

## HOUSE BILL No. 2688

By Committee on Agriculture and Natural Resources Budget

2-13

1 AN ACT concerning the state board of veterinary examiners; relating to  
2 administrative proceedings; collected moneys; the veterinary examiners  
3 fee fund; amending K.S.A. 47-844 and 75-3170a and K.S.A. 2019  
4 Supp. 47-820 and 47-842 and repealing the existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) (1) If the board issues an order that is adverse to  
8 an applicant, registrant or licensee as part of any proceeding conducted  
9 under the Kansas veterinary practice act, then the costs incurred by the  
10 board for the board's participation in such proceeding may be assessed  
11 against the applicant, registrant or licensee as determined by the board.  
12 Any such determination by the board shall include a consideration of all  
13 relevant circumstances, including the nature of the proceeding and the  
14 level of participation by the parties.

15 (2) If the board issues an order that is not adverse to such applicant,  
16 registrant or licensee as part of such proceeding, then any such costs  
17 incurred by the board from participating in such proceeding shall be paid  
18 from the veterinary examiners fee fund.

19 (b) The board shall include any assessment of costs incurred from the  
20 proceeding as part of such order, and the order shall include findings and  
21 conclusions in support of the assessment of costs.

22 (c) For purposes of this section, "costs incurred" includes, but is not  
23 limited to:

24 (1) Presiding officer fees and expenses, if the board has designated or  
25 retained the services of an independent contractor or the department of  
26 administration office of administrative hearings to perform presiding  
27 officer functions;

28 (2) costs of making any transcripts;

29 (3) reasonable investigative costs;

30 (4) witness fees and expenses;

31 (5) subsistence allowances, mileage and other actual and necessary  
32 expenses incurred by board employees in accordance with K.S.A. 75-  
33 3223(e), and amendments thereto; and

34 (6) fees and expenses of agents of the board who provide services  
35 under K.S.A. 47-821, and amendments thereto.

36 (d) This section shall be a part of and supplemental to the Kansas

1 veterinary practice act.

2 Sec. 2. K.S.A. 2019 Supp. 47-820 is hereby amended to read as  
3 follows: 47-820. (a) ~~Except as provided further,~~ The board shall remit all  
4 moneys received by or for ~~it~~ *the board* from fees, charges, *assessments* or  
5 penalties *collected under the Kansas veterinary practice act* to the state  
6 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
7 amendments thereto. Upon receipt of each such remittance, the state  
8 treasurer shall deposit the entire amount in the state treasury. ~~ten percent of~~  
9 ~~each such deposit shall be credited to the state general fund and the~~  
10 ~~balance shall be credited to~~ *the credit of the* the veterinary examiners fee  
11 fund. ~~Costs relating to assessment and enforcement of civil fines shall be~~  
12 ~~credited to the veterinary examiners fee fund from all moneys received~~  
13 ~~that are civil fines and the balance shall be credited to the state general~~  
14 ~~fund.~~

15 (b) All expenditures from ~~such~~ *the veterinary examiners fee* fund  
16 shall be made in accordance with appropriation acts upon warrants of the  
17 director of accounts and reports issued pursuant to vouchers approved by  
18 the executive director or by a person or persons designated by the  
19 executive director.

20 (b) ~~For the fiscal years ending June 30, 2015, and June 30, 2016, the~~  
21 ~~board shall remit all moneys received by or for it from fees, charges or~~  
22 ~~penalties to the state treasurer in accordance with the provisions of K.S.A.~~  
23 ~~75-4215, and amendments thereto. Upon receipt of each such remittance,~~  
24 ~~the state treasurer shall deposit the entire amount in the state treasury to~~  
25 ~~the credit of the veterinary examiners fee fund. Costs related to assessment~~  
26 ~~and enforcement of civil fines shall be credited to the veterinary examiners~~  
27 ~~fee fund. All expenditures from such fund shall be made in accordance~~  
28 ~~with appropriation acts upon warrants of the director of accounts and~~  
29 ~~reports issued pursuant to vouchers approved by the secretary of~~  
30 ~~agriculture or by a person or persons designated by the secretary of~~  
31 ~~agriculture.~~

32 Sec. 3. K.S.A. 2019 Supp. 47-842 is hereby amended to read as  
33 follows: 47-842. (a) In addition to the board's authority to refuse licensure  
34 or impose discipline pursuant to K.S.A. 47-830, and amendments thereto,  
35 the board shall have the authority to assess a fine not in excess of \$5,000  
36 against a licensee for each of the causes specified in K.S.A. 47-830, and  
37 amendments thereto. Such fine may be assessed in lieu of or in addition to  
38 such discipline.

39 (b) The proceedings under this act shall be conducted in accordance  
40 with the Kansas administrative procedure act, and the board shall have all  
41 the powers granted therein. ~~All fines collected pursuant to this section shall~~  
42 ~~be remitted to the state treasurer in accordance with the provisions of~~  
43 ~~K.S.A. 75-4215, and amendments thereto. Upon receipt of each such~~

1 ~~remittance, the state treasurer shall deposit the entire amount in the state~~  
2 ~~treasury to the credit of the state general fund. Actual costs related to~~  
3 ~~investigation, adjudication and enforcement shall be deducted and credited~~  
4 ~~to the veterinary examiners fee fund.~~

5 Sec. 4. K.S.A. 47-844 is hereby amended to read as follows: 47-844.

6 (a) (1) If a veterinarian desires to contest administratively a civil citation  
7 or the proposed assessment of a civil penalty, such veterinarian, within 30  
8 days after service of the citation, shall notify the executive director in  
9 writing of such veterinarian's request for an informal conference with the  
10 executive director or the executive director's designee.

