

SESSION OF 2014

SUPPLEMENTAL NOTE ON SENATE BILL NO. 313

As Amended by Senate Committee on Judiciary

Brief*

SB 313 would create or amend various docket and other court fees and adjust the distribution of such fees.

The bill would create statutory filing fees for appeals to the Court of Appeals or the Supreme Court in the amount of \$145 and grant 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 would be created, as well as a garnishment request fee of \$7.50. The Supreme Court would be 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 would not apply in limited actions cases under Chapter 61, and the State of Kansas and its municipalities would be exempt from payment of this fee. Each of these new fees would go into effect on July 1, 2014, and for each a poverty affidavit would be allowed in lieu of the fee.

The bill would increase 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;

*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>

- 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 would extend 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 would reduce 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 would create the Electronic Filing and Centralized Case Management Fund and direct 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 FY 2015, 2016, and 2017, the bill would direct 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 would be directed to the new fund.

Finally, the bill would update agency references to reflect current agency authority and responsibilities.

Background

The bill was introduced by the Senate Judiciary Committee at the request of Senator King, who explained the bill was derived from recommendations made in the 2012 report by the Kansas Supreme Court's Blue Ribbon Commission. The Blue Ribbon Commission was formed in late 2010 and was charged with reviewing the operations of Kansas courts to determine how to improve their efficiency while maintaining access to justice for all Kansans.

In the Senate Committee, representatives of the Kansas District Judges' Association testified in support of the bill. Written testimony supporting the bill was received from a member of the Blue Ribbon Commission and representatives of the Kansas Credit Attorneys Association and the Office of Judicial Administration (OJA). The OJA testimony included language for a proposed amendment clarifying the name and purpose of the fund created by the bill.

Court of Appeals Judge Patrick McAnany, Chair of the Blue Ribbon Commission, and another representative of the Office of Judicial Administration provided neutral testimony. A representative of the Kansas Department of Corrections also provided neutral testimony and requested an amendment to exempt the state of Kansas and its municipalities from the motion for summary judgment filing fee.

The Senate Committee adopted an amendment submitted by the Office of the Revisor removing a new garnishment fee in limited actions under Chapter 61 and clarifying the motion for summary judgment filing fee is not to apply to such actions. The Office of the Revisor stated this amendment would allow the bill to reflect the intent of the parties requesting the bill. The Committee also adopted the amendments proposed by the Office of Judicial Administration and the Department of Corrections.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial

Administration indicates the fees created or amended by the bill would increase Judicial Branch revenues by \$5.9 million in FY 2015. The first \$3.1 million of this amount would be directed to the new fund created by the bill, with \$2,772,280 distributed to the Judicial Branch Docket Fee Fund and \$27,720 distributed to the Judicial Council Fund.

In FY 2016 and FY 2017, the first \$3.1 million would be credited to the fund created by the bill, and the remaining \$2.8 million would be distributed to a variety of other funds based on percentages established in current law.

Beginning in FY 2018, the first \$1.0 million would be credited to the fund created by the bill, and the remaining amount generated would be distributed to a variety of other funds based on percentages established in current law.

The Department of Revenue estimates the bill, as introduced, would increase expenditures by approximately \$4.9 million in FY 2015, including: \$20,000 in new garnishment fees; \$53,685 for a FTE position to handle work related to the new garnishment fees; \$4.8 million in civil docket fee increases related to tax warrant cases; \$68,250 in summary judgment fees; and \$1,933 in increased appellate fees.

The Attorney General indicates enactment of the bill could be challenged in court, increasing expenses under the Kansas Tort Claim Act, but those costs cannot be determined.

Any fiscal effect associated with the bill is not reflected in *The FY 2015 Governor's Budget Report*.

The Judicial Branch submitted revised fiscal information in anticipation of the adoption of the amendment removing the Chapter 61 provisions from the bill, indicating the bill would increase Judicial Branch revenues by \$4,594,005 in FY 2015.