

Judicial Branch—FY 2015 Appropriation, Docket Fee Revenue, Budgeting, Chief Judge Election, Judicial Vacancies, Longevity Payments; Senate Sub. for HB 2338

Senate Sub. for HB 2338 appropriates \$2.0 million in additional State General funds for the Judicial Branch in FY 2015, increases docket fee revenue to the Judicial Branch, and modifies statutes governing Judicial Branch operations concerning budgeting, the election of chief judges, and allowing for a delay in filling judicial vacancies for up to 120 days. The bill also deletes the statutory requirement for longevity payments to Judicial Branch non-judicial staff. The provisions of the bill are non-severable.

Appropriations

The bill appropriates an additional \$2.0 million, all from the State General Fund, for the Judicial Branch. The additional appropriation provides a State General Fund budget of \$97,783,948 for FY 2015.

The bill also designates that docket fees previously deposited in various special revenue funds shall be deposited in the Judicial Branch Docket Fee Fund from FY 2016 forward, making permanent a budget proviso effective for FY 2014 and FY 2015.

Docket Fees

The bill creates statutory filing fees for appeals to the Court of Appeals or the Supreme Court in the amount of \$145 and grants the Supreme Court the authority to impose an additional charge of up to \$10 from July 1, 2014, through July 1, 2015, to fund the costs of non-judicial personnel. (Appellate court filing fees currently are set at \$125 by Supreme Court rule.) A motion for summary judgment filing fee of \$195 is created, as well as a garnishment request fee of \$7.50. The Supreme Court is authorized to impose an additional charge of up to \$12.50 for garnishment requests to fund the costs of non-judicial personnel. The summary judgment filing fee does not apply in limited actions cases under Chapter 61, and the State of Kansas and its municipalities are exempt from payment of this fee, as well as the appellate filing fees and garnishment request fee. Each of these new fees goes into effect on July 1, 2014, and for each a poverty affidavit is allowed in lieu of the fee.

The bill increases existing docket fees as follows:

- For a petition for expungement of conviction or related arrest records, from \$100 to \$176 for the period July 1, 2013, through July 1, 2015;
- For a petition for expungement of an arrest record, from \$100 to \$176;
- In a traffic, cigarette or tobacco, or fish and game violation case, from \$74 to \$86 beginning July 1, 2014;
- For a petition for expungement of juvenile records or files, from \$100 to \$176 for the period July 1, 2013, through July 1, 2015;

- For the filing of an out-of-state probate decree, from \$108.50 to \$173, beginning July 1, 2014; and
- For cases under KSA Chapter 60, from \$154 to \$173, beginning July 1, 2014.

The bill also extends the time for the Supreme Court to impose an additional fee in juvenile and conviction expungement cases and Chapter 60 cases to fund non-judicial personnel to July 1, 2015.

The bill reduces the docket fees in small claims cases from \$37 to \$35 (claims under \$500) and from \$57 to \$55 (claims over \$500) beginning July 1, 2014.

The bill creates the Electronic Filing and Centralized Case Management Fund and directs that expenditures from the fund be used to create, implement, and manage an electronic filing and centralized case management system for the state court system.

For FYs 2015, 2016, and 2017, the bill directs the first \$3.1 million of the balance of docket fees received by the state treasurer from clerks of the district court to the fund created by the bill. Beginning in FY 2018, the first \$1.0 million of the docket fees received shall be directed to the new fund.

The bill updates agency references to reflect current agency authority and responsibilities.

Judicial Branch Budgeting Procedure

The bill enacts new law to allow, for the fiscal year ending June 30, 2016, and each subsequent fiscal year, the chief judge in a judicial district to elect to be responsible for preparing and submitting a budget for the judicial district to the Chief Justice of the Kansas Supreme Court. A chief judge electing this responsibility is required to notify the Chief Justice of this decision by August 1 of the preceding fiscal year, and the chief judge is required to submit, on or before June 30 of each fiscal year, the budget for the ensuing fiscal year based upon the dollar amount allocated to the district by the Chief Justice for such fiscal year.

Subject to appropriations, the Chief Justice shall have the final authority over the annual amount allocated to each judicial district budget. After the Legislature makes Judicial Branch appropriations each year, the Chief Justice will determine the budgeted amount for each judicial district and notify each chief judge of that amount. Once the amount of each judicial district budget is established by the Chief Justice, the chief judge of each district shall have control of the expenditures under the budget, except for salaries mandated by law, and all lawful claims by a chief judge within the limits of the district budget will be approved by the judicial administrator. The chief judge of each district shall determine the compensation of personnel in the district and shall have the authority to hire, promote, suspend, demote, and dismiss personnel as necessary to carry out the functions and duties of the district.

If it appears the resources of any Judicial Branch special revenue fund are likely to be insufficient to cover the appropriations made against such fund for the fiscal year, the Chief Justice is responsible for determining any allotment system to assure expenditures will not

exceed available resources of any such fund for the fiscal year, and chief judges who have elected the responsibility for the district budget will be required to follow this allotment system.

The bill removes from the Supreme Court's judicial personnel classification system any nonjudicial personnel who will be subject to the authority of a chief judge who has elected responsibility for the district budget, and the bill states that the classification system is not to infringe upon the authority of a chief judge who has elected budget responsibility.

The bill clarifies that a departmental justice does not have the authority to make or change any budget decisions made by the chief judge of a district court.

The bill amends statutes relating to judicial departments, district court rules, district court clerks, district court nonjudicial personnel, court services officers, county budgets for court operations, court reporters, and state employee compensation philosophy to be consistent with the new budget process and authority established by the bill.

Certain provisions (related to the judicial personnel classification system and compensation, probation and parole officer, and district court employees) tied to specific dates in 1978 and 1979 are removed, and references to certain agencies and boards are updated to reflect reorganization.

Chief Judge Elections

The bill establishes that the district court judges in each judicial district shall elect a district judge to serve as chief judge and shall determine the procedure for such election. Similarly, the judges of the Court of Appeals shall elect a judge of the Court of Appeals to serve as chief judge. The Court of Appeals shall determine the procedure for such election. The bill provides that each chief judge designated by the Supreme Court on July 1, 2014, shall be allowed to serve as chief judge through January 1, 2016.

Judicial Vacancies

The bill amends the law concerning the filling of judicial vacancies. The bill requires the Chief Justice of the Supreme Court to provide notice of a vacancy in the office of district court judge or district magistrate court judge to the chairperson of the district judicial nominating commission in such district not later than 120 days following the date the vacancy occurs or will occur. Once the nominating commission has submitted the required number of nominations to the Governor, the bill increases from 30 to 60 the number of days within which the Governor must make an appointment. Similarly, the bill increases from 30 to 60 the number of days within which the Chief Justice must make an appointment if the Governor fails to make an appointment within the allotted time.

In judicial districts where judges are elected, the bill requires the Clerk of the Supreme Court to provide notice of a vacancy in the office of district court judge to the Governor not later than 120 days following the date the vacancy occurs or will occur. Further, the bill increases from 60 to 90 the number of days within which the Governor must make an appointment following receipt of such notice.