

SESSION OF 2015

SUPPLEMENTAL NOTE ON SENATE BILL NO. 206

As Further Amended by House Committee on
Insurance

Brief*

SB 206 would amend provisions of the Vision Care Services Act (Act).

The bill would authorize the Insurance Commissioner (Commissioner) to administer the provisions of the Act. The Commissioner would be allowed to adopt rules and regulations necessary to carry out the provisions of the Act as applicable to any insurer, health insurer, health benefit plan, or vision care insurance provider. The bill also would require the Attorney General to administer the provisions of the Act as it applies to discount cards and vision care discount plans. The Attorney General would be allowed to adopt rules and regulations necessary to carry out the provisions of the Act. The Commissioner and the Attorney General would be required to adopt the necessary rules and regulations no later than January 1, 2016.

Additionally, the bill would amend the definition of a "vision care discount plan" to mean any entity specifically authorized by the vision care providers to provide discounts to patients. The vision care discount plan would not be insurance nor a discount card, as defined in statute.

Background

SB 206, as amended by the House Committee on Judiciary, would have created and amended law related to

*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 enforcement of the Kansas Open Records Act (KORA) and the Kansas Open Meetings Act (KOMA). It also would have added exceptions to KORA. As amended by the House Committee on Insurance, the bill pertains to the Vision Care Services Act (HB 2281).

SB 206

The bill was introduced by the Senate Committee on Federal and State Affairs.

In the Senate Committee on Judiciary, the Attorney General, a law professor, an attorney, and representatives of the Kansas Association of Counties, Kansas Press Association, and Kansas Association of Broadcasters testified in support of the bill. A representative of the League of Kansas Municipalities provided neutral testimony. There was no opponent testimony.

The Senate Committee amended the bill to remove a provision requiring all members of a governing body to sign a consent order in the case of a KOMA violation.

In the House Committee on Judiciary, the Attorney General, a law professor, and representatives of the Kansas Press Association and Kansas Association of Counties testified in support of the bill. A representative of the Kansas Association of Broadcasters provided written proponent testimony. A representative of the League of Kansas Municipalities provided written neutral testimony. There was no opponent testimony.

The House Committee on Judiciary amended the bill to adjust attorney fee provisions, standardize references to “public body or agency” in the KOMA provisions, and add the provisions of SB 128, adding KORA exceptions. [*Staff Note:* Additional information on SB 128 is available in the supplemental note on that bill.]

The bill was removed from the House Calendar and referred to the House Committee on Insurance. The House Committee on Insurance amended the bill by removing the contents of SB 206 (previously inserted in HB 2256 and approved by the Governor) and inserting language amending the Act regarding the roles of the Commissioner and the Attorney General in providing oversight and enforcement of the Act, providing a date certain for rules and regulations promulgated by the Commissioner and the Attorney General, and amending the definition of a “vision care discount plan.”

According to the fiscal note prepared by the Division of the Budget on SB 206, as introduced, the Attorney General’s Office indicates it would be able to administer the bill’s provisions using existing resources and revenues generated by the bill in the form of civil penalties, expenses, costs, and attorneys’ fees awarded to the Attorney General in enforcement actions. The revenues are expected to be small and would be used to offset expenses associated with KOMA and KORA enforcement, investigations, and training. The precise costs and revenues are difficult to estimate because the number of violations that may occur is unknown. Any fiscal effect is not reflected in *The FY 2016 Governor’s Budget Report*.

No fiscal note on SB 206, as amended by the House Committee on Insurance, was available.

Historical Background for HB 2281

Provisions of the Act included in SB 206, as amended by the House Committee on Insurance, also were addressed in HB 2281, as introduced, and in Senate Sub. for HB 2281, as amended by the Senate Committee on Public Health and Welfare. Senate Sub. for HB 2281 also included language regarding Health Maintenance Organization (HMO) privilege fees, the Medical Assistance Fee Fund, and the Unfair Trade Practice Law. Background information on HB 2281 is included below for historical purposes.

In the House Committee on Health and Human Services, a representative from the Kansas Optometric Association (Association) testified as a proponent of the bill. The representative stated the bill was drafted in response to the ongoing concerns of Association members regarding insurance companies and vision plans lacking compliance with the Act since it took effect in April of 2014. No opponent or neutral testimony was provided.

In the Senate Committee on Public Health and Welfare, a representative of the Association testified as a proponent of the bill. The representative requested an amendment that would clarify the ability of the Attorney General's office and Commissioner's office to provide oversight and enforcement of the Act. Representatives of America's Health Insurance Plans and Consumer Health Alliance provided opponent testimony. Both representatives stated they had no objection to the underlying bill, but expressed concerns about the amendment proposed by the Association. No other testimony was provided.

The Senate Committee amended the bill by clarifying the roles of the Commissioner and Attorney General in providing oversight and enforcement of the Act, inserting language that a violation of the Act would be a violation of the Unfair Trade Practice Law and would be subject to penalties, and provided a date certain for rules and regulations promulgated by the Commissioner and Attorney General. The Senate Committee also added the contents of SB 180, as amended by the Senate Committee of the Whole (relating to HMO privilege fees and the creation of the Medical Assistance Fee Fund), to HB 2281, as amended by the Senate Committee, creating Senate Sub. for HB 2281. [*Staff Note:* Additional information on SB 180 is available in the supplemental note on that bill.]

Senate Sub. for HB 2281 passed the Senate, but the House did not concur with the Senate changes. A Conference Committee was appointed to address the bill.

According to the fiscal note prepared by the Division of the Budget, in consultation with the Kansas Insurance Department (Department), HB 2281, as introduced, would not have a fiscal effect on the Department. The bill would require the Department to design, write, and implement rules and regulations for the Act, which would be completed utilizing existing staff and budget resources.