

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on March 24, 2003 in Room 313-S of the Capitol.

All members were present except:

Representative Doug Patterson - Excused
Representative Dan Williams - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy O'Neal, Committee Secretary

SB 19 - mandatory retirement age of 75 for judges and justices

Representative Owen made the motion to report SB 19 favorably for passage. Representative Jack seconded the motion. The motion failed.

HB 2418 - delay of phased in increase of court of appeals to 14 justices

Representative Loyd made the motion to amend the bill allowing technical changes so the dates would be reflective of the delayed phase in. Representative Klein seconded the motion. The motion carried.

Representative Loyd made the motion to report HB 2418 favorably for passage, as amended. Representative Goering seconded the motion. The motion carried.

SB 70 - repeal of pass through assistance to families

Representative Loyd made the motion to report SB 70 favorably for passage. Representative Yoder seconded the motion. The motion carried.

SB 36 - membership and duties of the judicial council

The Kansas Judicial Council provided a proposed amendment which would increase the docket fee by \$1.00 in the following chapter 60 cases: domestic, criminal, traffic, and fish & game. It would raise \$250 thousand and along with book sales would allow the Judicial Council to operate without any State General Fund monies. (Attachment 1)

Many members were concerned that the Judiciary would be pricing out those who need to use the judicial system by continuing to raise docket fees and believed that the Judiciary should be funded through the State General Fund.

Representative Loyd made the motion to include the amendment proposed by the Kansas Judicial Council. Representative Davis seconded the motion. The motion carried.

Representative Goering made the motion to place a two year sunset on the increased docket fee. Representative Owens seconded the motion. The motion carried 8-6.

Representative Jack made the motion to amend on page 3, line 37 to read " and for operating expenses that are not related to publication expenses." Representative Long seconded the motion. The motion carried.

Representative Klein made the motion to include the House Judiciary Committee ranking minority member. Representative Long seconded the motion. The motion carried.

Representative Davis made the motion to include the House Corrections & Juvenile Justice ranking minority member. Representative Crow seconded the motion.

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on March 24, 2003 in Room 313-S of the Capitol.

Randy Hearrell informed the committee that the bill, as proposed, would have a fiscal note costing \$300 - \$400 dollars per person, per meeting. He again reminded the committee that the Senate wants the same number of representation on the Council. The motion carried.

Representative Loyd made the motion to strike all the House & Senate amendments adding persons to the Kansas Judicial Council. Representative Newton seconded the motion. The motion failed.

Representative Davis made the motion to report SB 36 favorably for passage, as amended. Representative Crow seconded the motion. The motion carried.

The committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for March 25, 2003 at 3:30 p.m. in room 313-S.

MEMORANDUM

TO: Rep. Michael R. O'Neal
FROM: Judicial Council - Randy M. Hearrell
DATE: March 24, 2003
RE: Docket Fee Amendment to SB 36

After considering all options and trying to look ahead as best I can, I believe that the best way to fund the Council for the long term is with a \$1.00 docket fee increase on chapter 60, domestic (including post decree motions), criminal, traffic, and fish and game. Long term stability is important because as you know we lost two experienced staff members due to the uncertainty of next year's funding. In addition, it is my sense that studies that legislative committees might have assigned to the Council, were not assigned because of concerns with the Council budget. This docket fee increase along with our publication sales will give us secure funding without SGF monies.

Note that there are no proposed docket fee increases in: limited actions; small claims; hearings in aid of execution; guardianship or conservatorship reports, accountings or closings; bonds; liens; warrants; marriage licenses or drivers license reinstatements.

If you propose such an amendment, it might be helpful for the bill drafter to know that 2002 HB 2802 was amended to create a "Judicial Council Fund" and proposed to raise some docket fees. That bill should provide a drafting example.

