

SESSION OF 2010

**CONFERENCE COMMITTEE REPORT BRIEF
SUBSTITUTE FOR HOUSE BILL NO. 2476**

As Agreed to March 15, 2010

Brief*

Senate Sub. for HB 2476 would increase and extend to June 30, 2011, the Judicial surcharge the Legislature authorized in 2009 SB 66 to fund nonjudicial personnel. The surcharge would be increased from \$10 to \$17.50 on most court docket fees. Expungement of conviction, expungement of arrest record, marriage license fee, general rule on court procedures, and expungement of juvenile adjudication surcharges would be increased more than \$10. In addition, a \$100 docket fee is added for expungement of an adult conviction or a juvenile adjudication.

The bill would delete the provision requiring a \$10 surcharge on a person requesting an alias order or writ of execution, an alias order for garnishment, an alias writ or order of sale, an alias order for hearing in aid of execution, and an alias order of attachment.

The bill would become effective upon publication in the *Kansas Register*.

Conference Committee Action

The 2010 Conference Committee agreed to the following:

- For all statutes which, under the Senate's version, fees would have been raised from \$10 to \$20 (KSA 8-2110, 28-170, 28-172a, 38-2215, 38-2314, 59-104, 60-1621,

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60-2001, and 60-3303a), the House and Senate agreed to set the fee at \$17.50;

- For KSA 21-4619, criminal expungement, the Senate has accepted the House position, with a \$100 docket fee and a \$15 surcharge;
- For KSA 22-2410, arrest expungement, the Senate has accepted the House position, a \$15 fee;
- For KSA 23-108a, marriage licenses, the House and Senate agreed to a \$21 surcharge;
- For KSA 28-178, civil procedure fees, the House accepts the Senate's position of no change, leaving the fee at \$10;
- For KSA 38-2312, juvenile expungement, the Senate has accepted the House's position, with \$100 fee and a \$15 surcharge;
- For KSA 61-2704, small claims, the Senate has agreed to the House's position of a \$15 surcharge; and
- For KSA 61-4001, limited actions, the Senate has agreed to the House's position of an additional \$15 charge to docket fees.

Background

Senate Sub. for HB 2476 contains the language of SB 442, as it was amended by the Senate Committee on Judiciary on final action. That language was inserted into HB 2476 and the language of HB 2476, as introduced, was stricken from the substitute bill.

HB 2476, as introduced, would amend and extend the judicial branch surcharge to fund nonjudicial personnel through

FY 2011. An increase of \$5 would have been enacted so that the surcharge would be raised from the current \$10 to \$15 per docket fee. It also would have provided for the \$100 docket fee for expungement of an adult conviction or a juvenile adjudication. The bill would have deleted the provision requiring a \$10 surcharge on a person requesting an alias order or writ of execution, an alias order for garnishment, an alias writ or order of sale, an alias order for hearing in aid of execution, and an alias order of attachment. Proponents of this bill included numerous judges of the district courts, representatives of the Kansas Association of District Court Clerks and Administrators, the Office of Judicial Administration, the Kansas Bar Association, and the Kansas Association for Justice. The opponent of this bill was a representative of the Kansas Credit Attorneys Association.

SB 442, as introduced, also would have amended and extended the judicial branch surcharge to fund non-judicial personnel through FY 2011. Most surcharges would have been raised from \$10 to \$15 per docket fee. However, the increases in certain surcharges were greater than \$5, *i.e.*, expungement of conviction, expungement of arrest record, marriage license fee, general rule on court procedures, and expungement of juvenile adjudication. It also would have provided for the \$100 docket fee for expungement of an adult conviction or a juvenile adjudication. Proponents of this bill included numerous judges of the district courts, representatives of the Kansas Association of District Court Clerks and Administrators, the Office of Judicial Administration, and the Kansas Bar Association. Providing neutral testimony on this bill was a representative of the Kansas Credit Attorneys Association

The Senate Committee adopted two amendments to SB 442, as introduced, on final action. The Committee increased any surcharge specifically listed in the bill as \$15 to \$20. Additionally, the Senate Committee, as requested by the Kansas Credit Attorneys Association, adopted the amendment striking the \$10 surcharge on a person requesting an alias order or writ of execution, an alias order for garnishment, an alias writ or order of sale, an alias order for hearing in aid of execution, and an alias order of attachment.

The fiscal note provided on this bill, as introduced, may no longer be accurate since the substitute bill increases the surcharge from \$10 to \$20 or more. It states that under current law, a \$10 surcharge is expected to raise approximately \$5.5 million in FY 2010. If HB 2476, as introduced, is enacted, the Judicial Branch estimates an additional \$2.5 million would be raised for a total of \$8.0 million in FY 2011. The Governor included the continuation of the \$10 surcharge in his FY 2011 budget recommendation. However, any fiscal effect associated with the \$5 increase is not reflected in *The FY 2011 Governor's Budget Report*.

judicial, surcharge, nonjudicial personnel