

HOUSE BILL No. 2280

By Representative Ward

2-6

1 AN ACT concerning administrative rules and regulations; *relating to*
2 *review of rules and regulations by state agencies; reporting impact on*
3 *business*; joint committee on administrative rules and regulations; state
4 rules and regulations board; membership; amending K.S.A. 2016 Supp.
5 **77-416**, 77-423 and 77-436 and repealing the existing sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 *New Section 1. (a) Prior to July 1, 2018, each state agency that has*
9 *adopted rules and regulations shall review such rules and regulations*
10 *and determine the impact that such rules and regulations have on*
11 *business and economic development within the state of Kansas,*
12 *including, but not limited to, identifying rules and regulations that*
13 *negatively impact or create any barrier to success for business and*
14 *economic development within the state of Kansas. When evaluating such*
15 *rules and regulations, each state agency shall consider factors*
16 *including, but not limited to:*

17 (1) *Whether the rules and regulations restrict business activities;*
18 (2) *whether substantial time, money or other resources are required*
19 *in order to comply with the rules and regulations; and*
20 (3) *the public purpose served by the rules and regulations,*
21 *including, but not limited to, whether the rules and regulations further a*
22 *public purpose, whether the public purpose is as important as when the*
23 *rules and regulations were adopted and whether the public purpose*
24 *outweighs any negative impact on business or economic development*
25 *within the state of Kansas.*

26 (b) *Prior to October 1, 2018, each state agency shall prepare and*
27 *submit a report to the joint committee on administrative rules and*
28 *regulations identifying the rules and regulations the state agency has*
29 *identified as having a negative impact on business and economic*
30 *development within the state of Kansas, whether the public purpose*
31 *served by the rules and regulations outweighs any negative impact on*
32 *business or economic development and alternatives to the identified*
33 *rules and regulations.*

34 (c) *Prior to January 14, 2019, the joint committee on administrative*

1 *rules and regulations shall submit a report to the speaker of the house of*
2 *representatives and the president of the senate summarizing the*
3 *committee's findings regarding information submitted under subsection*
4 *(b).*

5 *Sec. 2. K.S.A. 2016 Supp. 77-416 is hereby amended to read as*
6 *follows: 77-416. (a) Every state agency shall file with the secretary of*
7 *state every rule and regulation adopted by it and every amendment and*
8 *revocation thereof in the manner prescribed by the secretary of state.*
9 *Each rule and regulation shall include a citation to the statutory section*
10 *or sections being implemented or interpreted and a citation of the*
11 *authority pursuant to which it, or any part thereof, was adopted. Every*
12 *rule and regulation filed in the office of the secretary of state shall be*
13 *accompanied by a copy of the economic impact statement required by*
14 *subsection (b) and a copy of the environmental benefit statement if*
15 *required by subsection (d). A copy of any document adopted by reference*
16 *in a rule and regulation shall be available from the state agency—~~which~~*
17 *that adopted the rule and regulation upon request by any person*
18 *interested therein. The state agency, under the direction of the secretary*
19 *of state, shall number each section with a distinguishing number and, in*
20 *making a compilation of the rules and regulations, the sections shall be*
21 *arranged in numerical order. A decimal system of numbering shall be*
22 *prohibited.*

23 *(b) (1) At the time of drafting a proposed rule and regulation or*
24 *amendment to an existing rule and regulation, the state agency shall*
25 *consider the economic impact of such proposed rule and regulation or*
26 *amendment upon all governmental agencies or units and all persons*
27 *~~which~~ who will be subject thereto and upon the general public. Prior to*
28 *giving notice of a hearing on a proposed rule and regulation, the state*
29 *agency shall prepare an economic impact statement that shall include:*

30 *(A) A brief description of the proposed rules and regulations and*
31 *what is intended to be accomplished by their adoption;*

32 *(B) whether the proposed rule and regulation is mandated by*
33 *federal law as a requirement for participating in or implementing a*
34 *federally subsidized or assisted program and whether the proposed rules*
35 *and regulations exceed the requirements of applicable federal law;*

36 *(C) a description of the cost, the persons who will bear the costs and*
37 *those who will be affected by the proposed rules and regulations,*
38 *including the agency proposing the rules and regulations, other*
39 *governmental agencies or units, private citizens and consumers of the*
40 *products or services—~~which~~ that are the subject of the rules and*
41 *regulations or the enforcement thereof; ~~and~~*

42 *(D) a description of any less costly or less intrusive methods that*
43 *were considered by the state agency for achieving the stated purpose of*

1 *the rules and regulations and why such methods were rejected in favor*
2 *of the proposed rules and regulations. The state agency may consult with*
3 *other state agencies when preparing the economic impact statement; and*

