

SESSION OF 2016

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 255**

As Recommended by House Committee on
Judiciary

Brief*

House Sub. for SB 255 would create new law and amend, revive and amend, or repeal various statutes related to Kansas court docket fees.

The bill would create the Electronic Filing and Management Fund. All expenditures from this fund would be for the purposes of creating, implementing, and managing an electronic filing and centralized case management system for the state court system.

A statute regarding the remitting of moneys by the Clerk of the Supreme Court would be revived and amended to redirect remittances currently made to the State General Fund to the Judicial Branch Docket Fee Fund instead.

Statutes regarding the Dispute Resolution Fund, the Access to Justice Fund, the Protection from Abuse Fund, the Crime Victims Assistance Fund, and the Kansas Juvenile Delinquency Prevention Trust Fund would be revived and amended to remove references to disposition of docket fee statutes. The statute regarding the Kansas Juvenile Delinquency Prevention Trust Fund also would be amended to update references to the Secretary of Corrections.

A statute establishing the Indigents' Defense Services Fund would be revived and amended to remove a provision

*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>

directing the charge of a \$.50 fee in various cases to be credited to this fund.

A statute regarding expungement would be amended to resolve a conflict with other versions of the statute regarding the sunset date for the Judicial Branch surcharge.

Finally, the bill would repeal several additional statutes, including those regarding:

- Disposition of docket fees (previously repealed in 2014 Senate Sub. for HB 2338);
- The Electronic Filing and Management Fund (as previously created in 2014 Senate Sub. for HB 2338);
- Conflicting versions of docket fee and expungement statutes (previously repealed in 2014 Senate Sub. for HB 2338).

Background

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of the Attorney General. As introduced, the bill contained provisions related to the tobacco Master Settlement Agreement. The 2015 Senate Committee of the Whole adopted amendments adjusting a definition and adding an exemption for clinical research to the statute prohibiting smoking in enclosed areas. These provisions, including the Senate Committee of the Whole amendments, subsequently were enacted by the 2015 Legislature in Senate Sub. for HB 2124.

The 2016 House Committee on Judiciary recommended the previous contents of the bill be stricken and a substitute bill be adopted containing language modified from HB 2705, regarding court docket fees and charges. Further information

regarding HB 2705 and the modified language is included below.

Background of 2016 HB 2705

The 2014 Legislature enacted Senate Sub. for HB 2338 [HB 2338], which appropriated \$2.0 million in additional State General funds for the Judicial Branch in FY 2015, increased docket fee revenue to the Judicial Branch, and modified statutes governing Judicial Branch operations concerning budgeting, the election of chief judges, and allowing for a delay in filling judicial vacancies for up to 120 days. The bill also deleted the statutory requirement for longevity payments to Judicial Branch non-judicial staff. The provisions of the bill were non-severable.

In September 2015, in the case *Solomon v. State*, the Shawnee County District Court held that the provision of 2014 HB 2338 regarding chief judge elections was a significant violation of the general administrative authority of the Supreme Court over the courts of the State granted under Article 3, Sec. 1 of the *Kansas Constitution*. The district court noted the nonseverability clause in HB 2338 required striking the legislation in its entirety. In December 2015, the Kansas Supreme Court upheld the District Court's decision, holding the chief judge elections provision was unconstitutional as a violation of the separation of powers. The Supreme Court also noted the district court's striking of the legislation in its entirety was not challenged on appeal and could have practical adverse consequences to the judiciary budget.

The 2016 House Committee on Appropriations introduced HB 2705. In the hearing before the House Committee on Judiciary, Senator King testified in support of the bill, stating the Legislature needed to address the uncertainty of the status of docket fee statutes in light of the *Solomon* decision and the operation of the nonseverability clause. Representatives of the Kansas District Judges Association and Kansas Credit Attorneys Association testified

as neutral conferees. The Judicial Administrator submitted written neutral testimony. A representative of Credit Management Services provided written testimony opposing the bill.

In modifying the language of HB 2705 to create the substitute bill for SB 255, the House Committee removed language that would have created new law stating the Supreme Court shall determine the amount of any docket fees to be charged and collected by the court system and may prescribe additional fees and costs to be charged, which shall be reasonable and uniform throughout the state. Language effectuating this change in docket fee determination throughout other statutes also was removed. According to the assistant revisor, the modified language was crafted to restore the docket fee provisions of HB 2338 that were not at issue in *Solomon* but whose status was in question due to the operation of the nonseverability clause.

According to the fiscal note prepared by the Division of the Budget on HB 2705, as introduced, the Office of Judicial Administration indicates the bill would result in significant changes in law, but a fiscal effect cannot be estimated until further study is given.