

March 16, 2011

The Honorable Lance Kinzer, Chairperson  
House Committee on Judiciary  
Statehouse, Room 165-W  
Topeka, Kansas 66612

Dear Representative Kinzer:

**SUBJECT:** Fiscal Note for HB 2239 by House Committee on Local Government

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2239 is respectfully submitted to your committee.

HB 2239 would allow an owner to file a verified petition in the district court of the county in which a road has been determined by the board of county commissioners to be laid out, altered, or vacated. The court could not award damages unless a verified petition has been filed within 12 months of the order by the board of county commissioners laying out, altering, or vacating the road. If a judge finds that the order from the board of county commissioners is lawful, then the judge would be required to appoint three appraisers to appraise the value of the ownership interest in the property affected and determine damages. Once appointed, the judge would provide written instructions to the appraisers on issues specified in HB 2239.

The appraisers would make an appraisal and assessment of damages by viewing the changes to the road and by hearing oral or written testimony from the petitioner and each interested party. Upon the completion of their work, the appraisers would file their reports with the district court. The district court judge would determine the fees and expenses of the appraisers and assess them to the county. Within 30 days of filing the appraisers' report, the county would be required to pay to the district court the appraisers' damages award, court costs, and appraisers' fees. A party could appeal the appraisers' damages award to the district court. The appeal would be docketed as a new civil action and would require the payment of a docket fee. The bill would define "owner" and "landowner" and make several technical changes.

The Office of Judicial Administration estimates passage of HB 2239 would result in additional cases filed in district court. Under HB 2239, all determinations of damages from laying out, altering, or vacating a road would occur in district courts when the county has a population of less than 30,000. It is currently unknown how many of those determinations are made by boards of county commissioners in counties under 30,000. The Office estimates that around 85.0 percent of the counties in Kansas have a population of less than 30,000, so passage of HB 2239 could have an effect on the workload by the district courts in those counties. Passage

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of HB 2239 would likely result in the collection of filing fees in those actions filed under the bill's provisions, according to the Office. Until the courts have had an opportunity to operate under the provisions of HB 2239, an accurate estimate of the fiscal effect on expenditures or revenues by the Judicial Branch cannot be provided at this time. The Kansas Association of Counties states any fiscal effect resulting from the passage of HB 2239 would be negligible. Any fiscal effect associated with HB 2239 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", written in a cursive style.

Steven J. Anderson, CPA, MBA  
Director of the Budget

cc: Mary Rinehart, Judiciary  
Melissa Wangemann, KS Association of Counties