

**REVISED**  
*SESSION OF 2011*

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 115**

As Amended by House Committee of the Whole

**Brief\***

SB 115, as amended, would abolish a state commission, modify the process of developing agency performance measures, and establish the Kansas Advisory Council on Privatization and Public-Private Partnerships Act. Most of the contents of two House-passed bills were added by the House Committee and the content of the Senate-passed bill was retained in the amended bill.

**Agency Abolition.** The bill would repeal two statutes establishing the State Highway Advisory Commission.

**Performance Measures.** The bill would institute a new process for modifying current performance measures and establishing new standardized performance measures to be used by all state agencies in support of the annual budget requests. State agencies would be required to consult with representatives of the Director of the Budget and the Legislative Research Department to modify each agency's current performance measures, to standardize such performance measures, and to utilize best practices in all state agencies.

State agencies would be required by October 1 of each year to submit an annual report based on the performance measures. The report would be submitted to certain designated legislative committees, the Director of the Budget,

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\*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>

and the Secretary of Administration. The information would be posted on the Department of Administration's Kansas Taxpayer Transparency website.

The bill would require the Director of the Budget to consider the annual performance measure report in budget reviews of state agencies.

**New Privatization Council and Act.** The bill would establish the Kansas Advisory Council on Privatization and Public-Private Partnerships Act. The Council would be composed of 11 appointed members, and would be required to meet at least four times each year.

The purpose of the Council would be to ensure that certain state agencies, excluding the Board of Regents and postsecondary educational institutions, would: 1) focus on the core mission and provide goods and services efficiently and effectively; 2) develop a process to analyze opportunities to improve efficiency, cost-effectiveness and provide quality services, operations, functions, and activities; and 3) evaluate for feasibility, cost-effectiveness, and efficiency opportunities that could be outsourced. Also excluded from the state agencies covered by the bill would be any entity not receiving State General Fund or federal funds appropriation.

The bill would specify the members of the Council, terms, and responsibilities. The Council would review and evaluate the possibility of outsourcing goods or services, review ways to eliminate competition with one or more private businesses or organizations, develop and implement standard processes for reviewing business cases, and identify and distribute information on best practices for outsourcing. The Legislative Research Department would be directed to provide any assistance requested by the Council.

The Council would prepare and submit an annual report to the Governor, Senate Ways and Means Committee, and

the House Appropriations Committee by January 15. The provisions that establish the Council and new act would expire in three years. The bill also would modify the state contracting statutes and assign new reporting duties to the Director of Purchasing.

The provisions establishing the Privatization Council would expire on July 1, 2014.

## **Background**

The House Committee included the contents of three bills in the amended version of SB 115. Both HB 2158 and HB 2194 are versions that passed the House.

**SB 115—Agency Abolition.** In the Senate Committee, proponents for SB 115, who included the current chairperson of the State Highway Advisory Commission and a representative of the Kansas Department of Transportation (KDOT), said that while the Commission was created in 1975 to serve as liaison between KDOT and the citizens on highway funding issues, such a function could be better carried out in the future by entities with more holistic expertise involving multiple transportation modes; and that KDOT has been successful in recent years in developing a greater number of methods for communicating with the public and receiving input.

The fiscal note for abolishing the Commission indicated that FY 2012 expenditures from the State Highway Fund could be decreased by \$6,525 if the statutes relating to the Commission were to be repealed.

The Senate Transportation Committee recommended that the bill be placed on the Consent Calendar.

The House Committee added two other bills previously passed by the House: HB 2158 and HB 2194.

**HB 2158—Performance Measures.** Proponents of HB 2158 included a representative of the American Legislative Exchange Council and written testimony from the Kansas Chamber of Commerce and the Kansas Policy Institute. A representative of the University of Kansas Hospital Authority requested an amendment to exclude that institution from the provisions in the bill since no budget is required to be submitted. The House Committee made two technical amendments in the bill passed by the House and also added an exclusion for the University of Kansas Hospital Authority.

The fiscal note indicated that state agencies have submitted performance measure data since 1994 to support their annual budget requests. The fiscal note stated that the Division of the Budget, Legislative Research Department, and states agencies could implement any new reporting requirement with current resources.

**HB 2194—New Privatization Council and Act.** Proponents of the bill included representatives of the Reason Foundation, Los Angeles, CA; the Kansas Restaurant and Hospitality Association; and Americans for Prosperity – Kansas. Written support was submitted by the Kansas Policy Institute, Wichita, Kansas. Appearing in opposition to the bill was a representative of the Kansas Organization of Public Employees.

A representative of the University of Kansas Hospital Authority appeared as neutral, and asked for that agency to be excluded from provisions in the bill since the Authority was designed to act as a private entity, not as a state agency, in order to compete in a hospital environment.

The House Committee added several technical amendments to the bill passed by the House that were suggested by the Revisor of Statutes Office. The House Committee also modified the original name of the Council to reflect its anticipated purpose. The House Committee further amended the bill that passed the House to exclude state agencies which do not receive a State General Fund

appropriation. Finally, the House Committee placed a three-year sunset on the new Act.

The House Committee of the Whole amended SB 115 to correct it by renumbering to include all four relevant sections in a reference.

According to the Director of Purchasing, HB 2194, as introduced, would require 1.00 FTE Procurement Officer I position at a cost of \$34,445, all from the State General Fund. This position would conduct the education, transactional evaluation, and information collection duties required by the bill. Any additional operating costs could be absorbed within the agency's budget.

The Budget Director also noted that implementation of HB 2194, as introduced, could increase staff work in state agencies because of the new requirements created in the bill. However, the frequency or the number of inquiries each agency could receive if HB 2194 is enacted is not known. Agencies could eventually realize expenditure reductions from implementing recommendations of the Council; however, there are no data on which to base an accurate estimate. Finally, the total expenditure and revenue effect this bill could have on state agencies is unknown, according to the Director of the Budget.