4 (E) *a description of businesses that would be directly affected by the*
5 *proposed rules and regulations, the benefits of the proposed rules and*
6 *regulations and measures taken to minimize the impact of the proposed*
7 *rules and regulations on business and economic development within the*
8 *state of Kansas.*

9 (2) *The state agency shall consult with the League of Kansas*
10 *municipalities, Kansas association of counties and the Kansas*
11 *association of school boards, as appropriate, when preparing the*
12 *economic impact statement of a proposed rule and regulation which*
13 *increases or decreases revenues of cities, counties or school districts or*
14 *imposes functions or responsibilities on cities, counties or school*
15 *districts which that will increase their expenditures or fiscal liability.*

16 (3) *The state agency shall reevaluate and, when necessary, update*
17 *the statement at the time of filing a rule and regulation with the*
18 *secretary of state. If a public hearing was held prior to the adoption of*
19 *the rule and regulation, a state agency at the time of filing a rule and*
20 *regulation with the secretary of state shall include as a part of the*
21 *economic impact statement a statement specifying the time and place at*
22 *which the hearing was held and the attendance at the hearing. A copy of*
23 *the current economic impact statement shall be available from the state*
24 *agency upon request by any party interested therein.*

25 (c) *Upon request of the state rules and regulations board, the joint*
26 *committee on administrative rules and regulations or the chairperson of*
27 *either committee or board, the director of the budget shall review the*
28 *economic impact statement prepared by any state agency and shall*
29 *prepare a supplemental or revised statement. If possible, the*
30 *supplemental or revised statement shall include a reliable estimate in*
31 *dollars of the anticipated change in revenues and expenditures of the*
32 *state. It also shall include a statement, if determinable or reasonably*
33 *foreseeable, of the immediate and long-range economic impact of the*
34 *rule and regulation upon persons subject thereto, small employers and*
35 *the general public. If, after careful investigation, it is determined that no*
36 *dollar estimate is possible, the statement shall set forth the reasons why*
37 *no dollar estimate can be given. Every state agency is directed to*
38 *cooperate with the division of the budget in the preparation of any*
39 *statement pursuant to this subsection when, and to the extent, requested*
40 *by the director of the budget.*

41 (d) *At the time of drafting a proposed environmental rule and*
42 *regulation or amendment to an existing environmental rule and*
43 *regulation, the state agency shall consider the environmental benefit of*

1 *such proposed rule and regulation or amendment. Prior to giving notice*
2 *of a hearing on a proposed rule and regulation, the state agency shall*
3 *prepare an environmental benefit statement that shall include a*
4 *description of the need for and the environmental benefits—~~which~~ that*
5 *will likely accrue as the result of the proposed rule and regulation or*
6 *amendment. The description shall summarize, when applicable, research*
7 *indicating the level of risk to the public health or the environment being*
8 *removed or controlled by the proposed rule and regulation or*
9 *amendment. When specific contaminants are to be controlled by the*
10 *proposed rule and regulation or amendment, the description shall*
11 *indicate the level at which the contaminants are considered harmful*
12 *according to currently available research. The state agency may consult*
13 *with other state agencies when preparing the environmental benefit*
14 *statement. The state agency shall reevaluate and, when necessary,*
15 *update the statement at the time of filing a rule and regulation with the*
16 *secretary of state. A copy of the current environmental benefit statement*
17 *shall be available from the state agency upon request by any party*
18 *interested therein.*

19 *(e) In addition to the requirements of subsection (b), the economic*
20 *impact statement for all environmental rules and regulations shall*
21 *include:*

22 *(1) A description of the capital and annual costs of compliance with*
23 *the proposed rules and regulations, and the persons who will bear those*
24 *costs;*

25 *(2) a description of the initial and annual costs of implementing*
26 *and enforcing the proposed rules and regulations, including the*
27 *estimated amount of paperwork, and the state agencies, other*
28 *governmental agencies or other persons or entities who will bear the*
29 *costs;*

30 *(3) a description of the costs—~~which~~ that would likely accrue if the*
31 *proposed rules and regulations are not adopted, the persons who will*
32 *bear the costs and those who will be affected by the failure to adopt the*
33 *rules and regulations; and*

34 *(4) a detailed statement of the data and methodology used in*
35 *estimating the costs used in the statement.*

36 Section 1. *Sec. 3.* K.S.A. 2016 Supp. 77-423 is hereby amended to
37 read as follows: 77-423. There is hereby created a state rules and
38 regulations board consisting of the attorney general or the attorney
39 general's designee, the secretary of state or the secretary of state's
40 designee, the secretary of administration or the secretary of
41 administration's designee, the chairperson of the joint committee on
42 administrative rules and regulations or a member of the joint committee
43 designated by the chairperson from the same house of the legislature as the

