

March 6, 2013

The Honorable Ralph Ostmeyer, Chairperson  
Senate Committee on Federal and State Affairs  
Statehouse, Room 136-E  
Topeka, Kansas 66612

Dear Senator Ostmeyer:

**SUBJECT:** Fiscal Note for SB 227 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 227 is respectfully submitted to your committee.

SB 227 would enact Kansas Explosives Safety Act. The bill would

1. Establish who and what types of materials the Act would and would not apply to;
2. Establish the type of permits required, their expiration period, and who would be required to obtain them, as well as the permit fees, and who would be exempt from the permit fees;
3. Permit the State Fire Marshal to deny, revoke, suspend, limit, condition, or refuse renewal of any permit if the provisions of the Act are not met;
4. Require every permitted manufacturer, distributor, and user in the state to maintain continuous general liability coverage that includes cover for intentional blasting of not less than \$2.0 million;
5. Require the holder of any permit or permits to maintain a copy of all permits at all work sites where explosives are stored or used and in any vehicle used to transport explosive materials; and
6. Allow the State Fire Marshal the authority to establish rules and regulations necessary to implement and administer the provisions of the Act.

If explosive materials are found to be stored, possessed, or transported in violation of the provisions of the Act or any State Fire Marshal regulation, the explosive materials may be seized. The owner of the seized explosive materials may request a hearing from the State Fire Marshal. Unless necessary to protect against a substantial threat to the public health, safety, or

welfare the explosive materials would not be destroyed until the completion of the available procedures in the Kansas Administrative Procedures Act and the Kansas Judicial Review Act. If the State Fire Marshal finds there has been no violation, the explosive materials would be returned to the owner.

When no claimant has appeared within 60 days of the seizure, the agency may destroy the explosive materials. The bill would allow the State Fire Marshal to impose a civil penalty that could not exceed \$1,000 per violation for violations of the Act. Monies from the penalties would be credited to the State General Fund. SB 227 would allow the State Fire Marshal or authorized representative to destroy the explosive materials if there is an immediate danger to public safety, health, or welfare by applying to the court, which has jurisdiction over the explosive materials, for an emergency order authorizing the destruction or disposal of the explosive materials without liability to the owner.

The bill would allow the State Fire Marshal and authorized representatives to investigate complaints regarding the use of explosive materials or any suspected violations of the Act. All persons subject to the provisions in SB 227 would be required to provide the State Fire Marshal or authorized representative free access to any place where explosive materials are manufactured, stored, or used and would allow the agency to examine any records or other information relating to explosive materials.

SB 227 would establish the Explosives Regulatory and Training Fund to be administered by the State Fire Marshal to support fireworks and explosives regulatory and training programs. All monies received from permit fees would be credited to the Explosives Regulatory and Training Fund. Proceedings under the Kansas Explosives Safety Act would be conducted in accordance with the Kansas Administrative Procedure Act and judicial review and civil enforcement of agency actions would be conducted in accordance with the Kansas Judicial Review Act.

Estimated State Fiscal Effect				
	FY 2013 SGF	FY 2013 All Funds	FY 2014 SGF	FY 2014 All Funds
Revenue	--	--	--	\$19,250
Expenditure	--	--	--	\$19,250
FTE Pos.	--	--	--	--

The State Fire Marshal indicates enactment of SB 227 would increase agency expenditures and revenues by \$19,250. Of this amount, \$4,250, would be for salaries and wages to partially fund an existing administrative assistant position to process paperwork, licenses, and permits; \$5,000 for seismograph training for agency investigators and for the agency to provide additional training to industry personnel in the newest safety procedures, newest products, and changes in federal rules and regulations; and \$10,000 for two seismographs to be positioned in the state to be used to measure seismic activity. Monies from all expenditures would come from

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the Explosives Regulatory and Training Fund. The Division of the Budget notes that the State General Fund would see an increase in revenue because of the new civil penalties that the State Fire Marshal could impose; however, the Division cannot estimate how much revenue that would be because it is not known how many civil penalties the State Fire Marshal would impose.

The Office of Judicial Administration states that enactment of SB 227 could result in the collection of docket fees and penalties in those cases filed under the provisions of the bill. However, the Office indicates until the courts have had an opportunity to operate under the provisions of SB 227, an accurate estimate of the fiscal effect on the Judicial Branch cannot be estimated. The League of Kansas Municipalities states it cannot determine an accurate fiscal effect upon cities. According to the League, the bill does not make it clear whether the liability insurance requirements are applicable to cities or if the coverage under the Kansas Tort Claims Act satisfies the insurance requirement. The League notes that generally liability for cities is capped at \$500,000 under the Kansas Tort Claims Act, unless a city maintains insurance in excess of that limit. The League states that cities may incur a negligible fiscal effect or a the fiscal effect could be more substantial if additional police time is incurred and liability insurance in excess of what is now required by the Kansas Tort Claims Act would have to be maintained. Any fiscal effect associated with SB 227 is not reflected in *The FY 2014 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: Becky Bahr, Fire Marshal's Office  
Mary Rinehart, Judiciary  
Larry Baer, League of Kansas Municipalities