



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

SENATE WAYS AND MEANS COMMITTEE

Honorable Senator Ty Masterson, Chair

SB 403 Municipal Infraction Revenue

Neutral Testimony

March 2, 2016

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Mr. Chairman and Committee members, thank you for the opportunity to provide neutral testimony regarding SB 403, specifically to highlight the potential fiscal impact to the Judicial Branch if this bill is passed in its current form. See the attached fiscal note.

The bill has the potential to substantially increase district court caseload, and therefore district court costs, if municipal court jurisdiction is suspended under Section 4 of the bill. In FY 2015, over 428,000 cases were filed in municipal courts, of which 82% were traffic infractions. If municipal court jurisdiction is suspended, the district court caseload could nearly double. If that happens, nothing in the bill transfers filing fees or imposes a transfer fee, leaving district courts to absorb the costs of adjudicating these cases and potentially requiring more judges and staff to process the additional caseload.

The second issue needing clarification is Section 5, where Kansas Department of Revenue may suspend municipal judges if a city fails to make payments or submit reports required by Section 1 and 2 of the bill. Many district magistrate judges also serve part-time as municipal judges. If one of these judges is suspended in City A, then it appears that the judge may be suspended in all other municipalities where they serve, as well as in their capacity as a district magistrate judge. The intent and the process are unclear.

Finally, Section 6 provides that an appearance, waiver, plea and payment of K.S.A. 12-4305(c) results in waiver of any costs. These costs include the Judicial Branch education fund (used to fund municipal judge and employee training), Kansas Law Enforcement Training Center fund, and prosecutor training funds, among others. Whether this applies to tobacco/cigarette infractions or all infractions, this section eliminates a significant funding source for these necessities.

We would ask that you consider these issues as you work the bill. Thank you for the opportunity to provide input into the process.



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March 1, 2016

SB 403

Bill Number: 403 Due Date: _____
Responding Agency: Judicial Branch
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Fiscal Impact

State—Would this bill have a fiscal effect on your agency? Yes X No _____
Local—Would this bill have a fiscal effect on local government? Yes X No _____
Tax Revenue—Would this bill affect State General Fund revenues? Yes X No _____
Fee or Other Revenue—Would this bill affect revenues to other state funds? Yes X No _____

	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
Expenditures			
State General Fund			
Fee Fund(s)			
Federal Fund			
Total Expenditures	See Below	See Below	See Below
Revenues			
State General Fund			
Fee Fund(s)			
Federal Fund			
Total Revenues	See Below	See Below	See Below
FTE Positions			

Bill Description

SB 403 would require that each city and county do the following:

- On an annual basis, calculate the percentage of annual general operating revenue that constitutes revenue from traffic infractions for the preceding fiscal year and remit any amount in excess of 10% to the Director of Taxation of the Department of Revenue ("Director"). That amount would be deposited into the State General Fund.
- Submit a financial report on the general operating revenue of the city or county for the preceding fiscal year to the Director.

SB 403 would require that each municipal court do the following:

- On a quarterly basis, calculate an amount equal to 70% of all revenue from traffic infractions for violations occurring on the national network of highways and remit that amount to the Director. This amount would be credited to the State Highway Fund.
- Submit a financial report on revenue from traffic infractions for the immediately preceding quarter with the Director.

If the city, county, or municipal court fails to comply with the above requirements within specified timeframes, the Director would notify the entity of the deficiency and provide 60 days to correct it. If the entity fails to correct it, the Director would notify the municipal court that the court's jurisdiction is suspended by providing notice to each municipal judge at the court. Additionally, the Director would have the authority to specifically suspend the municipal judge's authority if a city or municipal court is the culpable entity. The city, county, or court that failed to comply with the relevant requirement would then have the right to seek review of the Director's determination under the Kansas Judicial Review Act.

Once jurisdiction is suspended, all pending matters before the municipal court would be transferred to the appropriate district court. The district court's jurisdiction would continue until the municipal court's jurisdiction is no longer suspended. Transferred cases would be subject to rules of civil procedure as though the case had been initiated in district court. Once the deficiencies are corrected the municipal court could request transfer of any municipal cases still pending at the district court. The chief judge of the judicial district would determine whether such matters would be returned to the municipal court.

Municipal judges would be required to annually certify to the Director that the court is in substantial compliance with a list of municipal court procedures iterated in Sec. 5 of SB 403. This list addresses matters that include detention of defendants and payment of fines and court costs. This certification would occur at the same time that the city or county submits its required report and excess revenue. SB 403 would also newly limit the municipal court's ability to assess costs for the administration of justice when the defendant makes an appearance, waiver, plea and payment in accordance with K.S.A. 12-4305(c).

In addition to the above penalties, this bill would allow the Director to withhold certain sales tax funds that would otherwise have been remitted to the city or county under K.S.A. 12-189 if the city or county fails to timely file the required financial report. If the city or county fails to timely remit the required amount of excess revenue, the Director would withhold that amount from such sales tax funds and remit it to the State Treasury for deposit into the State School District Finance Fund.

This bill would establish definitions for the following terms: "annual general operating revenue," "revenue from traffic infractions," and "national network of highways."

Assumptions for Fiscal Effect Estimate

Expenditures: SB 403 could have a substantial effect on expenditures by the Judicial Branch. During FY 2015, over 428,000 cases were filed in municipal courts in Kansas. It is very difficult to predict the fiscal effect on expenditures as there would be many variables, including the number of municipal courts that would have their jurisdiction suspended, the size and complexity of those municipal courts' caseload, and the number and make-up of staff that would be needed to process and hear the incoming cases.

As an example, it is estimated that a municipal court with an annual caseload of approximately 40,000 would require two full-time judges and 18 additional employees (clerks and supervision officers). If this court's jurisdiction were to be suspended and all of its cases were transferred to district court, the estimated annual financial impact would be \$961,467 for personnel costs to hire two additional judges and court employees. If the jurisdictions of four municipal courts with similar caseloads were suspended, the annual cost to the Judicial Branch for additional personnel would be over \$3.8 million. The provisions of SB 403 would not provide any additional revenue to fund the personnel costs.

Revenues: SB 403 could have a fiscal impact on revenues to the Judicial Branch. The Judicial Branch Education Fund, which is used for municipal judge and employee training, is funded by a fee assessed on municipal court cases. Section 6 of SB 403 provides that an appearance, waiver, plea, and payment of K.S.A. 12-4305(c) results in a waiver of any costs. Thus, in municipal court cases where this occurs, the fee that goes to the Judicial Branch Education Fund would be waived. At this time, it is unknown how many cases this would affect, but it is anticipated that this provision of SB 403 could eliminate a significant amount of revenue to the Judicial Branch Education Fund.

SB 403 would not affect the Judicial Branch Docket Fee Fund. Currently, when traffic fines are paid to the district court, they go into a fund that is remitted to the State Treasurer (not the county). Thus, the traffic docket fees and surcharge amounts paid in district court would not be impacted by this bill.

Long-Term Fiscal Considerations

SB 403 could have a substantial long-term fiscal effect to the Judicial Branch, as noted above.

Local Government Fiscal Effect

SB 403 could have a fiscal effect on local government. The amount of money that flows to the cities and counties from traffic violations could decrease if the revenue from traffic violations exceed 10% of the annual general operating revenue of the city or county. Certain sales tax funds could be withheld from cities or counties if the required annual financial report is not filed. In addition, if a municipal court's jurisdiction is suspended and cases are transferred to district courts, additional prosecutors and public defenders would need to be hired by the county in order to take on the additional caseload. This number of additional employees would vary based on the caseload that is transferred from the municipality.

References/Sources

None.