

SESSION OF 2015

SUPPLEMENTAL NOTE ON SENATE BILL NO. 183

As Amended by House Committee on Judiciary

Brief*

SB 183, as amended, would amend law related to debts owed to courts, the state debt setoff program, and dormancy of judgments for court costs, as follows.

Debts Owed to Courts

The bill would amend the statute governing the collection of restitution or debts owed to courts to add court costs, fines, fees, or other charges arising from failure to comply with a traffic citation within 30 days from the mailing of the notice to the definition of “debts owed to courts.” It also would add a provision requiring, when a contracting agent uses the state debt setoff procedures to recover a debt owed to the courts, that the agent’s cost of collection for debt recovered through that program be the contracted amount minus the collection assistance fee imposed by the Director of Accounts and Reports of the Department of Administration (Director). In this section, the bill would replace references to the Attorney General with references to the Judicial Administrator and would replace authorization for the Attorney General to adopt rules and regulations with authorization for the Supreme Court to adopt rules.

State Debt Setoff Program

The bill would amend statutes governing the state debt setoff program, as follows.

*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>

The bill would add the following to the definition of “debt”: assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent defendants, or other unpaid charges ordered by a district court judgment be paid to the court, including any interest or penalties and the cost of collection when the collection services of a contracting agent are used. The definition of “refund” would be amended to remove the term “Kansas.” The definition of “state agency” would be amended to include a contracting agent contracted by a district court to collect debts owed to the court, who could directly establish a debt setoff account with the Director for the sole purpose of collecting such debts.

The bill would amend a provision related to the Director’s assessment of a reasonable collection assistance fee to require the Director to add the collection assistance fee to the debt after the debt is submitted to the Director. Other debt setoff provisions would be amended to require the Director to add the cost of collection and the debt for a total amount subject to setoff against a debtor, and to allow the reasonable collection assistance fee to be recovered as part of the setoff. Debts being enforced by the Department for Children and Families (DCF) under Title IV-D of the federal Social Security Act would not have the cost of collection added to the debt owed and subject to setoff, and the cost would instead be paid by DCF.

Dormancy of Judgments for Court Costs

The bill would amend law relating to dormant judgments to specify any judgment for court costs, fees, fines, or restitution not void as of July 1, 2015, would not be or become dormant for any purpose. If the judgment would have become dormant under certain conditions, then it would cease to operate as a lien on the real estate of the judgment debtor as of the date the judgment would have become dormant, but it would not be released.

Background

SB 183 was introduced by the Senate Committee on Judiciary at the request of the Kansas Supreme Court. As introduced, the bill contained provisions related to debts owed to courts and the state debt setoff program.

In the Senate Committee, representatives of the Kansas Judicial Branch Debt Collection Committee and the Kansas Association of District Court Clerks and Administrators (KADCCA) testified in favor of the bill. The Douglas County District Court Trustee and the Chief Deputy Attorney General presented testimony in support with a proposed amendment replacing references to the Attorney General. A representative of DCF presented neutral testimony with a proposed amendment exempting Title IV-D cases from the cost-of-collection changes.

The Senate Committee amended the bill with the Attorney General's and DCF's proposed amendments.

In the House Committee on Judiciary, representatives of the Kansas Judicial Branch Debt Collection Committee and the KADCCA testified in favor of the bill. Representatives of the Attorney General and DCF submitted written testimony supporting the bill. There was no neutral or opponent testimony.

The House Committee amended the bill by adding the contents of SB 184, related to dormancy of court judgments. Further background information for SB 184 is provided below. The House Committee also adopted a technical amendment correcting references to the Judicial Administrator.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Administration indicates the bill would increase fee fund expenditures by \$15,000 in FY 2015 to modify the Kansas Debt Recovery System to accommodate the bill's provisions.

The Office of Judicial Administration indicates the bill would increase Judicial Branch revenues, but a precise estimate of the fiscal effect cannot be made until the courts have operated with the bill's provisions in place. Any fiscal effect is not reflected in *The FY 2016 Governor's Budget Report*.

Background of SB 184

Under current law, any judgment for court costs, fees, fines, or restitution becomes dormant when a renewal affidavit is not filed or the judgment is not executed within ten years of the date of entry of such judgment.

SB 184 was introduced in the Senate Committee on Judiciary at the request of the Kansas Supreme Court. In the Senate Committee, a representative of the KADCCA testified in support of the bill stating passage of the bill would simplify the debt collection process and increase the likelihood of collecting on court costs and restitution. No neutral or opponent testimony was submitted.

In the House Committee on Judiciary, the same proponent testified and was the only conferee. As noted previously, the House Committee added the contents of SB 184 to SB 183.

According to the fiscal note prepared by the Division of the Budget on SB 184, the Office of Judicial Administration indicates the bill could have a fiscal impact because it would allow some judgments that would have otherwise gone dormant to remain alive and for current and future judgments to be collected. However, the specific fiscal effect is impossible to determine until the Judicial Branch has had an opportunity to operate under the provisions of the bill. Any fiscal effect associated with SB 184 is not reflected in *The FY 2016 Governor's Budget Report*.