The rationale (or at least some talking points) for the proposal could include:

1. The Governor's recommendation was that the Judicial Council become a fully fee funded agency. While the Council would agree to be fully fee funded there was a miscalculation that sale of publications could accomplish the goal. In order to implement the Governor's recommendation, the docket fee charges are necessary.
2. The Council continues to work in the areas in which the docket fee increase is requested. Council funding by docket fees in areas where it wrote the codes, monitors them or continues to work, is surely as deserving as some of the other endeavors that are funded by docket fees, such as the trauma fund, the permanent families account, Kansas Endowment for Youth, protection from abuse, and the access to justice fund.
3. The Council has written, monitors and recommends changes in all the major statutory codes (Civil, Criminal, Probate, Juvenile Offender, Child in Need

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Attachment: 1

of Care, Administrative Procedure, Care and Treatment, Guardianship and Conservatorship, Trust, Parentage Act, Revised Divorce Code, Adoption and Relinquishment Act, Municipal Court Code, Limited Actions, and others). Keeping these codes up not only helps Kansans, but likely protects legislators from the potential problems of constituents that could be caused by poorly thought out codes.

4. The Council attracts the best and brightest lawyers and judges to serve on its committees for a small per diem. No one else can consistently get this quality of legal assistance to work on the state's problems at such a bargain price.
5. The amendment is not excessive. It will raise about \$256,000, which when combined with book sales, will fund the Judicial Council without SGF monies. Note that this is about the same as the Council's SGF appropriation in FY 1999 and FY 2000 which were \$251,688 and \$254,426, respectively.

Some issues may remain with the proposal.

FY 2004 and FY 2005. It obviously would be better to have the docket fee funding in FY '04, but up until now we have been pursuing SGF dollars. Those dollars plus book sales and "zeroing out" the publication fee fund would allow the Council to make it through FY '04. There may be some danger in pursuing two sources of funding at the same time. If you think there is more likelihood the Legislature would pass a docket fee change now and make it effective in FY'05, that would be acceptable. Also, if a docket fee for the Council is enacted for FY'04, expenditures from that fund would have to be appropriated.

Possible Ward Loyd Amendment. You have said Ward Loyd may propose an amendment to the budget to fund the Council as though it had been considered a part of the Judicial Branch and had not had recissions, etc. This may not be consistent with attempting to get docket fee funding in FY '04.

I trust your judgment in these and other matters that require a decision to be made.

Attached are two pages entitled "Judicial Council Increase Example" which gives a breakdown of the fee increase proposal. Also enclosed is a sheet from the OJA which shows how the percentages in the statute should be amended to distribute the increase. The "New Fund" in the spreadsheet is the "Judicial Council Fund."

Judicial Council Increase Example

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Type of Fee	Filings or Terminations	% of Cases Docket Fees Collected	Adjusted Filings or Terminations	Current Fee	Proposed Increase	Proposed Total	Increase From Proposal
Civil							
Chapter 60 Limited Action	21,167	98%	20,744	\$101.00	\$1.00	\$102.00	\$20,744
<=\$500	120,391	98%	117,983	\$26.00	\$0.00	\$26.00	\$0
>\$500 or <=\$5,000		55%	64,891	\$46.00	\$0.00	\$46.00	\$0
>\$5,000 or <=\$10,000		40%	47,193	\$76.00	\$0.00	\$76.00	\$0
Small Claims	12,263	5%	5,899	\$26.00	\$0.00	\$26.00	\$0
		98%	12,018	\$46.00	\$0.00	\$46.00	\$0
		55%	6,610	\$101.00	\$1.00	\$102.00	\$24,891
Domestic Relations	33,188	45%	5,408	\$20.00	\$1.00	\$21.00	\$11,732
Post Decree Motion	11,732	75%	24,891	\$0.00	\$0.00	\$0.00	\$0
Hearings in Aid of Execution	87,880 judgments	1.0 motion per decree	11,732	\$0.00	\$0.00	\$0.00	\$0
		5% of total limited hearings	6,020				
Criminal*							
Felony	18,026	16%	2,884	\$146.00	\$1.00	\$147.00	\$2,163
Misdemeanor	23,909	38%	9,085	\$111.00	\$1.00	\$112.00	\$6,814
Expungements	500	100%	500	\$0.00	\$1.00	\$1.00	\$500
Criminal Probation Fee							
Felony	13,000	20%	2,600	\$50.00	\$1.00	\$51.00	\$1,950
Probation	14,500	35%	5,075	\$25.00	\$1.00	\$26.00	\$3,806
Probate							
Treatment of Mentally Ill							
Treatment of Alcohol or Drug	2,336	25%	584	\$24.50	\$1.00	\$25.50	\$584
Determination of Descent	1,272	98%	1,247	\$39.50	\$1.00	\$40.50	\$1,247
Guardianship	600	40%	240	\$59.50	\$1.00	\$60.50	\$240
Conservatorship	467	60%	280	\$59.50	\$1.00	\$60.50	\$280
Guardianship and Conservatorship	1,010	50%	505	\$59.50	\$1.00	\$60.50	\$505
Annual Reports	7,800	100%	7,800	\$0.00	\$0.00	\$0.00	\$0

