

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2491

As Amended by Senate Committee on Judiciary

Brief*

HB 2491, as amended, would provide that when a small claims action falls within the scope of the Tort Claims Act, a lawyer may appear in such action on behalf of any governmental entity, officer, or employee for the sole purpose of filing, briefing, and arguing a motion to dismiss for lack of jurisdiction.

Background

In the House Judiciary Committee, a representative of the Office of the Attorney General appeared in support of the bill, explaining that, on occasion, *pro se* plaintiffs will file suit in small claims court against state employees for actions taken in the course of their employment. Although these claims fall under the Tort Claims Act, which prohibits such claims from being brought under the Small Claims Procedure Act, the representative stated the employees must still appear and defend against the suit. Further, because lawyers are prohibited from appearing in small claims court and motions to dismiss are not allowed, he explained the Office of the Attorney General cannot appear for the employee or request the suit be dismissed. The bill is the Office's proposed solution to this issue.

The House Committee amended the bill to clarify a lawyer may appear only to file and argue the motion to dismiss.

*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>

The same proponent appeared before the Senate Judiciary Committee.

The Senate Committee amended the bill to clarify a lawyer also could appear to brief the motion to dismiss.

The fiscal note prepared by the Division of the Budget states that, according to the Office of Judicial Administration, passage of the bill, as introduced, would have no fiscal effect.