

CHAPTER 25
SENATE BILL No. 579

AN ACT concerning the rules and regulations filing act; requiring agencies to consider the effects of proposed rules and regulations on small employers; amending K.S.A. 77-415 and K.S.A. 2007 Supp. 77-416 and repealing the existing sections.

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

Section 1. K.S.A. 77-415 is hereby amended to read as follows: 77-415. As used in K.S.A. 77-415 through 77-437, and amendments thereto, unless the context clearly requires otherwise:

(1) "State agency" means any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and legislative branches, which is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state.

(2) "Person" means firm, association, organization, partnership, business trust, corporation or company.

(3) "Board" means the state rules and regulations board established under the provisions of K.S.A. 77-423 and amendments thereto.

(4) "Rule and regulation," "rule," "regulation" and words of like effect mean a standard, statement of policy or general order, including amendments or revocations thereof, of general application and having the effect of law, issued or adopted by a state agency to implement or interpret legislation enforced or administered by such state agency or to govern the organization or procedure of such state agency. Every rule and regulation adopted by a state agency to govern its enforcement or administration of legislation shall be adopted by the state agency and filed as a rule and regulation as provided in this act. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in a state agency decision upon or disposition of a particular matter as applied to a specific set of facts does not render the same a rule and regulation within the meaning of the foregoing definition, nor shall it constitute specific adoption thereof by the state agency so as to be required to be filed. A rule and regulation as herein defined shall not include any rule and regulation which: (a) Relates to the internal management or organization of the agency and does not affect private rights or interest; (b) is an order directed to specifically named persons or to a group which does not constitute a general class and the order is served on the person or persons to whom it is directed by appropriate means. The fact that the named person serves a group of unnamed persons who will be affected does not make such an order a rule and regulation; (c) relates to the use of highways and is made known to the public by means of signs or signals; (d) relates to the construction and maintenance of highways or bridges or the laying out or relocation of a highway other than bidding procedures or the management and regulation of rest areas; (e) relates to the curriculum of public educational institutions or to the administration, conduct, discipline, or graduation of students from such institutions or relates to parking and traffic regulations of state educational institutions under the control and supervision of the state board of regents; (f) relates to the emergency or security procedures of a correctional institution, as defined in subsection (d) of K.S.A. 75-5202 and amendments thereto; (g) relates to the use of facilities by public libraries; (h) relates to military or naval affairs other than the use of armories; (i) relates to the form and content of reports, records or accounts of state, county or municipal officers, institutions, or agencies; (j) relates to expenditures by state agencies for the purchase of materials, equipment, or supplies by or for state agencies, or for the printing or duplicating of materials for state agencies; (k) establishes personnel standards, job classifications, or job ranges for state employees who are in the classified civil service; (l) fixes or approves rates, prices, or charges, or rates, joint rates, fares, tolls, charges, rules, regulations, classifications or schedules of common carriers or public utilities subject to the jurisdiction of the state corporation commission, except when a statute specifically requires the same to be fixed by rule and regulation; (m) determines the valuation of securities held by insurance companies; (n) is a statistical plan relating to the administration of rate regulation laws applicable to casualty insurance or to fire and allied lines insurance; (o) is a form, the content or substantive requirements of which are prescribed by rule and regulation or stat-

ute; (p) is a pamphlet or other explanatory material not intended or designed as interpretation of legislation enforced or adopted by a state agency but is merely informational in nature; (q) establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife, if such seasons and limits are made known to the public by other means; or (r) establishes records retention and disposition schedules for any or all state agencies.

(5) “Environmental rule and regulation” means:

(A) A rule and regulation adopted by the secretary of agriculture, the secretary of health and environment or the state corporation commission, which has as a primary purpose the protection of the environment; or

(B) a rule and regulation adopted by the secretary of wildlife and parks concerning threatened or endangered species of wildlife as defined in K.S.A. 32-958 and amendments thereto.

(6) “*Small employer*” means any person, firm, corporation, partnership or association that employs not more than 50 employees, the majority of whom are employed within this state.

