

CHAPTER 95

HOUSE Substitute for SENATE BILL No. 213

AN ACT concerning the rules and regulations filing act; pertaining to the filing process; amending K.S.A. 77-415a, 77-415b, 77-417, 77-418, 77-419, 77-420, 77-421a, 77-423, 77-428, 77-429, 77-430a and 77-436 and K.S.A. 2009 Supp. 77-415, 77-416, 77-421, 77-422, 77-424, 77-430, 77-431 and 77-435 and repealing the existing sections.

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

Section 1. K.S.A. 2009 Supp. 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 substan-~~

tive requirements of which are prescribed by rule and regulation or statute; (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. As used in K.S.A. 77-415 through 77-437, and amendments thereto, unless the context clearly requires otherwise:

(a) “Board” means the state rules and regulations board established under the provisions of K.S.A. 77-423, and amendments thereto.

(b) “Environmental rule and regulation” means:

(1) 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

(2) 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.

(c) “Person” means firm, association, organization, partnership, business trust, corporation or company.

(d) (1) “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.

(2) 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 statute;

(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.

(e) "Rulemaking" shall have the meaning ascribed to it in K.S.A. 77-602, and amendments thereto.

(f) "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.

(g) "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.

Sec. 2. K.S.A. 77-415a is hereby amended to read as follows: 77-415a. The secretary of state shall file and publish all rules and regulations as provided by article 4 of chapter 77 of the Kansas Statutes Annotated. *The secretary of state may adopt rules and regulations necessary to carry out its duties under this act.*

Sec. 3. K.S.A. 77-415b is hereby amended to read as follows: 77-415b. ~~(a)~~ All rules and regulations of state agencies which are in force and effect at the time this act takes effect shall continue to be effective and shall be deemed to be duly filed with the secretary of state as provided for by this act until revised, amended, revoked or nullified pursuant to law.

~~(b) All temporary rules and regulations filed prior to the effective date of this act and which are in effect on the effective date of this act shall expire on October 1, 1988.~~

~~(c) On the effective date of this act, all rules and regulations of state agencies lawfully filed with the office of the revisor of statutes prior to the effective date of this act and all records pertaining to such rules and regulations shall be transferred to the office of the secretary of state.~~

Sec. 4. K.S.A. 2009 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 *in the manner prescribed by the secretary of state.* ~~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~~ *Each rule and regulation 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); and 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) (1) 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~~ consider 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~~ Prior to giving notice of a hearing on a proposed rule and regulation, the state agency shall prepare an economic impact statement that shall include:

~~(1)~~ (A) A brief description of the proposed rules and regulations and what is intended to be accomplished by their adoption; ~~(2)~~

(B) 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)~~

(C) 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)~~

(D) 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.

(2) 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.

(3) 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~~ consider the environmental benefit of such proposed rule and regulation or amendment. ~~The~~ Prior to giving notice of a hearing on a proposed rule and regulation, the state

agency shall prepare an environmental benefit statement that 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. 5. K.S.A. 77-417 is hereby amended to read as follows: 77-417.

(a) The secretary of state shall:

(1) Endorse on each rule and regulation filed, the time and date of the filing thereof;

(2) maintain a file of such rules and regulations for public inspection;

(3) keep a complete record of all amendments and revocations of rules and regulations;

(4) index the rules and regulations so filed; and

(5) publish the rules and regulations as hereinafter provided.

(b) The secretary of state shall have the discretion to return to the appropriate state agency or to otherwise dispose of any document or other material which had been adopted previously by reference and filed with the secretary of state.

Sec. 6. K.S.A. 77-418 is hereby amended to read as follows: 77-418.

All rules and regulations adopted ~~and filed~~ by every state agency shall be typewritten, mimeographed, multilithed, or printed on standard letter size (8½ by 11 inches) paper, the kind, grade, and durability thereof to be subject to the approval of the secretary of state. ~~If any rule and regulation is amended or revoked after the same has been adopted and filed, each rule and regulation amended or revoked shall be filed on a separate sheet or sheets of paper, except this filing requirement may be complied with for consecutively numbered rules and regulations which are being revoked by filing with the secretary of state a statement clearly identifying the consecutively numbered rules and regulations. Such statement shall clearly express that the consecutively numbered rules and regulations are being revoked and shall specify the effective date of the revocation of such rules and regulations. If a rule and regulation is filed with the secretary of state on more than one page, each page of such rule and regulation, subsequent to the first page, shall be consecutively numbered at the top of each page, and the number of the rule and regulation shall be placed in the upper right hand corner of each page filed with the secretary of state in a form and manner approved by the secretary of state.~~

