

January 29, 2020

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
Statehouse, Room 519C-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2461 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2461 is respectfully submitted to your committee.

HB 2461 would enact the Public Litigation Coordination Act. The bill would not allow a public entity to contract for legal services on a contingent fee basis. Any contract in effect after the effective date of this Act could not be extended, renewed, or have parties added, except that the entity could request in writing to the Attorney General for the Act be waived. The bill describes instances when the Attorney General could waive the Act. Any waiver given by the Attorney General would be in writing and the public entity would add it to the contract. Any contract for legal services in violation of this Act would be unenforceable.

According to the Attorney General, enactment of the bill could generate savings to the state, since in major policy litigation, a portion of the recoveries in such litigation would not be subject to a reduction for contingency legal fees. Because the future recoveries from such litigation is unknown, a precise fiscal effect cannot be estimated. The Attorney General also states that any additional expenses created by this bill would be absorbed within existing resources.

The Kansas Association of Counties states that local governments may not be able to enter into class action litigation suits, which is generally done on a contingent fee basis. This could prevent counties from receiving portions of class action suits and could result in a decreased revenues; however, an exact estimate cannot be calculated.

The League of Kansas Municipalities state that enactment of the bill would affect local government entities as it would require them to use an hourly fee structure anytime they contract for legal services if they do not qualify for or are not granted a waiver by the Attorney General. If

a fee structure is required, it could be significant for bond counsel, delinquent accounts, and other agreements that are typically done on contingency. However, there is no way to estimate the fiscal effect of the bill. Any fiscal effect associated with HB 2461 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell". The signature is fluid and cursive, with a large initial "L" and a long, sweeping underline.

Larry L. Campbell
Director of the Budget

cc: Willie Prescott, Office of the Attorney General
Trey Cocking, League of Municipalities
Jay Hall, Association of Counties