



SUPREME COURT OF KANSAS

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Senate Judiciary

Testimony in Support of

SB15 Dispositive Motion Fee

January 28, 2015

Thank you for the opportunity to testify in support of SB 15, which would require a fee for the filing of dispositive motions. Over the years, Judicial Branch funding has become less funded by all of us and more funded by some users of the system. While it is our position that state general funding should support the court system, this funding is appreciated.

We ask that you consider two proposed amendments. The first is intended to clarify that the filer of a dispositive motion cannot avoid paying the fee simply by calling the motion something that isn't listed in the bill.

The second proposal is an attempt to make clear that costs, including this fee, shall be allowed to the party in whose favor judgment is rendered, as provided in K.S.A. 60-2002. The scenario would occur when the state or a municipality files suit, then prevails on a motion for summary judgment. The court could assess the \$195 fee against the defendant. If that happens, then the fee would be disbursed in accordance with K.S.A. 20-362, meaning that it goes to the Judicial Council and either the electronic filing and management fund or the docket fee fund, as specified.

The 2014 Legislature passed a bill adding a fee for filing summary judgment motions. Based upon that implementation experience, we expect a slight positive fiscal impact if this bill is passed.

We ask that you consider this bill favorably. Thank you again for the opportunity to testify in support of SB 15. I am happy to answer questions.

PROPOSED AMENDMENT - JUDICIAL BRANCH

January 28, 2015

Session of 2015

SENATE BILL No. 15

Motions determined by a judge to be seeking any of these dispositions shall be subject to such fee, regardless of the title assigned to the motion at the time of its filing.

1 AN ACT concerning civil procedure; relating to dispositive motions;
2 amending K.S.A. 2014 Supp. 60-256 and repealing the existing section.

3

4 *Be it enacted by the Legislature of the State of Kansas:*

5 New Section 1. (a) On and after the effective date of this act, any
6 party filing a dispositive motion shall pay a fee in the amount of \$195 to
7 the clerk of the district court. A poverty affidavit may be filed in lieu of
8 payment of such fee, as established in K.S.A. 60-2001, and amendments
9 thereto. The fee shall be disbursed in accordance with K.S.A. 20-362, and
10 amendments thereto. The fee shall only be established by an act of the
11 legislature and no other authority is established by law or otherwise to
12 collect such fee. Such fee shall be an item allowable as a cost pursuant to
13 K.S.A. 60-2003, and amendments thereto.

14 (b) As used in this section, "dispositive motion" means a motion to
15 dismiss, a motion for judgment on the pleadings, a motion for summary
16 judgment or partial summary judgment or a motion for judgment as a
17 matter of law.

18 (c) The state of Kansas and all municipalities in this state, as defined
19 in K.S.A. 12-105a, and amendments thereto, shall be exempt from paying
20 such fee.

21 (d) The provisions of this section shall not apply to an action pursuant
22 to the code of civil procedure for limited actions.

23 (e) This section shall be part of and supplemental to the code of civil
24 procedure.

25 Sec. 2. K.S.A. 2014 Supp. 60-256 is hereby amended to read as
26 follows: 60-256. (a) *By a claiming party.* A party claiming relief may
27 move, with or without supporting affidavits or supporting declarations
28 pursuant to K.S.A. 53-601, and amendments thereto, for summary
29 judgment on all or part of the claim.

30 (b) *By a defending party.* A party against whom relief is sought may
31 move, with or without supporting affidavits or supporting declarations
32 pursuant to K.S.A. 53-601, and amendments thereto, for summary
33 judgment on all or part of the claim.

34 (c) *Time for a motion; response and reply; proceedings.* (1) These
35 times apply unless a different time is set by local rule or the court orders
36 otherwise:

Such fee may be included as a cost assessed pursuant to K.S.A. 2013
Supp. 60-2002.