1 chairperson~~—and~~, the vice-chairperson of the joint committee on
2 administrative rules and regulations or a member of the joint committee
3 designated by the vice-chairperson from the same house of the legislature
4 as the vice-chairperson, *and the ranking minority member of the joint*
5 *committee on administrative rules and regulations or a member of the*
6 *joint committee designated by the minority leader of the same house of the*
7 *legislature as the chairperson*. If a member is designated to serve on the
8 board by the chairperson or vice-chairperson of the joint committee, the
9 designated member shall serve in lieu of the designating officer on a
10 temporary or permanent basis as specified by the designating officer. The
11 attorney general shall be the chairperson of the board. The secretary of
12 state shall serve as the secretary to the board. The state rules and
13 regulations board shall determine whether a rule and regulation should be
14 adopted as a temporary rule and regulation, shall determine the rules and
15 regulations to be published in the Kansas administrative regulations and in
16 the annual supplement to such regulations as provided for in this act and
17 shall perform such other duties as may be required by this act.

18 Sec. 4. K.S.A. 2016 Supp. 77-436 is hereby amended to read as
19 follows: 77-436. (a) There is hereby established a joint committee on
20 administrative rules and regulations ~~which shall consist~~ **consisting** of five
21 senators and seven members of the house of representatives. The five
22 senator members shall be appointed as follows: Three by the committee on
23 organization, calendar and rules and two by the minority leader of the
24 senate. The seven representative members shall be appointed as follows:
25 Four by the speaker of the house of representatives and three by the
26 minority leader of the house of representatives. The committee on
27 organization, calendar and rules shall designate a senator member to be
28 chairperson or vice-chairperson of the joint committee as provided in this
29 section. The speaker of the house of representatives shall designate a
30 representative member to be chairperson or vice-chairperson of the joint
31 committee as provided in this section. *The minority leader of the senate*
32 *shall designate a senator member to be the ranking minority member of*
33 *the joint committee as provided in this section. The minority leader of the*
34 *house of representatives shall designate a representative member to be the*
35 *ranking minority member of the joint committee as provided in this*
36 *section.*

37 (b) A quorum of the joint committee on administrative rules and
38 regulations shall be seven. All actions of the committee may be taken by a
39 majority of those present when there is a quorum. In odd-numbered years
40 the chairperson *and the ranking minority member* of the joint committee
41 shall be the designated ~~member~~ *members* of the house of representatives
42 from the convening of the regular session in that year until the convening
43 of the regular session in the next ensuing year. In even-numbered years the

1 chairperson *and the ranking minority member* of the joint committee shall
2 be the designated ~~member members~~ of the senate from the convening of
3 the regular session of that year until the convening of the regular session of
4 the next ensuing year. The vice-chairperson shall exercise all of the powers
5 of the chairperson in the absence of the chairperson.

6 (c) All proposed rules and regulations shall be reviewed by the joint
7 committee on administrative rules and regulations during the public
8 comment period required by K.S.A. 77-421, and amendments thereto. *{As*
9 *part of such review, the committee may direct communications to state*
10 *agencies making comments and recommendations, and indicating*
11 *concerns and approval or disapproval of any proposed rules and*
12 *regulations, including any comments and concerns of the committee*
13 *regarding the effect of proposed rules and regulations on business and*
14 *economic development within the state of Kansas pursuant to the state*
15 *agency's review specified in section 1, and amendments thereto.}* The
16 committee may introduce such legislation as it deems necessary in
17 performing its functions of reviewing administrative rules and regulations.
18 ~~*The committee may communicate to state agencies the committee's*~~
19 ~~*concerns, suggestions and comments regarding proposed rules and*~~
20 ~~*regulations, including the committee's concerns regarding the effect of*~~
21 ~~*proposed rules and regulations on business and economic development*~~
22 ~~*within the state of Kansas.*~~

23 (d) All rules and regulations filed each year in the office of secretary
24 of state shall be subject to review by the joint committee. The committee
25 may introduce such legislation as it deems necessary in performing its
26 functions of reviewing administrative rules and regulations.

27 (e) The joint committee shall meet on call of the chairperson as
28 authorized by the legislative coordinating council. All such meetings shall
29 be held in Topeka, unless authorized to be held in a different place by the
30 legislative coordinating council. Members of the joint committee shall
31 receive compensation ~~and~~, travel expenses and subsistence expenses or
32 allowances as provided in K.S.A. 75-3212, and amendments thereto, when
33 attending meetings of such committee authorized by the legislative
34 coordinating council.

35 (f) Amounts paid under authority of this section shall be paid from
36 appropriations for legislative expense and vouchers therefor shall be
37 prepared by the director of legislative administrative services and
38 approved by the chairperson or vice-chairperson of the legislative
39 coordinating council.

40 Sec. ~~3.~~ 5. K.S.A. 2016 Supp. 77-416, 77-423 and 77-436 are hereby
41 repealed.

42 Sec. ~~4.~~ 6. This act shall take effect and be in force from and after its
43 publication in the statute book.