

SESSION OF 2013

SUPPLEMENTAL NOTE ON SENATE BILL NO. 129

As Amended by House Committee on Financial
Institutions

Brief*

SB 129, as amended, would make several amendments to the Banking Code regarding fees, including payment for costs associated with hearings conducted by the Bank Commissioner (Commissioner) and other statutory fees.

Fees—Hearing Costs

The bill would require an applicant, person, or other party to pay the actual costs associated with a public hearing in the following instances:

- Applicants seeking to operate a branch bank or a trust branch bank would be responsible for paying the actual costs associated with the public hearing. Under KSA 9-1111, the Commissioner is permitted to hold a hearing in the county in which the applicant bank seeks to operate a branch bank. KSA 9-1135 requires the Bank Commissioner to hold a public hearing, if a written request for public hearing is filed;
- Parties requesting a public hearing with the State Banking Board (Board) would pay the actual expenses associated with such hearing (KSA 9-1804 requires prior approval for the relocation of bank or trust company within same city or town); and

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- If a written request for public hearing is filed, applicants would be responsible for paying the actual costs associated with the public hearing (KSA 9-2107 applies to contracting trustees and KSA 9-2108 governs trust companies and trust service offices).

Other Fees—Letter of Good Standing; Revenue Bonds; Examination Costs; Certain Expenses

The bill would allow the Commissioner to charge a fee for a letter of good standing. The amount of the fee would be required to be established by rules and regulations adopted by the Commissioner. (A letter of good standing is issued to show that a bank or trust company has been organized, its capital has been paid, and the entity is authorized to transact a general banking or trust business as provided by law.)

The bill also would amend a provision relating to the deposit of public moneys to require any person making application for the approval of a revenue bond to pay a fee; the fee would be required to be established by rules and regulations adopted by the Commissioner.

An applicant would be required to pay a fee to the Commissioner in instances where the Board must examine and investigate an application (provisions of KSA 9-1804 applies to instances where a bank or trust does not meet eligibility criteria).

The bill also would require a Kansas trust company of a Kansas bank making application for approval to establish a trust facility to pay a fee established pursuant to rules and regulations of the Commissioner. The fees would be remitted to an account for each application and would be required to be used to pay the expenses of the Commissioner in the examination and investigation of the application.

Fees—Statutory

The Commissioner would be authorized to charge fees at the time of an application filing (application type notated below) for the following amounts:

- Bank of trust company charter--\$2,500
- New branch bank
 - Ineligible bank--\$1,000
 - Eligible bank--\$500
- Relocation of a branch bank or main office
 - Ineligible bank--\$1,000
 - Eligible bank--\$500
- Merger, consolidation, or transfer of assets and liabilities--\$1,000
- Change of control
 - General--\$1,000
 - *Bona fide* gift or inheritance--\$500
 - Formation of one-bank holding company and associated exchange of stock--\$500
- Conversion to state charter—no fee
- Bank service corporation—no fee
- Fiduciary activities
 - Fiduciary powers—no fee
 - Trust branch--\$500
 - Trust service office--\$500
 - Contracting trustee agreement--\$500

- Out of state trust facility--\$500

- Change of name—no fee
- Revenue bond pledgibility--\$200
- Letter of good standing--\$50
- Administrative appeals--\$1,000

The Commissioner would be authorized to adopt rules and regulations to change the amount of the fees listed in the bill, either increasing or decreasing the amount, as long as the amount would not be increased more than 150 percent of the amounts listed in the bill.

Applicants could be required to pay any additional costs associated with an examination or investigation if the Commissioner determines an on-site examination of the financial institutions or trust companies that are parties to the application is necessary.

Finally, the Commissioner also would be authorized to adopt rules and regulations necessary to administer the fees described in the bill.

Background

The bill was introduced at the request of the Office of the State Bank Commissioner (OSBC) whose representative indicated the bill was requested following a recent review the OSBC's rules and regulations for certain fees (KAR 17-22-1). The OSBC recently proposed amendments to its regulation and the Attorney General's Office would not approve the amendments because in certain instances, there was no correlating statutory authority authorizing the OSBC to charge the application and hearing fees. An OSBC representative indicated the agency requested the statutory changes to specifically authorize fees which are currently charged and

have been charged for many years. There were no other proponents and no opponents present at the Senate Committee hearing.

The Senate Committee on Financial Institutions and Insurance amendment inserts parallel language for banks applying for relocation of an existing branch bank or a new branch bank who do not meet the definition of “eligible bank” (language parallels new public hearing provisions for those banks deemed eligible banks). The amendment was requested by the OSBC.

The House Committee on Financial Institutions amended the bill to remove the stipulation that any unused balance of fees paid to the Commissioner and remitted to the State Treasurer for deposit in separate accounts would be transferred to the Bank Commissioner Fee Fund (KSA 9-2111). The House Committee added new language establishing application types and associated statutory fees to be paid to the Commissioner. The amounts listed in the bill are the actual fee amounts that could be charged if the bill is signed into law. Further, the House Committee added rules and regulations authority for the Commissioner to change the fees, as long as the fees listed in the bill are not increased more than 150 percent. The House Committee also provided further rules and regulations authorization to administer the fees, as well as authorizing the Commissioner to charge additional costs for on-site examinations.

The fiscal note prepared by the Division of the Budget on the original bill states the OSBC indicates enactment of the bill would have no fiscal effect on its operations. The agency indicates it currently charges the fees proposed in the bill to offset the actual costs of providing certain services under the authority of its current rules and regulations. The bill would place this authority in statute.