

SESSION OF 2024

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2834**

As Amended by House Committee on Insurance

**Brief\***

HB 2834, as amended, would transfer authority over the Kansas State Employee Health Plan and the State Workers Compensation Self-Insurance Fund from the Department of Administration (DoA) to the Department of Insurance (Department) and establish the Commissioner of Insurance (Commissioner) as the Chairperson of the Kansas State Employees Health Care Commission. The bill would also make conforming amendments throughout statute to reflect the transfer.

[*Note:* References in the bill to State Employee Health Plan, the State Employee Health Care Benefits Program, and the State Employee Health Benefits Plan are referred to here collectively as the State Employee Health Plan (SEHP).]

***Transfer of Authority (New Section 1)***

The bill would provide for all powers, duties, and functions of the staff of the division of the SEHP to transfer from the DoA to the Department under the direction of the Commissioner.

***Transfer of Employees (New Section 2)***

The bill would provide for all officers and employees of the division of the SEHP of the DoA who, immediately prior to July 1, 2024, are engaged in the exercise and performance of

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\*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 powers, duties, and functions involving the administration of the SEHP, as well as officers and employees of the DoA who are determined by the Commissioner to be engaged in providing administrative, technical, or other support services that are essential to the exercise and performance of the powers, duties, and functions of the SEHP, to be transferred to the Department. All classified officers and employees so transferred would retain their status as classified employees.

Officers and employees of the division of the SEHP of the DoA transferred by the bill would retain all retirement benefits, leave balances, and rights that had accrued or vested prior to the date of transfer. The service of each transferred officer and employee would be considered continuous. Any subsequent transfers, layoffs, or abolition of classified service positions under the Kansas Civil Service Act would be made in accordance with civil service laws and adopted rules and regulations. Nothing in this section of the bill would affect the classified status of any transferred person employed by the division of the SEHP of the DoA prior to the date of transfer.

Notwithstanding the effective date of the bill, the provisions of the bill prescribing the transfer of officers and employees would commence at the start of a payroll period.

### ***Insurance Department (New Section 3)***

The bill would provide for the Department to be the successor in every way to the powers, duties, and functions of the division of the SEHP in the DoA involving administration of the SEHP.

Every act performed in the exercise of transferred powers, duties, and functions by or under the authority of the Department and the Commissioner involving the administration of the SEHP would be deemed to have the same force and effect as if performed by the division of the

SEHP, the Secretary of Administration (Secretary), or the Director of the SEHP prior to the transfer.

The bill would provide for references to the division of the SEHP of the DoA or words of like effect in statute, contract, memorandum of agreement, or other document in reference to the powers, duties, and functions transferred to the Department to apply to the Department.

Additionally, all rules and regulations, orders, and directives of the division of the SEHP of the DoA that relate to the powers, duties, and functions transferred under the bill would be in effect on July 1, 2024, would continue to be effective, and would be deemed to be rules and regulations, order, and directives of the Commissioner until revised, amended, repealed, or nullified.

***Transfer of Funds and Accounts (New Section 4)***

The bill would provide for the balances of all funds or accounts appropriated or reappropriated for the division of the SEHP of the DoA relating to the powers, duties, and functions involving administration of the SEHP to be transferred within the State Treasury to the Department and be used only for the purpose for which the appropriation or reappropriation was originally made.

Liability for all accrued compensation or salaries of officers and employees who are transferred to the Department would be assumed and paid by the Department.

***Transfer of Property, Property Rights, Contracts, and Records (New Section 5)***

The bill would provide for the Department to succeed to all property, property rights, contracts, and records that were used for or pertain to the performance of powers, duties, and

functions involving the administration of the SEHP that were transferred to the SEHP of the DoA.

When any conflict arises as to the disposition of any personnel, property, property right, contract, record, power, duty, function, or the unexpended balance of any appropriation as the result of any transfer made by or under the bill, the bill would provide for the conflict to be resolved by the Commissioner, whose decision would be final.

***Abatement (New Section 6)***

The bill would provide for no suit, action, or other proceeding, judicial or administrative, lawfully commenced, or that could have been commenced, by or against the division of the SEHP of the DoA or by or against the Secretary in their official duties to abate by reason of the transfer effected under the bill. The court could allow any such suit, action, or other proceeding to be maintained by or against the Department or the Commissioner.

The transfer effected under the bill would not abate any criminal action commenced or that could have been commenced by the state.

***State Workers Compensation Self-Insurance Fund (New Section 7)***

The bill would provide for all powers, duties, and functions of the staff of the division of the SEHP of the DoA regarding the State Workers Compensation Self-Insurance Fund (Fund) to be transferred and imposed upon the Department, under the discretion of the Commissioner.

The balances of all funds or accounts appropriated or reappropriated for the division of the SEHP of the DoA or any state agency, department, board, commission, or council, relating to the powers, duties, and functions of the

administration of the Fund would be transferred within the State Treasury to the Department, to be used only for the purpose originally designated by the appropriation or reappropriation. Liability for all accrued compensation or salaries of officers or employees who are transferred to the Department under the bill would be assumed and paid by the Department.