Sec. 7. K.S.A. 77-419 is hereby amended to read as follows: 77-419. ~~No section of any rule and regulation shall be revived or amended unless~~

To revive or amend a rule and regulation, the new rule and regulation ~~contains~~ shall contain the entire section revived or amended, and any section so amended shall be revoked. For the purpose of filing in the office of the secretary of state and for submission to the joint committee on administrative rules and regulations ~~and to the legislature~~ as provided in K.S.A. 77-426, and amendments thereto, a rule and regulation amending an existing regulation shall indicate the new matter contained therein by underlining or printing in italics the new matter, and material to be deleted from such rule and regulation shall be shown in ~~cancelled~~ *strike-through* type. The secretary of state in preparing such rules and regulations for publication in the Kansas administrative regulations shall omit all material shown in ~~cancelled type and such rules and regulations shall be printed in Roman style~~ *strike-through* type. The secretary of state shall not file any regulation which amends or revives a regulation unless the regulation so amending or reviving conforms to the provisions of this section.

Sec. 8. K.S.A. 77-420 is hereby amended to read as follows: 77-420.

(a) Every rule and regulation proposed to be adopted by any state agency, before being submitted to the attorney general under this section, shall be submitted to the secretary of administration for approval of its organization, style, orthography and grammar subject to such requirements as to organization, style, orthography and grammar as the secretary may adopt. Every rule and regulation submitted to the secretary of administration under this subsection (a) shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the secretary of administration under this subsection (a) shall be stamped as approved and the date of such approval shall be indicated therein.

(b) Every rule and regulation proposed by any state agency which has been approved by the secretary of administration as provided in subsection (a) before being adopted or filed shall be submitted to the attorney general for an opinion as to the legality of the same, ~~and the including whether the making of such rule and regulation is within the authority conferred by law on the state agency.~~ The attorney general shall promptly furnish an opinion as to the legality of the proposed rule and regulation so submitted. Every rule and regulation submitted to the attorney general under this subsection (b) shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the attorney general under this subsection (b) shall be stamped as approved and the date of such approval shall be indicated therein.

(c) No rule and regulation shall be filed by the secretary of state unless:

(1) The organization, style, orthography and grammar have been approved by the secretary of administration;

(2) the rule and regulation has been approved in writing by the attorney general as to legality;

(3) ~~the attorney general finds that the making of such rule and regulation is within the authority conferred by law on the state agency submitting the same;~~

~~(4)~~ the rule and regulation has been formally adopted by the state agency after it has been approved by the secretary of administration and the attorney general and is accompanied by a certified or other formal statement of adoption when adoption is by an executive officer of a state agency, or by a certified copy of the roll call vote required for its adoption by K.S.A. 77-421, and amendments thereto, when adoption is by a board, commission, authority or other similar body;

~~(5)~~ (4) the rule and regulation to be filed is accompanied by a copy of the economic impact statement as provided by K.S.A. 77-416, and amendments thereto; *and*

~~(6)~~ (5) the rule and regulation to be filed is accompanied by a copy of the environmental benefit statement required by K.S.A. 77-416 and amendments thereto, if applicable; ~~and~~

~~(7)~~ the rule and regulation is accompanied by a copy of any document which is adopted by reference by such rule and regulation unless specifically exempt by the state rules and regulations board pursuant to subsection (a) of K.S.A. 77-416, and amendments thereto.

Sec. 9. K.S.A. 2009 Supp. 77-421 is hereby amended to read as follows: 77-421. (a) (1) Except as provided by subsection (a)(2) ~~or subsection~~

~~(a)(3)~~, subsection (a)(3) or subsection (a)(4), prior to the adoption of any permanent rule and regulation or any temporary rule and regulation which is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by the secretary of administration and the attorney general, the adopting state agency shall give at least 60 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations established by K.S.A. 77-436, and amendments thereto. The notice shall be ~~mailed~~ provided to the secretary of state and to the chairperson, *vice chairperson, ranking minority member* of the joint committee *and legislative research department* and shall be published in the Kansas register. A complete copy of all proposed rules and regulations and the complete economic impact statement required by K.S.A. 77-416, and amendments thereto, shall accompany the notice sent to the secretary of state. The notice shall contain:

