

February 19, 2016

REVISED

The Honorable John Rubin, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 151-S
Topeka, Kansas 66612

Dear Representative Rubin:

SUBJECT: Revised Fiscal Note for HB 2677 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2677 is respectfully submitted to your committee.

Currently, any person, board, commission or similar body determining the qualifications of individuals for licensure, certification or registration may consider any felony conviction of the applicant, but the conviction must not operate as a bar to licensure, certification or registration. HB 2677 would limit licensing bodies to considering only felony convictions that directly relate to the occupation for which the license is sought. In making this determination, the licensing authority must consider the following:

1. Whether the conviction directly relates to the duties and responsibilities of such occupation;
2. Whether the occupation offers the opportunity for the same or similar offense to occur;
3. Whether circumstances leading to the conduct for which the person was convicted will recur in the occupation; and
4. The length of time since the offense occurred.

A licensing authority would be prohibited from inquiring into or considering the conviction history of an applicant for licensing until after an applicant is found to be otherwise qualified for the license. The licensing body would also be prohibited from inquiring into an applicant's conviction history through the licensing application. With regard to criminal history records, licensing bodies could not inquire into (1) arrests not followed by a valid conviction; (2) convictions that have been sealed, dismissed or expunged; (3) misdemeanor convictions for

which no jail sentence can be imposed; and (4) infractions. Licensing bodies would be required to maintain a record of the number of applicants requiring background checks who are disqualified based on conviction history.

Passage of HB 2677 could potentially affect any person, board, commission or similar body responsible for determining the qualifications of individuals for licensure, certification or registration. For the purpose of determining which aspects of the bill may produce a fiscal effect on agency operations, a request for fiscal effect information was sent to a sample of agencies.

Currently, the Board of Pharmacy conducts background investigations on every application for licensure submitted to its office. Since HB 2677 would limit the circumstances in which licensing bodies would be permitted to conduct background checks, the Board indicates it would reduce costs and revenues associated with criminal background checks that are remitted to the Kansas Bureau of Investigations and the State General Fund. If the change in qualifications increases the number of applications for licensure, the Board indicates this would increase revenues to the Pharmacy Fee Fund, and the State General Fund which receives 10.0 percent of fee fund revenues. However, the Board indicates that any increase in the number of pharmacists, student interns, or pharmacy technicians that have a criminal history may impact the number of drug-related or financial infractions, leading to a higher number of prosecutions, arrests and subsequent expenditures to local, state and federal law enforcement or other government agencies.

The Board indicates the bill would increase expenditures from the Pharmacy Fee Fund related to additional background checks on those applicants with criminal history; tracking the number of background checks requested; increased licensees which require customer service and other assistance; and increased complaints, investigations and disciplinary proceedings. However, the Board is unable to estimate the fiscal effect on revenues or expenditures from enactment of HB 2677.

The Board of Healings Arts indicates HB 2677 could increase the number of standard-of-care complaints and reports of alleged practitioner violations, but the number of complaints cannot be estimated with any precision. In any case, the Board indicates its existing staff is currently operating at full capacity; therefore, any increase in workload would require 1.00 FTE position and new office equipment.

The Board of Accountancy indicates the provisions of HB 2677 would increase fee fund expenditures for costs related to additional legal counsel needed to review applications for compliance, but an estimate cannot be provided.

The Kansas Insurance Department indicates that observing the boundaries outlined in HB 2677 when considering applications for insurance agents would have no fiscal effect on its operation.

The Board of Cosmetology and the Board of Technical Professions both indicate the enactment of HB 2677 would have no fiscal effect on operations.

Since the original fiscal effect statement was issued, the Kansas Real Estate Commission has provided information of the fiscal effect of this bill. The Commission indicates HB 2677 would cause significant delays in processing applications because it would prohibit background checks from being conducted until all other qualifications of an applicant have been considered. The Commission indicates the bill would contradict KSA 58-3043, which prohibits licensure for persons convicted of a felony until at least five years after the sentence is completed, or until 15 years after the sentence is completed for crimes requiring registration under the Kansas Offender Registration Act. Further, the Commission indicates the bill would conflict with additional statutes that require consideration of conduct and misdemeanors that reflect on an applicant's honesty, integrity, trustworthiness and competence to conduct real estate transactions, including offenses that do not result in a conviction.

Any fiscal effect associated with HB 2677 is not reflected in *The FY 2017 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Laura Gloeckner, Cosmetology
Glenda Haverkamp, Insurance
Alexandra Blasi, Board of Pharmacy
Cathy Brown, Board of Healing Arts
Susan Somers, Board of Accountancy
Mary Leigh Dyck, Technical Professions