges' jurisdiction. Together, and on behalf of their Association, the Judges urged passage of **SB59** with consideration of the proposed amendment.

([Attachment 12](#))

Helen Pedigo provided proponent testimony in conceptual support of a bill that provides jurisdictional authority to magistrate judges to preside over cases as they did prior to 2014 amendments. Ms. Pedigo explained that the legislation last year was intended to increase the scope of jurisdiction, however, in the amendment process, some case types were unintentionally stricken. She urged support of this concept and passage of an amended bill to cure the problems in the present version. ([Attachment 13](#))

Judge Wheeler, on behalf of Judge Dan Creitz and the KDJA, testified in Opposition to **SB59** unless

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amended, as suggested by Judge Creitz' attachment to his testimony. ([Attachment 14](#))

Judge Wheeler suggested that the District and Magistrate Judges meet together with the Revisors' office to work out the appropriate language to accomplish the changes that both groups of can support and will clarify and accomplish the changes they thought they were making last year in *2014 Senate Substitute for HB2065*.

Chairperson King closed the hearing on **SB59**.

The meeting adjourned at 11:40am. The next meeting will be Thursday, January 29, 2015 in Room 346-S of the Capitol.