11 (2) The executive director or the executive director's designee, within  
12 60 days from the receipt of the request, shall hold an informal conference.  
13 At the conclusion of the informal conference, the executive director may  
14 affirm, modify or dismiss the citation or proposed assessment of a civil  
15 penalty, and the executive director shall state with particularity in writing  
16 the reasons for the action; and shall immediately transmit a copy thereof to  
17 the board, the veterinarian; and the person who submitted the complaint.

18 (3) (A) If the veterinarian desires to contest administratively a  
19 decision made after the informal conference, such veterinarian shall  
20 inform the executive director in writing within 30 days after such person  
21 receives the decision resulting from the informal conference.

22 (B) If the veterinarian fails to notify the executive director in writing  
23 that such veterinarian intends to contest the citation or the proposed  
24 assessment of a civil penalty or the decision made after an informal  
25 conference within the time specified in this section, the citation or the  
26 proposed assessment of a civil penalty or the decision made after an  
27 informal conference shall be deemed a final order of the board and shall  
28 not be subject to further administrative review.

29 (4) Notwithstanding any other provision of law, where a fine is paid  
30 to satisfy an assessment based on the findings of a violation, payment of  
31 the fine shall be represented as satisfactory resolution of the matter for  
32 purposes of public disclosure.

33 (b) A veterinarian, in lieu of contesting a citation pursuant to this  
34 section, may transmit to the board the amount assessed in the citation as a  
35 civil penalty, within 30 days after service of the citation. If a hearing is not  
36 requested pursuant to this section, payment of any fine shall not constitute  
37 an admission of the violation charged.

38 (c) (1) If a veterinarian has notified the executive director within 30  
39 days of the issuance of the assessment or citation that such veterinarian  
40 intends to contest the decision made after the informal conference, the  
41 board shall hold a hearing to be held in accordance with the Kansas  
42 administrative procedure act.

43 (2) After the hearing, the board shall issue a decision, based on

1 findings of fact, affirming, modifying, or vacating the citation, or directing  
2 other appropriate relief ~~which~~ *that* shall include, but need not be limited to,  
3 a notice that the failure of a veterinarian to comply with any provision of  
4 the board's decision constitutes grounds for suspension, or denial of  
5 licensure, or both.

6 (3) The proceedings under this section shall be conducted in  
7 accordance with the Kansas administrative procedure act and the board  
8 shall have all the powers granted therein.

9 (d) After the exhaustion of the review procedures provided for in this  
10 section, the board may bring an action pursuant to the act for judicial  
11 review and civil enforcement of agency action to enforce any order issued  
12 pursuant to this section.

13 (e) Failure of the licensee to pay a fine within 30 days of the date of  
14 assessment, unless the citation is being appealed, may result in disciplinary  
15 action being taken by the board. When a citation is not contested and a fine  
16 is not paid, the full amount of the assessed fine shall be added to the fee  
17 for renewal of the license. A license shall not be renewed without payment  
18 of the renewal fee and fine.

19 ~~(f) All civil penalties received under this act shall be deposited in the  
20 state general fund following payment of all costs related to investigation,  
21 adjudication and enforcement which shall be credited to the veterinary  
22 examiners fee fund.~~

23 Sec. 5. K.S.A. 75-3170a is hereby amended to read as follows: 75-  
24 3170a. (a) The 10% credit to the state general fund required by K.S.A. 1-  
25 204, 9-1703, 16a-2-302, 17-12a601, 17-2236, 20-1a02, 20-1a03, 31-133a,  
26 31-134, 36-512, 44-324, 44-926, ~~47-820~~, 49-420, 55-155, 55-176, 55-609,  
27 55-711, 55-901, 58-2011, 58-3074, 58-4107, 65-6b10, 65-1718, 65-1817a,  
28 65-1951, 65-2011, 65-2855, 65-2911, 65-4024b, 65-5413, 65-5513, 65-  
29 6910, 65-7210, 65-7309, 66-1,155, 66-1503, 74-715, 74-1108, 74-1405,  
30 74-1503, 74-1609, 74-2704, 74-3903, 74-50,188, 74-5805, 74-6708, 74-  
31 7009, 74-7506, 75-1119b, 75-1308, 75-1514; *or* 84-9-801, and  
32 amendments thereto, is to reimburse the state general fund for accounting,  
33 auditing, budgeting, legal, payroll, personnel and purchasing services; and  
34 any and all other state governmental services, ~~which~~ *that* are performed on  
35 behalf of the state agency involved by other state agencies ~~which~~ *that*  
36 receive appropriations from the state general fund to provide such services.

37 (b) Nothing in this act or in the sections amended by this act or  
38 referred to in subsection (a), shall be deemed to authorize remittances to be  
39 made less frequently than is authorized under K.S.A. 75-4215, and  
40 amendments thereto.

41 (c) Notwithstanding any provision of any statute referred to in or  
42 amended by this act or referred to in subsection (a), whenever in any fiscal  
43 year such 10% credit to the state general fund in relation to any particular

1 fee fund is \$100,000, in that fiscal year the 10% credit no longer shall  
2 apply to moneys received from sources applicable to such fee fund and for  
3 the remainder of such year the full 100% so received shall be credited to  
4 such fee fund.

5 Sec. 6. K.S.A. 47-844 and 75-3170a and K.S.A. 2019 Supp. 47-820  
6 and 47-842 are hereby repealed.

7 Sec. 7. This act shall take effect and be in force from and after its  
8 publication in the Kansas register.