

SESSION OF 2009

SUPPLEMENTAL NOTE ON SENATE BILL NO. 134

As Amended by House Committee on
Judiciary

Brief*

SB 134, as amended, would amend current law to allow the Kansas Supreme Court to establish a surcharge of up to \$10 per fee (for a series of fees) for costs for non-judicial personnel. These fees would be the only fees that could be charged during the time period from July 1, 2009, through June 30, 2010.

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

Background

In addition to statutorily-set docket fees, the Kansas Supreme Court imposed a surcharge on district court docket fees from April 1, 2002, to June 30, 2006. The first surcharge was imposed from April 1, 2002, to June 30, 2003, for the purpose of generating additional revenues to operate the Judicial Branch. The surcharge was extended three times to generate additional funding for FY 2004 and FY 2005. At the time of the surcharge's imposition, Attorney General Carla Stovall opined that "The Kansas Supreme Court has inherent authority to take action necessary to insure that it is adequately funded to carry out its judicial functions. As long as the Court has made the necessary findings of urgency and necessity, its order . . . is a proper exercise of this inherent power." (Attorney General's Opinion No. 2002-17.) The opinion was in response to a request from a legislator who asked whether the Chief Justice had the authority to impose a surcharge on court costs and whether the Chief Justice's actions usurped the authority

*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>

of the Legislature to make appropriations. With the exception of the surcharge, all other docket fees are set statutorily.

In response to the surcharge, the Legislature passed 2006 House Sub. for SB 180 which provides that fees shall only be established by an act of the Legislature and that no other authority is established by law or otherwise to collect a fee for court procedures. Court procedures includes docket fees, filing fees, or other fees related to access to court procedures.

The proponents of the bill who presented testimony at the Senate Committee hearing were Jerry Sloan, Judicial Branch Budget and Fiscal Officer; Chief Judge Stephen Tatum, 10th Judicial District (Johnson); Chief Judge James Fleetwood, 18th Judicial District (Sedgwick); and Chief Judge Richard Smith, on behalf of the Kansas District Judges Association.

The opponent of the bill who presented testimony at the Senate Committee hearing was Doug Smith, on behalf of the Kansas Credit Attorneys Association and the Kansas Collectors Association.

The Senate Committee on Judiciary amended the bill to change the effective date of the bill to publication in the *Kansas Register*.

The House Committee on Judiciary changed the Senate provisions to allow the Kansas Supreme Court to impose a surcharge and inserted the provisions to allow for the imposition of a series of fees for one year, from July 1, 2009, to June 30, 2010.

The fiscal note states that if SB 134 is enacted, it would permit the Judiciary to use the dollars generated by the fees or “emergency surcharge” to replace (sic) State General Fund monies in FY 2010. The actual amount of the fees the Court would impose has not been determined. Any fiscal effect resulting from the passage of this bill would be in addition to amounts included in *The FY 2010 Governor’s Report*.