

SESSION OF 2017

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2054**

As Agreed to April 5, 2017

Brief*

HB 2054 would amend provisions in the Employment Security Law regarding access to information, law related to the Kansas Sentencing Commission, law related to law enforcement, and law regarding fee funds.

Employment Security Law

The bill would amend a provision in the Employment Security Law (Law) regarding information obtained by the Secretary of Labor pursuant to administration of the Law to allow disclosure of such information to public officials or the agents or contractors of a public official in the performance of their official duties. (Under current law, such information may be disclosed only to public employees in the performance of their public duties.) A provision prohibiting further disclosure of information disclosed under the Law would be amended to permit further disclosure for use in the performance of a party's official duties. Those persons subject to penalties for violating the disclosure provisions would be broadened from "the secretary or any officer or employee of the secretary" to "any individual."

The bill would define "performance of official duties" to include the administration or enforcement of law or the execution of the official responsibilities of a federal, state, or

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local official; collection of debts owed to courts; enforcement of child support on behalf of a state or local official; or research related to the law administered by the public official. The definition would specify it does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.

Kansas Sentencing Commission

The bill would amend law related to the Kansas Sentencing Commission (Commission) to require the Commission to gather data and information from state agencies to carry out its duties and functions. It would also require state agencies to provide data or information requested by the Commission for the above purpose, unless otherwise prohibited by law. "State agency" would be defined for purposes of this provision.

[*Note:* The bill would also make a technical amendment removing a reference to the Juvenile Justice Authority (Authority), which was abolished by 2013 Executive Reorganization Order (ERO) No. 42. The Authority's duties were transferred by the ERO to the Department of Corrections.]

Law Enforcement Training Act Definitions

The bill would amend the definition of "conviction," as used in the section of the Kansas Law Enforcement Training Act setting forth the requirements for applicants for certification under the Act, to include any deferred judgment agreement entered into for a misdemeanor crime of domestic violence, or any such agreement entered into on or after July 1, 1995, for a felony. The bill would also add to this definition any diversion or deferred judgment agreement entered into for a misdemeanor offense that the Kansas Commission on Peace Officers' Standards and Training (CPOST) determines reflects on the honesty, trustworthiness, integrity, or competence of the applicant as defined by rules and

regulations by CPOST. Under current law, the definition includes judgments by military court martial or state or federal courts, whether or not expunged; any diversion agreement for a misdemeanor crime of domestic violence; or any diversion agreement entered into on or after July 1, 1995, for a felony.

Requests for Law Enforcement Assistance

The bill would amend law regarding requests for law enforcement assistance from other jurisdictions. Specifically, the bill would add a department of corrections in another jurisdiction to the list of agencies from whom assistance may be requested and would add the Secretary of Corrections (Secretary), or the Secretary's designee, to those persons who may request such assistance.

Fee Funds

The bill would amend a statute pertaining to the revenues placed in the State General Fund (SGF) to specify that certain funds, identified in section 1(b), and any other fund in which fees are deposited for licensing, regulating, or certifying a person, profession, commodity, or product, must be used for the purposes set forth in statute and for no other government purpose.

The bill would define "fee agency" as state agencies specified in KSA 75-3717(f), and any other state agency that collects fees for licensing, regulating, or certifying a person, profession, commodity, or product.

Under the bill, a fee agency would be required to provide notice if moneys received pursuant to statutory provisions for a specific purpose by such agency are proposed to be transferred to the SGF or any other special revenue fund to be expended for general government services and purposes in the *Governor's Budget Report* or any introduced House or Senate bill. The fee agency would have to notify, within 30 days of such proposed transfer, the person or entity that paid

such moneys to the fee agency within the preceding 24-month period. The notice could be sent electronically if the fee agency has an electronic address on record for the person or business entity. If no electronic address is available, the fee agency would be required to send written notice by first class mail. However, if the agency receives fees from a tax, fee, charge, or levy paid to the Insurance Commissioner, the agency would be required to post the required notification on the agency's website, rather than *via* electronic or first class mail.

