

January 29, 2015

The Honorable John Barker, Chairperson
House Committee on Judiciary
Statehouse, Room 149-S
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2054 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2054 is respectfully submitted to your committee.

HB 2054 would enact the Public Speech Protection Act. The Act would apply to any lawsuit based on an action involving participation and petition which includes any expression: (1) in a government proceeding, public forum or place open to the public; and (2) regarding an issue, finding, determination, ruling interpretation, law, rule, policy, program, activity or contract that was or is being considered, enacted, decided, executed or administered by the government.

The Act would require any party asserting a claim in a civil action against a person that arises from that person's expression to include in the pleadings written verification under oath that:

1. The party and the attorney of record, if any, have read the claim;
2. To the best of the party and the attorney's belief formed after reasonable inquiry, the claim is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and the asserted injury is actual, concrete and redressable by the court; and
3. The claim is not asserted for any improper purpose, such as to suppress the right of free speech or right to petition the government of a person or entity, to harass or to cause unnecessary delay or needless increase in the cost of litigation.

HB 2054 also outlines various rules that must be followed under the Act. In any case filed by a government contractor that the court finds to be a violation of the Act, the court would be required to provide its ruling to the head of the governmental entity doing business with the contractor.

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The Office of Judicial Administration indicates that it is not likely HB 2054 would increase revenues to the Judicial Branch because it imposes new requirements in cases that might otherwise be filed under existing provisions in current law rather than authorizing a new cause of action. The Office indicates that HB 2054 would increase district court expenditures for additional district judges and nonjudicial staff time spent hearing civil claims which require written verifications of violations of the Act, in addition to any other motions or hearings falling within its provisions. However, until the courts have had an opportunity to operate with the provisions of HB 2054 in place, an accurate estimate of the fiscal effect on expenditures by the Judicial Branch cannot be given. Any fiscal effect associated with HB 2054 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Mary Rinehart, Judiciary