(A) A summary of the substance of the proposed rules and regulations;

(B) a summary of the economic impact statement indicating the estimated economic impact on governmental agencies or units, persons subject to the proposed rules and regulations and the general public;

(C) a summary of the environmental benefit statement, if applicable, indicating the need for the proposed rules and regulations;

(D) the address where a complete copy of the proposed rules and regulations, the complete economic impact statement, the environmental benefit statement, if applicable, required by K.S.A. 77-416, and amendments thereto, may be obtained;

(E) the time and place of the public hearing to be held; the manner in which interested parties may present their views; and

(F) a specific statement that the period of 60 days' notice constitutes a public comment period for the purpose of receiving written public comments on the proposed rules and regulations and the address where such comments may be submitted to the state agency. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rules and regulations.

(2) Prior to adopting any rule and regulation which establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife and after such rule and regulation has been approved by the secretary of administration and the attorney general, the secretary of the department of wildlife and parks shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(3) Prior to adopting any rule and regulation which establishes any permanent prior authorization on a prescription-only drug pursuant to K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or reimbursement for pharmaceuticals under the pharmacy program of the state medicaid plan, and after such rule and regulation has been approved by the secretary of administration and the attorney general, the ~~secretary of social and rehabilitation services~~ *Kansas health policy authority* shall give at least 30 days' notice of ~~such secretary's~~ *its* intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(4) *Prior to adopting any rule and regulation pursuant to subsection (c), the state shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of notice consti-*

tutes a public comment period on such rules and regulations.

(b) (1) On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. ~~When requested to do so, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto.~~ At the time it adopts or amends a rule and regulation, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto, including:

(A) The agency's reasons for not accepting substantial arguments made in testimony and comments; and

(B) the reasons for any substantial change between the text of the proposed adopted or amended rule and regulation contained in the published notice of the proposed adoption or amendment of the rule and regulation and the text of the rule and regulation as finally adopted.

(2) Whenever a state agency is required by any other statute to give notice and hold a hearing before adopting, amending, reviving or revoking a rule and regulation, the state agency, in lieu of following the requirements or statutory procedure set out in such other law, may give notice and hold hearings on proposed rules and regulations in the manner prescribed by this section.

(3) Notwithstanding the other provisions of this section, the Kansas parole board and the secretary of corrections, may give notice or an opportunity to be heard to any inmate in the custody of the secretary of corrections with regard to the adoption of any rule and regulation, but the secretary shall not be required to give such notice or opportunity.

(c) (1) The agency shall initiate new rulemaking proceedings under this act, if a state agency proposes to adopt a final rule and regulation that:

(A) Differs in subject matter or effect in any material respect from the rule and regulation as originally proposed; and

(B) is not a logical outgrowth of the rule and regulation as originally proposed.

(2) In accordance with subsection (a), the period for public comment required by K.S.A. 77-421, and amendments thereto, may be shortened to not less than 30 days.

(3) For the purposes of this provision, a rule and regulation is not the logical outgrowth of the rule and regulation as originally proposed if a person affected by the final rule and regulation was not put on notice that such person's interests were affected in the rulemaking.

~~(c)~~ (d) When, pursuant to this or any other statute, a state agency holds a hearing on the adoption of a proposed rule and regulation, the agency shall cause written minutes or other records, including a record maintained on sound recording tape or on any electronically accessed media or any combination of written or electronically accessed media records of the hearing to be made. If the proposed rule and regulation is adopted and becomes effective, the state agency shall maintain, for not less than three years after its effective date, such minutes or other records, together with any recording, transcript or other record made of the hearing and a list of all persons who appeared at the hearing and who they represented, any written testimony presented at the hearing and any written comments submitted during the public comment period.

~~(d)~~ (e) No rule and regulation shall be adopted by a board, commission, authority or other similar body except at a meeting which is open to the public and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted by a board, commission, authority or other similar body unless it receives approval by roll call vote of a majority of the total membership thereof.

