

March 21, 2013

The Honorable John Rubin, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 151-S
Topeka, Kansas 66612

Dear Representative Rubin:

SUBJECT: Fiscal Note for HB 2394 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2394 is respectfully submitted to your committee.

HB 2394 would prohibit law enforcement agencies from using a drone to obtain evidence or other information. A drone could not be operated in Kansas while carrying a lethal payload. The bill would allow the use of drones to counter a high risk of a terrorist attack, provided that the U.S. Department of Homeland Security has determined that credible intelligence indicates that there is a risk of a terrorist attack and a search warrant has been obtained for use of a drone. The bill would allow any individual aggrieved by a law enforcement agency whose actions violate the provisions HB 2394 to have a civil cause of action against the law enforcement agency. The individual would be entitled to recover actual damages, punitive damages, equitable relief, and reasonable attorney fees from the law enforcement agency.

Any evidence obtained in violation of HB 2394 and any evidence derived would be inadmissible in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee or other authority of Kansas, or a political subdivision. The bill would define “drone” and “law enforcement agency.”

The Office of Judicial Administration states enactment of HB 2394 could result in the collection of docket fees and penalties in those cases filed under the provisions of the bill. Further, the Office indicates enactment of HB 2394 could increase the number of cases filed in district courts and the number of appeals relating to the improper use of drones. This could increase the time spent by district court and appellate court judicial and non-judicial personnel in processing, researching, and hearing cases. The Office states until the courts have had an opportunity to operate under the provisions of the bill an accurate fiscal effect cannot be estimated.

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The Kansas Highway Patrol and the Kansas Bureau of Investigation indicated there would be no fiscal effect to the operations of either agency if HB 2394 were enacted. The League of Kansas Municipalities indicates there could be a fiscal effect upon any city with a law enforcement agency that might, for whatever reason, operate a drone. The League indicates that while the bill prohibits the operation of a drone, it does not assess any penalties unless a court determines that there is an aggrieved person and finds that there are damages. The League notes that if there is a finding that a person has been aggrieved, cities would have to defend whether or not actual damages did occur, which could result in additional litigation costs. Because it is unknown how many, if any, local law enforcement agencies may be considering the operation of a drone or how many aggrieved persons there might be, it is not possible at this time to quantify an actual fiscal effect upon Kansas cities, according to the League. Any fiscal effect associated with HB 2394 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Kim Torrey, Highway Patrol
Mary Rinehart, Judiciary
Cheri Froetschner, Adjutant General's Office
Willie Prescott, Attorney General's Office
Linda Durand, KBI
Kelly Oliver, Board of Regents
Larry Baer, League of Kansas Municipalities