Judicial Council Increase Example

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Annual Accounting of Conservatorship over \$10,000	3,500	30%	1,050	\$0.00	\$0.00	\$0.00	\$0
Closing Conservatorship under \$10,000	1,000	100%	1,000	\$0.00	\$0.00	\$0.00	\$0
over \$10,000	1,000	100%	1,000	\$0.00	\$0.00	\$0.00	\$0
Trusteeship	146	98%	143	\$59.50	\$1.00	\$60.50	\$143
Probate of an Estate or a Will	4,374	100%	4,374	\$99.50	\$1.00	\$100.50	\$4,374
Other Costs and Fees							
Performance Bonds							
Delinquent Personal Property Tax							
Hospital Lien							
Intent to Perform							
Mechanic's Lien							
Oil and Gas Mechanic's Lien							
Pending Action Lien							
Total	3,435	100%	3,435	\$5.00	\$0.00	\$5.00	\$0
Employment Security Tax Warrant							
Sales and Compensating Tax Warrant							
State Tax Warrant							
Motor Carrier Lien							
Total	4,812	100%	4,812	\$15.00	\$0.00	\$15.00	\$0
Marriage License	21,689	100%	21,689	\$50.00	\$0.00	\$50.00	\$0
Driver's License Reinstatements	14,336	100%	14,336	\$50.00	\$0.00	\$50.00	\$0
Traffic	188,468	92%	173,391	\$54.00	\$1.00	\$55.00	\$173,391
Fish and Game	3,884	83%	3,224	\$54.00	\$1.00	\$55.00	\$3,224
TOTAL FEES COLLECTED							\$256,587
* Criminal fees are adjusted by 25% to reflect delayed implementation							

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	FY 2004 Estimate	Additional \$	Proposed FY 2004
Clerk's Fees	\$18,575,444.00	\$256,587.00	\$18,832,031.00

Fund	Current %	Current Estimate	Proposed %	Proposed Estimate
New Fund			1.36%	\$256,115.62
Access to Justice	5.98%	\$1,110,811.55	5.90%	\$1,111,089.83
Juvenile Detention Facilities	3.32%	\$616,704.74	3.27%	\$615,807.41
Protection from Abuse	3.26%	\$605,559.47	3.22%	\$606,391.40
Crime Victims Assistance	0.68%	\$126,313.02	0.67%	\$126,174.61
Dispute Resolution	0.42%	\$78,016.86	0.41%	\$77,211.33
Judicial Branch Education	2.55%	\$473,673.82	2.52%	\$474,567.18
Judiciary Technology	5.17%	\$960,350.45	5.10%	\$960,433.58
Kansas Endowment for Youth	1.51%	\$280,489.20	1.49%	\$280,597.26
Permanent Families Account	0.25%	\$46,438.61	0.25%	\$47,080.08
Trauma Fund	1.79%	\$332,500.45	1.77%	\$333,326.95
Judicial Branch Nonjudicial Salary Initiative	21.70%	\$4,030,871.35	21.40%	\$4,030,054.63
State General Fund	53.37%	\$9,913,714.46	52.64%	\$9,913,181.12
	100.00%	\$18,575,444.00	100.00%	\$18,832,031.00