



SUPREME COURT OF KANSAS

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TO CHIEF JUSTICE

March 8, 2013

To: Senate Judiciary Committee

From: Helen Pedigo

Re: Fiscal Impact and Implementation of the House Amendments to 2013 HB 2009

As introduced, 2013 HB 2009 includes the same provisions as 2013 SB 6. Neither bill would have a fiscal impact on the Judicial Branch, nor would they present implementation issues. Both bills would restore a restricted license provision that became effective on July 1, 2009, and became subject to sunset on January 1, 2012. The provision allowed individuals to apply for restricted driving privileges in lieu of suspension through a written request to the Division of Vehicles with an accompanying \$25 application fee. Upon approval, the privileges could be restricted for up to one year or until the terms of the traffic citation were met. If the driver failed to comply, the court was authorized to terminate the driving privileges. However, once the driver satisfied the terms, the Division was required to terminate the suspension after receiving electronic notification from the court.

Two amendments made by the House Committee on Transportation, however, would have a fiscal impact on the Judicial Branch, as noted in detail below.

- The bill would eliminate language in current law providing that the \$59 reinstatement fee shall be assessed for each charge on which the person failed to make satisfaction regarding traffic infractions. The bill would permit the assessment of only one \$59 reinstatement fee, regardless of the number of charges filed against a person for which the person has failed to make satisfaction.
- The bill would further provide that the court shall not assess the reinstatement fee more than once in a 365-day period.

These amendments are significant. From each reinstatement fee, the Judicial Branch receives two amounts:

- 15.26 percent of the \$59 reinstatement fee, for the Judicial Branch Nonjudicial Salary Adjustment Fund, and

- the \$22 surcharge authorized by K.S.A. 2012 Supp. 8-2110(e).

Other funds receiving a portion of the \$59 reinstatement fee are the Division of Vehicles Operating Fund (42.37 percent), the Community Alcoholism and Intoxication Programs Fund of the Department for Children and Families (31.78 percent), and the Juvenile Detention Facilities Fund (10.59 percent).

It is not known with certainty how many reinstatement fees are paid by the same person who has had more than one charge, or how many are from persons against whom the fee has been assessed more than once in a 365-day period. In an attempt to quickly ascertain this information, clerks of the district court in selected districts ran a report showing all reinstatement fees paid in the six-month period from July 1, 2012, to December 31, 2012. The percentage of reinstatement fees paid for multiple charges filed on a single ticket was determined to be 24 percent. Applying this percentage to the total collected for drivers' license reinstatements in both district and municipal courts, the funds to which the drivers' license reinstatement fees are credited would incur the following estimated shortfalls:

FY 2012	Fees Collected	Percentage Reduction	HB 2009 Reduction
Reinstatement Fees Total	\$2,336,914	24.00%	-\$560,859
Reinstatement Fees Split:	Deposit Percentage	Funds Received	HB 2009 Reduction
Nonjudicial Salary Adjustment Fund	15.26%	\$356,613	-\$85,587
Division of Vehicles Operating Fund	42.37%	\$990,150	-\$237,636
Community Alcoholism and Intoxication Programs Fund	31.78%	\$742,671	-\$178,241
Juvenile Detention Facilities Fund	10.59%	\$247,479	-\$59,395
Total	100%	\$2,336,914	-\$560,859
Judicial Branch Surcharge Fund (DL Reinstatements)	100.00%	\$850,000	-\$204,000
Total Fiscal Effect on Judicial Branch		Current Revenue	HB 2009 Reduction
Nonjudicial Salary Adjustment Fund (DL Reinstatements)		\$356,613	-\$85,587
Judicial Branch Surcharge Fund (DL Reinstatements)		\$850,000	-\$204,000
Total		\$1,206,613	-\$289,587

Previous legislatures have put these funding mechanisms into place, and the funds generated are now a part of the Judicial Branch base budget. If it is determined that, as a policy matter, the amendments proposed in the House amendments to HB 2009 should be enacted into law, it is urged that the fiscal impact be considered and that alternate funding be provided.

In addition to this fiscal impact, the provision stating that that the court shall not assess the reinstatement fee more than one time in a 365-day period cannot be implemented in a reliable manner within the limits of existing resources. By statute (K.S.A. 2012 Supp. 8-2110 (c)), the clerk of the district court is to assess the reinstatement fee when notice is sent to the Division of Vehicles of a failure to comply with a traffic citation. There is no way for the clerk of the district court to know whether the defendant has been assessed any other reinstatement fee in any other district court in Kansas without contacting each court individually and searching for that information which would require significant time to even determine whether the reinstatement fee can be assessed.

For informational purposes, it should be noted that persons who receive traffic tickets receive notice at the time the ticket is written. If they do not pay that ticket, they receive a notice telling them that, if they do not appear in district or municipal court or pay all fines, costs, and penalties within 30 days from the date of mailing notice, the Division of Vehicles will be notified to suspend the person's driving privileges. Persons therefore are given at least two notices of the consequences of failure to comply with a traffic citation. In addition, there are concerns that the inability to assess the reinstatement fee in all cases where the defendant has failed to comply could hinder the strength of the collection process for these types of cases.

For the reasons stated, it is urged that you not adopt the House amendments to HB 2009 or that, in the alternative, the fiscal and implementation issues be addressed.

Thank you for your consideration of these issues.