

January 29, 2016

The Honorable Jeff King, Chairperson
Senate Committee on Judiciary
Statehouse, Room 341-E
Topeka, Kansas 66612

Dear Senator King:

SUBJECT: Fiscal Note for SB 360 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 360 is respectfully submitted to your committee.

SB 360 would modify the Kansas Open Meetings Act (KOMA) regarding justifications for closed or executive meetings. Motions to recess for closed or executive meetings must include a statement describing the particular subjects to be discussed and the justification for closing the meeting. The motion must be recorded in its entirety in the meeting minutes. Justifications for recess to a closed meeting may only be done “to maintain the confidentiality of” matters or data related to circumstances specified in the bill.

According to the Office of the Attorney General, the agency has issued many opinions on KOMA and executive sessions. Making changes to the law could open the possibility that new issues could arise that have not been litigated or for which no Attorney General Opinion has been issued. If the number of requests for opinions increases beyond the number of requests that can be handled by existing staff, the Office could be required to hire additional attorneys. Also, the Attorney General’s Office could be required to be involved if cases are brought to court that question the application of SB 360. The Office could be obligated to participate in the defense of a state agency that is accused of violating the new law. Conversely, the Office could be required to participate as a plaintiff to enforce violations of the amended provisions.

The Office of the Attorney General further indicates that SB 360 could potentially affect revenues to the agency. Currently, the Office is able to collect civil penalties for KOMA violations. Under the scenario that the phrase “to maintain the confidentiality of” is interpreted to mean matters that are discussed in closed sessions must be kept confidential, fewer cases may be reported. The Office notes that many cases are self-reported by a member of the body.

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Because the number of opinion requests or cases that may arise from the passage of the bill is unknown, the fiscal effect is difficult to estimate with any precision. Any fiscal effect associated with SB 360 is not reflected in *The FY 2017 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: Willie Prescott, Attorney General's Office
Ashley Michaelis, Judiciary