

SESSION OF 2014

SUPPLEMENTAL NOTE ON SENATE BILL NO. 335

As Amended by Senate Committee of the Whole

Brief*

SB 335 relates to drug screening and drug and alcohol treatment for various school district employees and legislators. The bill also would address fingerprinting and background checks for various school district employees.

School District Drug Screening Programs

The bill would require the board of education of each public school district to adopt policies and procedures for a drug screening program for employees of the district. The screening program would be based on reasonable suspicion of illegal drug use by any employee. Any employee who tests positive for the illegal use of drugs would be permitted to request that the specimen be tested in an additional facility, in which case the employee would be required to pay the cost of the additional screening. The bill would prohibit any action taken against an employee as a result of a positive drug test unless the employee has tested positive under two consecutive screenings of the same specimen. However, a school district would be permitted to take disciplinary action against an employee if the employee initially tests positive and does not request a second screening. The bill would state that nothing in the section could be construed as prohibiting disciplinary action taken in accordance with the Professional Negotiations Act.

*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>

Impaired Teacher Programs

The bill would require the board of education of each school district (with the exception described below) to establish and implement an impaired teacher program for teachers dependent on drugs, alcohol, or both. The program would be required to assist those referred in undergoing evaluations and any programs recommended as a result of the evaluations, provide support to teachers returning to the profession upon successful completion of an education or treatment program, and provide guidance on establishment of similar programs at the school district level. The superintendent, or an official designated by the superintendent, could refer any impaired teacher to the program as disciplinary action following one or more failed drug tests administered according to the requirements in the first section of the bill. All referrals and other information would be confidential and not disclosed publicly. The State Board of Education (Board) would be required to write rules and regulations for the review and approval of a district's program as well as the revocation or suspension of a teacher's license or certificate. For purposes of the section the term "impaired teacher" would be defined.

In lieu of establishing an impaired teacher program, the bill would authorize any school district board to enter into an agreement with another district board for the purpose of referring impaired teachers to the other district's program.

Fingerprinting and Background Checks Related to Teaching Licenses or Certificates

The bill would require any person applying for an initial or renewed teaching license or certificate to submit fingerprints taken by a qualified law enforcement agency, unless the applicant has previously submitted a complete set taken by a qualified law enforcement agency. The fingerprints would then be submitted by the State Department of Education to the Kansas Bureau of Investigation for a criminal

background check. The applicant would be required to pay the fee for the criminal history records check. The Board would be prohibited from issuing a new or renewed license to any person who does not comply with the fingerprinting requirement. The bill also would require a public innovative district to submit fingerprints of any new unlicensed teachers to the KBI for a criminal background check prior to being hired. The innovative district would pay the fee for the background check.

Additionally, the Board would be required to revoke the license of any person convicted of any of the crimes which heretofore would have resulted only in requiring the Board not to issue or renew the license.

Consequences of a Legislator's Positive Drug Test Result

The bill would modify existing law regarding the state drug screening program to require any legislator who tests positive to complete a substance abuse treatment program approved by the Division of Legislative Administrative Services. A legislator failing to complete or refusing to participate in such a program would be deemed ineligible to receive public funds for legislative compensation or expenses until the program was completed. Once completed, the legislator would be subject to periodic drug screening, a positive result of which would render the legislator subject to another substance abuse treatment program and ineligible to receive legislative compensation or expenses for a 12-month period. If the legislator tests positive for a third time, compensation and expenses would be terminated.

Background

SB 355 was introduced by Senator Smith, along with Senators Arpke, Denning, Olson, and Pilcher-Cook. Senator Smith provided testimony in support of the bill. An attorney

from the Kansas National Education Association appeared in opposition to the bill. Representatives from the Kansas Association of School Boards and the Wichita Public Schools provided neutral testimony and suggested amendments to the bill, while the Information Service Division Director of the Kansas Bureau of Investigation submitted neutral written testimony.

The Senate Committee on Education amended the bill to do the following:

- Modify the drug screening program by revising the consequences of a positive test. Under the amendment, an employee who tests positive would be able to request the specimen be sent to a different facility for an additional screening; this was not specified in the original bill. Other modifications were made as well;
- Create the impaired teacher program;
- Require fingerprints of only those teachers who have not already submitted fingerprints when applying for a new or renewed teaching license; and
- Make technical corrections.

The Senate Committee of the Whole amended the bill to do the following:

- Eliminate the requirement that the State Board of Education create an impaired teacher program and require instead that each school district board of education implement such a program or arrange to use another district's program; and
- Add the contents of SB 391 related to legislators testing positive in the state drug screening program.

The corrected fiscal note, provided by the Division of the Budget, indicates that the Department of Education would require an electronic information system to process and create reports for the drug testing program and criminal offenses by teachers, which would cost about \$25,000 from the State General Fund for FY 2015. The Kansas Bureau of Investigation would charge a \$50 fee for each background check, paid by the license applicants; the Department estimates that each year approximately 13,000 applications for a teaching license are made. The revenue from the KBI fees would equal approximately \$650,000 for FY 2015, and that amount would then be spent by the KBI to conduct the background checks.