

February 18, 2015

The Honorable Jeff King, Chairperson
Senate Committee on Judiciary
Statehouse, Room 341-E
Topeka, Kansas 66612

Dear Senator King:

SUBJECT: Fiscal Note for SB 165 by Senate Committee on Ethics and Elections

In accordance with KSA 75-3715a, the following fiscal note concerning SB 165 is respectfully submitted to your committee.

Under the current Closed Meeting Act consultation with an attorney that would be considered privileged by the attorney-client relationship is allowed during a closed meeting. SB 165 would limit consultation with an attorney to the discussion of litigation or potential litigation only during the closed meeting.

For SB 165, the Office of the Attorney General anticipates an increase in requests for Attorney General Opinions seeking interpretation and advice on the modifications proposed by this legislation. The requests received would be expected to come from county and district attorneys and approximately 30 state offices that receive general counsel services through the Attorney General's Office. In addition, the inability of a body or agency to consult in private with an attorney about all attorney-client privileged subjects may result in increased liability and litigation. However, the precise fiscal effect cannot be determined.

The Office of Judicial Administration notes that it is unlikely that the passage of SB 165 would have a fiscal effect on Judicial Branch expenditures. While it is possible that some additional cases might be filed challenging the application of the bill's provisions, it is likely that those same challenges might occur under the provisions of current law. However, until the courts have had an opportunity to operate under the provisions of SB 165 a precise estimate of its fiscal effect cannot be given. Any fiscal effect associated with SB 165 is not reflected in *The FY 2016 Governor's Budget Report*.

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The inability of a local government body to consult in private with an attorney about all attorney-client privileged subjects may result in increased liability and litigation. The fiscal effect of the increased liability and litigation for local governments cannot be assessed at the time.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Mary Rinehart, Judiciary
Willie Prescott, Attorney General's Office