Sec. 10. K.S.A. 77-421a is hereby amended to read as follows: 77-421a. Whenever any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and the legislative branches, is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state, and such rules and regulations are exempt from the requirements of K.S.A. 77-415 *et seq.*, and amendments thereto, by virtue of the definition of "rule or regulation" in subsection ~~(4)~~ (e) of K.S.A. 77-415, and amendments thereto, such rules and regulations shall be adopted in the manner prescribed by K.S.A. 77-421, and amendments thereto, after notice has been given and a hearing held in the manner

prescribed by K.S.A. 77-421, and amendments thereto. This section shall not apply to orders issued by directors of correctional institutions under K.S.A. 75-5256, and amendments thereto.

Sec. 11. K.S.A. 2009 Supp. 77-422 is hereby amended to read as follows: 77-422. (a) A rule and regulation may be adopted by a state agency as a temporary rule and regulation if the state agency and the state rules and regulations board finds that the preservation of the public peace, health, safety or welfare necessitates or makes desirable putting such rule and regulation into effect prior to the time it could be put into effect if the agency were to comply with the notice, hearing and publication requirements of this act or prior to the effective date prescribed by K.S.A. 77-426, and amendments thereto.

(b) Temporary rules and regulations may be adopted without the giving of notice and the holding of a hearing thereon.

(c) (1) A temporary rule and regulation shall take effect: ~~(1)~~

(A) After approval by the secretary of administration and the attorney general as provided by K.S.A. 77-420, and amendments thereto; ~~(2)~~

(B) after approval by the state rules and regulations board as provided by K.S.A. 77-423, and amendments thereto; and ~~(3)~~

(C) upon filing with the secretary of state.

(2) The effective date of all or specific parts of a temporary rule and regulation may be delayed to a date later than its filing date if the delayed effective date of such rule and regulation, or specific parts thereof, is clearly expressed in the body of such rule and regulation.

(3) A temporary rule and regulation shall be effective for a period not to exceed 120 days *except that, for good cause, a state agency may request that a temporary rule and regulation may be renewed one time for an additional period not to exceed 120 days.*

(d) A temporary rule and regulation which amends an existing rule and regulation shall have the effect of suspending the force and effect of the existing rule and regulation until such time as the temporary rule and regulation is no longer effective. In such case, at the time the temporary rule and regulation ceases to be effective, the existing permanent rule and regulation which was amended by the temporary rule and regulation shall be in full force and effect unless such existing rule and regulation is otherwise amended, revoked or suspended as provided by law.

(e) Temporary rules and regulations shall be numbered in accordance with the numbering arrangement approved by the secretary of state and otherwise shall conform to the approval, adoption and filing requirements of this act, insofar as the same can be made applicable.

Sec. 12. K.S.A. 77-423 is hereby amended to read as follows: 77-423. There is hereby created a state rules and regulations board consisting of the attorney general *or the attorney general's designee*, the secretary of state *or the secretary of state's designee*, the secretary of administration *or the secretary of administration's designee*, the chairperson of the joint committee on administrative rules and regulations or a member of the joint committee designated by the chairperson from the same house of the legislature as the chairperson and the vice-chairperson of the joint committee on administrative rules and regulations or a member of the joint committee designated by the vice-chairperson from the same house of the legislature as the vice-chairperson. If a member is designated to serve on the board by the chairperson or vice-chairperson of the joint committee, the designated member shall serve in lieu of the designating officer on a temporary or permanent basis as specified by the designating officer. The attorney general shall be the chairperson of the board. The secretary of state shall serve as the secretary to the board. The state rules and regulations board shall determine whether a rule and regulation should be adopted as a temporary rule and regulation, shall determine the rules and regulations to be published in the Kansas administrative regulations and in the annual supplement to such regulations as provided for in this act and shall perform such other duties as may be required by this act.

Sec. 13. K.S.A. 2009 Supp. 77-424 is hereby amended to read as follows: 77-424. The state rules and regulations board shall meet as soon as possible after January 1 each year to determine which rules and regulations filed during the preceding calendar year are to be published in the Kansas administrative regulations or annual supplement thereto. For the purpose of avoiding unwarranted expense, the board may authorize and direct the secretary of state to withhold publication of any technical

rule and regulation of any state agency where such rules and regulations are of limited public interest and are or will be available in published form. In every such case where the rules and regulations are not published in the Kansas administrative regulations or annual supplement, reference shall be made by the secretary of state to the rules and regulations omitted therefrom, and shall state how such rules and regulations may be obtained and that the rules and regulations so omitted are on file in the office of the secretary of state. ~~Rules and regulations adopted jointly by two or more agencies shall not be published in more than one place in the compilation or supplement thereto.~~

Sec. 14. K.S.A. 77-428 is hereby amended to read as follows: 77-428. (a) At the beginning of each calendar year the secretary of state, as soon as possible, shall assemble all rules and regulations, except temporary rules and regulations, filed during the preceding year in accordance with the provisions of this act. The state rules and regulations board shall determine which of such rules and regulations are to be published in the Kansas administrative regulations or annual supplement as provided in this act.

