



SUPREME COURT OF KANSAS

KANSAS JUDICIAL CENTER

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HOUSE APPROPRIATIONS COMMITTEE

Honorable Representative Marc Rhoades, Chair

Testimony in Support

SB 97 Judicial Branch Surcharge Extension

March 29, 2011

Thank you for the opportunity to testify in support of SB 97, which amends the sunset on the Judicial Branch Surcharge to June 30, 2012. The surcharge is currently scheduled to end June 30, 2011. My purpose in testifying is twofold: First, to provide information regarding anticipated revenue, should the surcharge be increased; and second, to let you know that passage of this bill is essential to continue the present surcharge into FY 2012.

The Committee requested information regarding additional revenue anticipated, if the surcharge were to be increased. That information is attached. One additional dollar in surcharge for each type of court case filed would result in approximate revenue of \$490,000.

Both the statutes regarding the surcharge and the order authorizing the surcharge are effective only to the end of the present fiscal year. The Division of Budget requested that the surcharge be included in the Judicial Branch FY 2012 budget request, although it is set to expire at the end of FY 2011. We complied with that request. For FY 2012, \$9 million in surcharge revenue is included in the budget submitted for the Legislature's consideration.

Enactment of SB 97 would allow the surcharge to remain in effect, helping to fund the court system. Even with the surcharge, the Judicial Branch plans to continue holding 75 – 80 positions open throughout FY 2011 and FY 2012.

The 2009 Legislature considered a \$10 Judicial Branch Surcharge as a way to provide funding for the Judicial Branch budget, which was significantly underfunded. 2009 SB 66 authorized the Supreme Court to impose an additional charge, not to exceed \$10, on specified docket and other fees, to fund the cost of nonjudicial personnel. 2009 SB 66 also created the Judicial Branch Surcharge Fund, into which surcharge amounts are deposited.

The 2010 legislature, in HB 2476, increased surcharge amounts to a range of between \$10 and \$17.50, effective July 1, 2010. The Judicial Branch Emergency Surcharge was a fee that _____

Date March 29

Attachment 8

As charged in addition to the statutory docket fee when cases were filed. The revenue generated from the Emergency Surcharge kept Kansas courts open and operating. The Emergency Surcharge was in effect April 1, 2002, through fiscal year 2006. At that time, the state's fiscal situation had improved and the Legislature was able to fully fund the courts. Therefore, during the 2006 legislative session SB 180 was enacted, which stated that docket fees would be set by the Legislature and no other fee would be charged. Given the fiscal crisis the state is experiencing, the 2009 and 2010 Legislatures revisited the idea of a surcharge, enacting 2009 SB 66, and 2010 HB 2476, which contains the current surcharge. The surcharge allows the Legislature to use funds that otherwise would be appropriated to the Judicial Branch for other necessary expenditures, while helping to keep the courts open and functioning. The Court does not view the surcharge authority as permission to increase fees to fund enhancements or even operations when they choose. It is viewed as a temporary stopgap measure to react to severe underfunding. The Legislature is the appropriating body, and should remain so. The surcharge is a method through which additional fees can be generated that, for the specified time period, will take the place of State General Fund financing for the Judicial Branch.

The original bill provided a June 30, 2012 sunset. The Senate Judiciary Committee struck the sunset in its entirety. The Senate voted 30 – 9 in favor of the bill. The House Judiciary Committee amended the bill back to its original form, with a one-year sunset, and recommended the bill favorably. The bill remained on House General Orders, but under the line, when we asked for action to place it above the line. The bill was then referred to House Appropriations Committee. We ask for this committee's favorable consideration of this bill.

Thank you again for the opportunity to testify in support of SB 97, and I would be happy to answer your questions.

