

SESSION OF 2015

SUPPLEMENTAL NOTE ON SENATE BILL NO. 90

As Amended by Senate Committee on
Corrections and Juvenile Justice

Brief*

SB 90, as amended, would create and amend law to provide for the licensing of bail enforcement agents, as follows.

The bill would create a new definitions section containing definitions of “surety,” “bail agent,” and “bail enforcement agent.”

It would be unlawful for any person to engage in the business of a bail enforcement agent without being licensed. An authorized surety or bail agent attempting to enforce a bail bond would not be deemed to be engaging in the business of a bail enforcement agent.

The Attorney General would be given exclusive jurisdiction and control of the licensing and regulation of bail enforcement agents, and cities would be prohibited from adopting any ordinance in this regard. Any existing ordinance would be declared null and void. The Attorney General would be given authority to adopt rules and regulations to carry out the new provisions.

Any applicant for a license would be required to submit to the Attorney General an application and fee determined by the Attorney General, not to exceed \$200. The application would have to be verified under penalty of perjury and include:

*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>

- Full name and business address;
- Two photographs of the applicant;
- A set of fingerprints to be submitted for a Federal Bureau of Investigation criminal history record check; and
- Employment history and criminal history.

The bill would authorize the Attorney General to conduct a state and national criminal history records check and to use information from this check to determine eligibility for a license. The Attorney General could charge a fee to cover the cost of the background check.

The Attorney General would be allowed to deny, censure, limit, condition, suspend, or revoke a license for various reasons, including false statements or information given in connection with an application for a license; violation of the licensing provisions; a felony conviction; commission of an act with an expired license that would be grounds for suspension, revocation, or denial of a license; or commission of an act that would permit the Attorney General to take some other action with regard to the license or application. All such actions by the Attorney General, except for denial of a license, would require notice and opportunity for hearing pursuant to the Kansas Administrative Procedure Act.

The Attorney General would be permitted to charge a fee, not to exceed \$15, for application forms and materials that would be credited against the application fee.

The Attorney General would determine the form of the license, and the license would include the name of the licensee and a license number and date. The licensee would be required to post the license in a conspicuous place in the licensee's principal place of business and would be provided with a pocket card reflecting the license. The licensee would be required to surrender the card within five days of

terminating activities or the suspension or revocation of the license. A licensee would be required to notify the Attorney General of a change of address within 30 days.

Licenses would expire every two years and could be renewed at that time, in the same manner as obtaining an original license (including a fee of up to \$175), except the applicant would be required only to update information shown on the original application or any previous renewal and provide a new photograph only if the photograph on file has been on file for more than two years. The Attorney General could require additional information by rules and regulations.

The Attorney General would be given the authority to fix the application, licensing, and renewal fees annually, pursuant to the limits described above. A duplicate license could be issued for a fee of \$5 if the original license was lost.

All fees or charges received pursuant to the new provisions would be deposited in the state treasury to the credit of the Bail Enforcement Agents Fee Fund, which would be created by the bill. Moneys in the Fund would be used solely for administering and implementing the new provisions of the bill and any other law relating to the licensure and regulation of bail enforcement agents.

A statute defining and governing sureties and agents of a surety would be amended to reflect the new provisions, including removing the term "agent of a surety" and its definitions and replacing that with the terms "bail agent" and "bail enforcement agent" and their definitions. A bail enforcement agent would be required to be licensed pursuant to the new provisions. A restriction on acting as a surety or agent with a felony conviction would be amended to remove the restriction if the conviction has been expunged. Requirements for out-of-state sureties and agents would be updated to reflect the new provisions.

Background

The bill was introduced by the Senate Committee on Corrections and Juvenile Justice at the request of the Kansas Bail Agents Association (KBAA).

In the Senate Committee, representatives of the KBAA and the Kansas Association of Licensed Investigators testified in support of the bill. There was no opponent or neutral testimony.

The Senate Committee adopted an amendment proposed by the Office of the Attorney General clarifying the fingerprint and background check provisions and allowing the Attorney General to charge a fee to cover the cost of the background check.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of the Attorney General indicates an additional 0.50 to 1.00 FTE positions could be required to handle the additional workload of processing and issuing bail enforcement agent licenses. Additional expenditures would range from \$32,387 to \$55,727 annually, dropping by approximately \$4,000 to \$5,000 in the out-years after start-up costs were paid.

The fees established by the bill would provide revenues and, optimally, would offset the cost of operating the program. Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.

The Office of Judicial Administration indicates the bill should not have a fiscal effect on the Judicial Branch, but a more precise statement of the fiscal effect on the courts cannot be determined until they have operated under the bill's provisions.