

March 4, 2020

The Honorable Troy Waymaster, Chairperson
House Committee on Appropriations
Statehouse, Room 111-N
Topeka, Kansas 66612

Dear Representative Waymaster:

SUBJECT: Fiscal Note for HB 2682 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2682 is respectfully submitted to your committee.

HB 2682 would amend the Kansas False Claims Act. The bill would provide that a private plaintiff may maintain an action pursuant to this Act on such plaintiff's own account and that of the state, if money, property, or services provided by the state are involved, or on the plaintiff's own account and that of a political subdivision, if money, property, or services provided by the political subdivision are involved; or on the plaintiff's own account and that of both the state and a political subdivision if both are involved. After such an action is commenced, it may be dismissed only for good cause shown, with written consent of the court and the Attorney General. The court and the Attorney General would consider the public purposes of this Act and the best interests of the parties in dismissing the action or consenting to the dismissal and provide the reasons for dismissing the action or consenting to the dismissal. A complaint filed must be sealed for at least 60 days and would remain sealed until the Attorney General elects whether to intervene. The bill describes the processes and limitations on causes of actions and describes the possibility of the involvement of the Attorney General as an intervenor. The bill would define and redefine certain terms.

HB 2682 specifies that an employee, contractor, or agent would be entitled to relief necessary to make them whole, if the employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or discriminated against, in any manner, in the terms and conditions of employment because of lawful acts of the employee, contractor, or agent or others in furtherance of an action or other efforts to stop a violation of this Act. Relief would include the following:

1. Reinstatement with the same seniority status the employee, contractor, or agent would have had if the discrimination had not occurred;
2. Twice the amount of back pay owed to the employee, contractor, or agent, plus interest;
3. Compensation for any special damages, including, but not limited to, mental anguish sustained as a result of the discrimination; and
4. Litigation and attorney fees.

An action could be brought in the district court in the county in which the plaintiff resides; the defendant can be located, resides, or transacts business; or any of the alleged violations occurred. An action could not be brought more than three years after the date the conduct occurred. The time limitation would apply retroactively.

The Office of Judicial Administration states enactment of HB 2682 could increase the number of cases filed in district court, which would result in more time spent by court employees and judges processing and deciding these cases. Also, the Office indicates the bill requires a complaint to be sealed for at least 60 days. There is not a current process or system to track when a complaint should be unsealed so this would most likely be a manual calendaring process by the district court clerks. The Office states it is possible that programming changes could be performed to the current case management system to relieve the additional work of manual tracking by the clerks; however, this would result in additional expenditures to the Judicial Branch. According to the Office, a fiscal effect cannot be estimated.

The Office of the Attorney General states enactment of HB 2682 would result in additional funds being recovered from false claims actions. This may require additional work by the agency to intervene in any additional false claim lawsuits. The Office does not have enough information to estimate a fiscal effect. The agency does note that if the bill is enacted and is approved by the federal government as a qualifying statute, the state could receive an additional 10.0 percent in recoveries in Medicaid fraud cases. Any fiscal effect associated with HB 2682 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Director of the Budget

cc: Willie Prescott, Office of the Attorney General
Mary Rinehart, Judiciary
Lynn Robinson, Department of Revenue