Appropriations Committee
Date March 29, 2011
Attachment 8-2

ESTIMATED REVENUE INCREASE FOR EACH \$1 OF ADDITIONAL SURCHARGE

Type of Fee	Current Fee	Current Surcharge	Proposed Additional Surcharge	Proposed Total	Estimated Increase From Additional Surcharge
Civil					
Chapter 60 Limited Action*	\$156.00	\$17.50	\$1.00	\$174.50	23,870
<=\$500	\$37.00	\$15.00	\$1.00	\$53.00	66,169
>\$500 or <=\$5,000	\$57.00	\$15.00	\$1.00	\$73.00	48,123
>\$5,000 or <=\$10,000	\$103.00	\$15.00	\$1.00	\$119.00	6,015
Small Claims					
	\$39.00	\$10.00	\$1.00	\$50.00	3,909
	\$59.00	\$10.00	\$1.00	\$70.00	3,198
Domestic Relations	\$156.00	\$17.50	\$1.00	\$174.50	21,973
Post Decree Motion	\$42.00	\$17.50	\$1.00	\$60.50	25,774
Hearings in Aid of Execution	\$0.00	\$10.00	\$1.00	\$11.00	8,650
Garnishments	\$0.00	\$10.00	\$1.00	\$11.00	60,548
Criminal					
Felony	\$173.00	\$17.50	\$1.00	\$191.50	2,693
Misdemeanor	\$138.00	\$17.50	\$1.00	\$156.50	5,573
Expungements	\$100.00	\$15.00	\$1.00	\$116.00	1,894
Juvenile					
Offender/ CINC	\$34.00	\$17.50	\$1.00	\$52.50	789
Probate					
Treatment of Mentally Ill	\$59.00	\$17.50	\$1.00	\$77.50	501
Treatment of Alcohol or Drug	\$36.50	\$17.50	\$1.00	\$55.00	125
Determination of Descent	\$51.50	\$17.50	\$1.00	\$70.00	1,014
Guardianship	\$71.50	\$17.50	\$1.00	\$90.00	279
	\$71.50	\$17.50	\$1.00	\$90.00	418
Guardianship and Conservatorship	\$71.50	\$17.50	\$1.00	\$90.00	386
Conservatorship/Trusteeship	\$71.50	\$17.50	\$1.00	\$90.00	205
Probate of an Estate or a Will	\$111.50	\$17.50	\$1.00	\$130.00	2,782
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	\$14.00	\$17.50	\$1.00	\$32.50	4,550
Employment Security Tax Warrant					
Sales and Compensating Tax Warrant					
State Tax Warrant					
Motor Carrier Lien					
Total	\$24.00	\$17.50	\$1.00	\$42.50	9,211
Marriage License	\$59.00	\$21.00	\$1.00	\$81.00	16,337
Driver's License Reinstatements	\$59.00	\$17.50	\$1.00	\$77.50	25,217
Traffic	\$76.00	\$17.50	\$1.00	\$94.50	144,843
Fish and Game	\$76.00	\$17.50	\$1.00	\$94.50	2,000
TOTAL FEES COLLECTED					487,046

Appropriations
March 29, 2011
8-3

Judicial Branch Overview
(in millions)

	FY 2011	FY 2012
State General Fund Budget	\$ 101.3	\$ 107.8
Surcharge Revenue	\$ 8.9	\$ 9.0
	<u>\$ 110.2</u>	<u>\$ 116.8</u>
FY 2011 State General Fund and Surcharge	\$ 110.2	
FY 2012 Adjustments (additions)		
Health Insurance Increase	\$ 1.6	
KPERS	\$ 0.9	
Pay Plan and Longevity	\$ 1.0	
Operations (mileage, printing)	\$ 0.1	
Judge 14 Court of Appeals	\$ 0.4 *	
Temporary Hours/Retired Judges	\$ 0.7 *	
E-filing Project	\$ 1.9 *	
FY 2012 State General Fund and Surcharge	<u>\$ 116.8</u>	

The FY 2011 SGF appropriation of \$101.3 million did not require court closures, but required year-long continuation of: maintaining 75-80 vacancies, no budgeted temporary hours and maintaining significant cuts to operating expenditures. The FY 2012 budget request continues to keep 75-80 vacancies.

House Appropriations action to fund FY 2012 at FY 2011 SGF appropriation

FY 2011 appropriation	\$ 101.3
FY 2012 request	\$ 107.8
Result	<u>\$ (6.5)</u>

State General Fund Increases from FY 2011 to FY 2012 that are not mandated

Judge 14 Court of Appeals	\$ 0.4	* House recommendation delay 1 year
Temporary Hours/Retired Judges	\$ 0.7	*
E-filing Project	\$ 1.9	*
Total	<u>\$ 3.0</u>	
Remaining Reduction	\$ (3.5)	nondiscretionary obligations

Savings from one furlough day : \$209,000

Further action required as a result of House Appropriations recommendation is \$3.5 million reduction/\$209,000 per day, resulting in 17 days or 3 1/2 weeks courts closed and employees without pay.