

SESSION OF 2017

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2153

As Amended by Senate Committee of the Whole

Brief*

HB 2153, as amended, would amend the Scrap Metal Theft Reduction Act and law regarding fee funds, as follows.

Scrap Metal Theft Reduction Act

The bill would amend the Scrap Metal Theft Reduction Act (Act) to delay, until January 1, 2019, a requirement that the Attorney General establish and maintain a database as a central repository for information required to be provided under the Act (current law requires establishment of the database before July 1, 2016). The Act would also declare certain provisions of the Act unenforceable until January 1, 2019. The delayed provisions would include:

- The statute allowing imposition of a civil penalty of \$100-\$5,000 on any scrap metal dealer who violates any of the provisions of the Act;
- A provision requiring scrap metal dealers to forward information to the database described above;
- A provision changing the permissible range of scrap metal dealer registration fees from \$100-\$400 to \$500-\$1,500; transferring the authority to set such fees from the board of county commissioners or governing body of the city to the Attorney General; and requiring the fee be paid for each particular place of business;

*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>

- A provision changing the permissible range of renewal fees from \$25-\$50 to “not more than \$1,500” and transferring the authority to set such fees from the governing body of a city or board of county commissioners to the Attorney General;
- A provision disqualifying a person for registration if the person does not own the premises for which a license is sought, unless the person has a written lease for at least three-fourths of the period of the license; and
- A provision allowing a criminal history records check for applicants for registration, including fingerprinting provisions.

The bill would amend a provision requiring a dealer to photograph the seller and the item(s) being sold and to keep such photographs with the record of the transaction by removing the requirement that the seller be photographed. The bill would further amend this provision to allow the Attorney General to impose a civil penalty of \$100-\$5,000 for each failure to comply with these requirements between the effective date of the bill and January 1, 2019. The bill would add the same civil penalty provision for a failure to comply to an existing subsection allowing a scrap metal dealer to maintain the register of information and photographs required under the Act in an electronic format. [Note: These penalties could be imposed under the general civil penalty provision in current law that would be delayed by the bill.]

Fee Funds

The bill would amend a statute pertaining to the revenues placed in the State General Fund (SGF) to specify that certain funds, identified in section 1(b), and any other fund in which fees are deposited for licensing, regulating, or certifying a person, profession, commodity, or product, must be used for the purposes set forth in statute and for no other government purpose.

The bill would define “fee agency” as state agencies specified in KSA 75-3717(f), and any other state agency that collects fees for licensing, regulating, or certifying a person, profession, commodity, or product.

Under the bill, a fee agency would be required to provide notice if moneys received pursuant to statutory provisions for a specific purpose by such agency are proposed to be transferred to the SGF or any other special revenue fund to be expended for general government services and purposes in the *Governor’s Budget Report* or any introduced House or Senate bill. The fee agency would have to notify, within 30 days of such proposed transfer, the person or entity that paid such moneys to the fee agency within the preceding 24-month period. The notice could be sent electronically if the fee agency has an electronic address on record for the person or business entity. If no electronic address is available, the fee agency would be required to send written notice by first class mail. However, if the agency receives fees from a tax, fee, charge, or levy paid to the Insurance Commissioner, the agency would be required to post the required notification on the agency’s website, rather than *via* electronic or first class mail.

The bill would state the provisions of the statute would not apply to the 10.0 percent credited to the SGF to reimburse the SGF for accounting, auditing, budgeting, legal, payroll, personnel, purchasing, and other governmental services.

Beginning January 8, 2018, the bill would require the Director of the Budget to prepare a report listing the unencumbered balance of each fund included in the bill on June 30 of the previous fiscal year and January 1 of the current fiscal year. The bill would require this report be delivered to the Secretary of the Senate and Chief Clerk of the House of Representatives on or before the first day of the regular legislative session each year.

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the House Committee on Judiciary at the request of Representative Finch. In the House Committee hearing, representatives of O'Neal Consulting and the Kansas Bankers Association testified in support of the bill. As introduced, the bill contained the provisions regarding fee funds. Written-only proponent testimony was submitted by Heartland Credit Union Association, Kansas Association of Realtors, Kansas Chamber of Commerce, and Kansas Cooperative Council. The State Fire Marshal testified as a neutral conferee, requesting removal of the bill's notification provision.

The House Committee adopted an amendment adding the Scrap Metal Theft Reduction Fee Fund to the list of funds addressed by the bill's provisions and allowing any agency receiving fees from payments to the Insurance Commissioner to post the required notification on the agency's website.

In the Senate Committee on Judiciary hearing, the same proponents testified or submitted written testimony as before the House Committee. No other testimony was provided.

The Senate Committee adopted an amendment requiring an annual report of the unencumbered balances of the funds listed in the bill to the Legislature.

The Senate Committee of the Whole adopted an amendment containing the amendments to the Scrap Metal Theft Reduction Act. The amendment also changed the effective date of the bill to publication in the *Kansas Register*. According to the carrier of the amendment, certain stakeholders had requested the delay, but a bill with similar provisions (SB 239) had been introduced too late in the Session to receive a hearing.

According to the fiscal note prepared by the Division of the Budget on HB 2153, as introduced, enactment of the bill would require additional staff time and mailing costs for fee agencies to identify and notify individuals or entities entitled to notice under the bill. The Board of Accountancy and Board of Technical Professions estimate there would be no fiscal effect on their agencies. The Board of Nursing estimates a cost of \$4,731 in FY 2018 to provide notifications to those licensees for whom it does not have e-mail addresses.

The Insurance Department indicates 32 different fees are deposited into the Service Regulation Fund and the Department would have to notify all affected parties, including 125,566 agents, 11,908 agencies, and 19,911 companies, for additional postage expenses of approximately \$63,000. Additionally, extensive additional staff time would be required to provide notifications.

The Office of the State Fire Marshal indicates additional expenditures of \$66,000 in FY 2018 and FY 2019 would be required if revenues from the Boiler Inspection Fund are transferred to the SGF, which would include postage and additional staff time. This fund is financed through levies on premiums for fire insurance, collected by the Insurance Department.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor's Budget Report*.

A revised fiscal note for the amended bill was not available at the time of Senate Committee of the Whole action. However, the House Committee amendment allowing notifications by agencies receiving fees from payments to the Insurance Commissioner to be publicly posted to the agency's website may reduce the fiscal effect on the Insurance Department and the State Fire Marshal.

No fiscal note was available for the provisions amending the Scrap Metal Theft Reduction Act, or for SB 239, at the time of the Senate Committee of the Whole action.