The Commissioner would be the successor in every way to the powers, duties, and functions vested prior to July 1, 2024, to the Secretary that relate to the Fund.

All orders and directives of the Secretary that relate to the Fund in existence immediately prior to July 1, 2024, would continue to be effective and would be deemed the orders and directives of the Commissioner until revised, amended, repealed, or nullified.

#### *Transfer of Property*

The Commissioner would succeed to all property, property rights, contracts, and records that were used for or pertain to the performance of the powers, duties, and functions transferred to the Commissioner from the division of the SEHP of the DoA. Any conflict as to the proper disposition of property, property rights, contracts, and records would be resolved by the Commissioner, whose decision would be final.

#### *Transfer of Employees*

The bill would provide for all officers and employees of the division of the SEHP of the DoA who, immediately prior to July 1, 2024, are engaged in the exercise and performance of the powers, duties, and functions involving the administration of the Fund, as well as officers and employees of the DoA who are determined by the Commissioner to be engaged in providing administrative, technical, or other support services that are essential to the exercise and performance of the

powers, duties, and functions of the SEHP, to be transferred to the Department, under the direction of the Commissioner. All classified officers and employees so transferred would retain their status as classified employees.

Officers and employees of the division of the SEHP of the DoA transferred by the bill would retain all retirement benefits, leave balances, and rights that had accrued or vested prior to the date of transfer. The service of each transferred officer and employee would be considered continuous. Any subsequent transfers, layoffs, or abolition of classified service positions under the Kansas Civil Service Act would be made in accordance with civil service laws and adopted rules and regulations. Nothing in this section of the bill would affect the classified status of any transferred person employed by the division of the SEHP of the DoA prior to the date of transfer.

#### ***Other Authorities Related to the Fund (Sections 8–11)***

The bill would transfer authority over workers compensation payments, the state Workplace Health and Safety Program, claims for compensation under the Workers Compensation Act, and rules and regulations related to the administration of the Fund from the Department of Health and Environment, under the direction of the Secretary of Health and Environment, to the Department, under the direction of the Commissioner.

#### ***Repeal of Statutes***

The bill would repeal KSA 75-6506a, regarding a pilot program within SEHP, and KSA 75-37,162 through KSA 75-37,171, regarding Executive Reorganization Order No. 45 (ERO 45), which moved the SEHP from the Department of Health and Environment to the DoA in 2020.

## **Background**

The bill was introduced by the House Committee on Appropriations at the request of Representative Sutton.

### ***House Committee on Insurance***

In the House Committee hearing, **proponent** testimony was provided by Representative Wasinger and a representative of Valley Hope Association, who generally stated that the Department would have the necessary knowledge to handle issues with the SEHP, such as prior authorization and coverage parity.

Written-only proponent testimony was provided by a private citizen.

**Opponent** testimony was provided by a representative of the DoA, who stated separating the SEHP from various centralized functions within the DoA, such as human resources, payroll, procurement, and accounting, would introduce inefficiencies into the SEHP system. The conferee cited a statewide efficiency study conducted in 2015 and released in 2016, which prompted ERO 45 that placed the SEHP with the DoA in 2020.

The House Committee amended the bill to transfer the authority over the State Workers Compensation Self-Insurance Fund from the division of the SEHP of the DoA to the Department.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department indicates enactment of the bill would be net neutral, as all fund balances, revenues, and expenditures from the DoA would be transferred to the Department.

The SEHP of the DoA indicates that additional staff would be needed to fill support roles for the SEHP and to submit services currently provided through other DoA offices. The DoA is not able to calculate the costs that may be incurred. The DoA states that the SEHP and the State Self Insurance Fund (SSIF) are currently procuring a new data warehouse to be implemented in FY 2024. This project would need to be rebid as it was a joint program bid and both plans would see additional costs to rebid, along with a delayed implementation. The DoA states that prior to the SEHP moving into the DoA, it had a memorandum of understanding in place for the DoA to handle payroll processing. At that time, the SEHP paid over \$119,000 annually for this service. The DoA also notes that the SEHP and SSIF staff currently occupy the same building space. If expenditures for rent are greater for the SEHP staff to be located at the Department, enactment of the bill may increase expenditures for rent. Due to the variety of unknown factors, the DoA is unable to estimate a precise fiscal effect.

The Division of the Budget notes that budgeted expenditures from the SEHP in the DoA total \$643.3 million in FY 2024 and \$667.9 million in FY 2025, all from agency fee funds. These amounts include \$607.5 million in FY 2024 and \$631.8 million in FY 2025 for employee health care premium payroll deductions for payment of claims. Any fiscal effect associated with the bill is not reflected in *The FY 2025 Governor's Budget Report*.

[*Note:* A fiscal note was not available at the time the House Committee took action on the bill.]

State Employee Health Plan; Department of Administration; Department of Insurance; Commissioner of Insurance; Kansas State Employees Health Care Commission