Sec. 2. K.S.A. 2007 Supp. 77-416 is hereby amended to read as follows: 77-416. (a) Every state agency shall file with the secretary of state every rule and regulation adopted by it and every amendment and revocation thereof. Every rule and regulation, other than a temporary rule and regulation, filed in the office of the secretary of state shall be filed in triplicate, and nine copies of every temporary rule and regulation shall be filed in the office of the secretary of state, and each section shall include a citation to the statutory section or sections being implemented or interpreted and a citation of the authority pursuant to which it, or any part thereof, was adopted. Every rule and regulation filed in the office of the secretary of state shall be accompanied by a copy of the economic impact statement required by subsection (b), a copy of the environmental benefit statement if required by subsection (d). A copy of any document adopted by reference in a rule and regulation shall be available from the state agency which adopted the rule and regulation upon request by any person interested therein. The state agency, under the direction of the secretary of state, shall number each section with a distinguishing number and, in making a compilation of the rules and regulations, the sections shall be arranged in numerical order. A decimal system of numbering shall be prohibited.

(b) At the time of drafting a proposed rule and regulation or amendment to an existing rule and regulation, the state agency shall prepare a statement of the economic impact of such proposed rule and regulation or amendment upon all governmental agencies or units and all persons which will be subject thereto and upon the general public. The economic impact statement shall include: (1) A brief description of the proposed rules and regulations and what is intended to be accomplished by their adoption; (2) whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed rules and regulations exceed the requirements of applicable federal law; (3) a description of the cost, the persons who will bear the costs and those who will be affected by the proposed rules and regulations, including the agency proposing the rules and regulations, other governmental agencies or units, private citizens and consumers of the products or services which are the subject of the rules and regulations or the enforcement thereof; and (4) a description of any less costly or less intrusive methods that were considered by the state agency for achieving the stated purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations. The state agency may consult with other state agencies when preparing the economic impact statement. The state agency shall consult with the League of Kansas municipalities, Kansas association of counties and the Kansas association of school boards, as appropriate, when preparing the economic impact statement of a proposed rule and regulation which increases or decreases revenues of cities, counties or school districts or imposes functions or responsibilities on cities, counties or school districts which will increase their expenditures or fiscal liability. The state agency shall reevaluate and, when necessary, update the statement at the time of giving notice of hearing on a proposed rule and regulation and at the time of filing a rule and regulation with the secretary of state. If a public hearing was held prior to the adoption of the rule and regulation, a state agency at the time of filing a rule and

regulation with the secretary of state shall include as a part of the economic impact statement a statement specifying the time and place at which the hearing was held and the attendance at the hearing. A copy of the current economic impact statement shall be available from the state agency upon request by any party interested therein.

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

(d) At the time of drafting a proposed environmental rule and regulation or amendment to an existing environmental rule and regulation, the state agency shall prepare a statement of the environmental benefit of such proposed rule and regulation or amendment. The environmental benefit statement shall include a description of the need for and the environmental benefits which will likely accrue as the result of the proposed rule and regulation or amendment. The description shall summarize, when applicable, research indicating the level of risk to the public health or the environment being removed or controlled by the proposed rule and regulation or amendment. When specific contaminants are to be controlled by the proposed rule and regulation or amendment, the description shall indicate the level at which the contaminants are considered harmful according to currently available research. The state agency may consult with other state agencies when preparing the environmental benefit statement. The state agency shall reevaluate and, when necessary, update the statement at the time of giving notice of hearing on a proposed rule and regulation and at the time of filing a rule and regulation with the secretary of state. A copy of the current environmental benefit statement shall be available from the state agency upon request by any party interested therein.

(e) In addition to the requirements of subsection (b), the economic impact statement for all environmental rules and regulations shall include: (1) A description of the capital and annual costs of compliance with the proposed rules and regulations, and the persons who will bear those costs; (2) a description of the initial and annual costs of implementing and enforcing the proposed rules and regulations, including the estimated amount of paperwork, and the state agencies, other governmental agencies or other persons or entities who will bear the costs; (3) a description of the costs which would likely accrue if the proposed rules and regulations are not adopted, the persons who will bear the costs and those who will be affected by the failure to adopt the rules and regulations; and (4) a detailed statement of the data and methodology used in estimating the costs used in the statement.

(f) On and after the effective date of this act, the secretary of state shall have the discretion to return to the appropriate state agency or otherwise dispose of any document or other material which has been adopted previously by reference and filed with the secretary of state.

Sec. 3. K.S.A. 77-415 and K.S.A. 2007 Supp. 77-416 are hereby repealed.

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