The bill would state the provisions of the statute would not apply to the 10.0 percent credited to the SGF to reimburse the SGF for accounting, auditing, budgeting, legal, payroll, personnel, purchasing, and other governmental services.

Beginning January 8, 2018, the bill would require the Director of the Budget to prepare a report listing the unencumbered balance of each fund included in the bill on June 30 of the previous fiscal year and January 1 of the current fiscal year. The bill would require this report be delivered to the Secretary of the Senate and Chief Clerk of the House of Representatives on or before the first day of the regular legislative session each year.

Conference Committee Action

The Conference Committee agreed to the Senate version of HB 2054, containing provisions regarding access to information under the Employment Security Law and Kansas Sentencing Commission data sharing. The Conference Committee further agreed to add:

- Provisions from HB 2069, as amended by the Senate Committee on Judiciary, regarding Law Enforcement Training Act definitions and requests for law enforcement assistance, but not including the Senate Committee amendment to HB 2069

adding provisions from SB 180, regarding disclosure of law enforcement applicant files; and

- Provisions from HB 2153, as amended by the Senate Committee on Judiciary, regarding fee funds. [*Note:* This version does not include the Scrap Metal Theft Reduction Act amendments added to HB 2153 by the Senate Committee of the Whole amendment, which were included in the conference committee report on SB 149.]

Background

HB 2054—Access to Information Under the Employment Security Law

HB 2054 was introduced by the House Committee on Judiciary. As introduced, the bill contained the provisions regarding access to information under the Employment Security Law. In the House Committee on Judiciary hearing, an attorney who contracts with Kansas judicial districts to perform collections work testified in support of the bill. No other testimony was provided.

The House Committee of the Whole adopted an amendment changing the term “public” to “official” in the phrase “public duties” and defining “performance of official duties.”

In the Senate Committee on Judiciary hearing, a representative of the same conferee who appeared before the House Committee testified in support of the bill. A Shawnee County District Court judge submitted written-only testimony supporting the bill.

The Senate Committee amended the bill to add the provisions of HB 2084, regarding the Kansas Sentencing

Commission. Further background regarding HB 2084 is provided below.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Labor indicates HB 2054 would have no fiscal effect. Fiscal note information for HB 2084 is provided below.

HB 2084—Kansas Sentencing Commission

HB 2084 was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Commission. In the House Committee on Corrections and Juvenile Justice and Senate Committee on Judiciary hearings, a representative of the Commission testified in support of the bill. No opponent or neutral testimony was provided.

According to the fiscal note prepared by the Division of the Budget, the Commission indicates enactment of HB 2084 would have no fiscal effect on the Commission. Requests from the Commission would incur increased costs on agencies receiving such requests, but it is anticipated any increase would be absorbed within existing resources.

HB 2069—Law Enforcement Training Act Definitions

HB 2069 was introduced by the House Committee on Judiciary at the request of CPOST. As introduced, the bill contained the provision amending the definition of “conviction” in the Kansas Law Enforcement Training Act.

In the House Committee hearing, Representative Whitmer, as chairperson of CPOST, testified in support of the bill. Also testifying in support were counsel for CPOST and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs’ Association. The Director of the Kansas Bureau of

Investigation (KBI) submitted written-only testimony supporting the bill. No neutral or opponent testimony was provided.

In the Senate Committee on Judiciary hearing, Representative Whitmer, as chairperson of CPOST, testified in support of the bill. Counsel for CPOST also testified in support. The Director of the KBI and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association submitted written-only testimony supporting the bill. No neutral or opponent testimony was provided.

The Senate Committee amended the bill to add language modified from SB 180, regarding disclosure of law enforcement officer applicant files, and the contents of HB 2262, as amended by House Committee, regarding requests for law enforcement assistance. [*Note:* The conference committee report does not include the provisions drawn from SB 180.] Further background information regarding HB 2262 is provided below.

According to the fiscal note prepared by the Division of the Budget, CPOST indicates enactment of HB 2069 would have no fiscal effect. Fiscal note information for HB 2262 is provided below.

HB 2262—Requests for Law Enforcement Assistance

HB 2262 was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Department of Corrections (KDOC). As introduced, the bill would have amended the definition of "law enforcement officer" in the law enforcement assistance statute to include employees of the KDOC and a correctional officer in another jurisdiction. In the House Committee hearing, a KDOC representative testified as a proponent for the bill, with a proposed amendment. No neutral or opponent testimony was provided.

The House Committee adopted an amendment modified from KDOC's proposed amendment. The modified amendment restored the current definition of "law enforcement officer" and added the Secretary to the list of persons who may request assistance and a department of corrections in another jurisdiction to the list of entities from whom assistance may be requested.

In the Senate Committee on Judiciary hearing, the same proponent testified as before the House Committee. No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget on HB 2069, as introduced, KDOC indicates enactment of the bill would have no fiscal effect.

HB 2153—Fee Funds

HB 2153 was introduced by the House Committee on Judiciary at the request of Representative Finch. In the House Committee hearing, representatives of O'Neal Consulting and the Kansas Bankers Association testified in support of the bill. As introduced, the bill contained the provisions regarding fee funds. Written-only proponent testimony was submitted by Heartland Credit Union Association, Kansas Association of Realtors, Kansas Chamber of Commerce, and Kansas Cooperative Council. The State Fire Marshal testified as a neutral conferee, requesting removal of the bill's notification provision.

The House Committee adopted an amendment adding the Scrap Metal Theft Reduction Fee Fund to the list of funds addressed by the bill's provisions and allowing any agency receiving fees from payments to the Insurance Commissioner to post the required notification on the agency's website.

In the Senate Committee on Judiciary hearing, the same proponents testified or submitted written testimony as before the House Committee. No other testimony was provided.

The Senate Committee adopted an amendment requiring an annual report of the unencumbered balances of the funds listed in the bill to the Legislature.

The Senate Committee of the Whole adopted an amendment containing the amendments to the Scrap Metal Theft Reduction Act. The amendment also changed the effective date of the bill to publication in the *Kansas Register*. According to the carrier of the amendment, certain stakeholders had requested the delay, but a bill with similar provisions (SB 239) had been introduced too late in the Session to receive a hearing. [Note: The conference committee report does not include the Senate Committee of the Whole provisions. These provisions were included in the conference committee report on SB 149.]

According to the fiscal note prepared by the Division of the Budget on HB 2153, as introduced, enactment of the bill would require additional staff time and mailing costs for fee agencies to identify and notify individuals or entities entitled to notice under the bill. The Board of Accountancy and Board of Technical Professions estimate there would be no fiscal effect on their agencies. The Board of Nursing estimates a cost of \$4,731 in FY 2018 to provide notifications to those licensees for whom it does not have e-mail addresses.

The Insurance Department indicates 32 different fees are deposited into the Service Regulation Fund and the Department would have to notify all affected parties, including 125,566 agents, 11,908 agencies, and 19,911 companies, for additional postage expenses of approximately \$63,000. Additionally, extensive additional staff time would be required to provide notifications.

The Office of the State Fire Marshal indicates additional expenditures of \$66,000 in FY 2018 and FY 2019 would be required if revenues from the Boiler Inspection Fund are transferred to the SGF, which would include postage and additional staff time. This fund is financed through levies on

premiums for fire insurance, collected by the Insurance Department.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor's Budget Report*.

A revised fiscal note for the amended bill was not available at the time of Senate Committee of the Whole action. However, the House Committee amendment allowing notifications by agencies receiving fees from payments to the Insurance Commissioner to be publicly posted to the agency's website may reduce the fiscal effect on the Insurance Department and the State Fire Marshal.

Employment Security Law; disclosure of information; public officials; Kansas Sentencing Commission; data sharing; Law Enforcement Training Act; definitions; conviction; Secretary of Corrections; law enforcement assistance; fee funds

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