(b) Annual supplements shall be cumulative and shall include all rules and regulations published in the annual supplement in the next preceding year which remain in force and effect on the effective date of the current supplement, together with all rules and regulations, other than temporary rules and regulations, which were regularly adopted and filed in the office of the secretary of state in the year next preceding the year when such annual supplement is published and which were approved for publication by the state rules and regulations board.

(c) The secretary of state shall prepare annual supplements to the rules and regulations and material to be published therewith, ~~in one or more paperbound volumes~~ in the form determined by the secretary of state. The annual supplement of rules and regulations shall be published and shall include a general index of all rules and regulations contained therein and such notes, cross references and explanatory materials as will facilitate the use of such supplements. ~~All rules and regulations and material published in the annual supplement shall be delivered to and published by the director of printing.~~ Authentication of all supplement volumes shall be in the manner provided in K.S.A. 77-429, and amendments thereto. The director of printing shall print the number of copies requisitioned by the secretary of state.

Sec. 15. K.S.A. 77-429 is hereby amended to read as follows: 77-429. (a) ~~Before any copies of the~~ Kansas administrative regulations or the annual supplement thereto shall be ~~printed by the division of printing or sold and delivered~~ published by the secretary of state, they shall be examined and compared by the attorney general and the secretary of state, and if they contain all rules and regulations approved for ~~printing~~ publication by the board, and otherwise comply with the terms of this act, they shall so certify ~~in writing~~ and after such authentication they shall be deemed and held to be “Kansas administrative regulations” and evidence in all courts having jurisdiction in the state; and such authentication shall ~~be printed on each~~ accompany each electronic or printed copy of Kansas administrative regulations and annual supplement thereto.

(b) (1) *The secretary of state shall prepare a searchable database containing all of the Kansas administrative regulations, including any supplements, published pursuant to this section by July 1, 2012, if practicable. The database shall be constructed in such a manner that any person accessing or using such database shall be able to search for any rule and regulation based upon the number or subject matter of the rule and regulation or by keyword search. The initial search shall return a list of all rules and regulations which contain the initial search term.*

(2) *Using any rule and regulation containing the initial search term as an entry point into the database, the database shall permit the person using such database to:*

(A) *View all occurrences of the search term in the rule and regulation retrieved; and*

(B) *using the initially retrieved rule and regulation as an entry point into the database’s hierarchy, navigate to each rule and regulation which follows or precedes the initial rule and regulation.*

Sec. 16. K.S.A. 2009 Supp. 77-430 is hereby amended to read as follows: 77-430. (a) ~~The Kansas administrative regulations shall be printed by the director of printing and delivered to the secretary of state who~~

shall dispose of them as follows:

~~— *First*, the secretary of state shall deposit in the supreme court law library and the state library such number of copies as the state law librarian and the state librarian, respectively, shall request for use in the law library and the state library, for purposes of the publication collection and depository system established under K.S.A. 75-2566, and amendments thereto, and for the purpose of exchange. The secretary of state shall distribute to the university of Kansas school of law and to Washburn university school of law the number of copies as the librarians of the schools of law, respectively, certify to the secretary of state as necessary for the purpose of exchange. The secretary of state shall retain two copies for use in the secretary of state's office.~~

~~— *Second*, the secretary of state shall distribute:~~

~~— (1) One copy to each member of the legislature at the time of taking office, after election or appointment, for the member's first term of office as a member of either house of the legislature which commences on or after the second Monday of January in 1991, except that a term of office as a member of either house of the legislature, whether a complete or partial term of office, shall not be construed for purposes of this distribution to be the member's first term of office if such term of office is part of a continuous period of service as a member of either house of the legislature or both houses of the legislature, in any combination of consecutive terms of office;~~

~~— (2) one copy each to the governor, lieutenant governor, attorney general and state historical society library;~~

~~— (3) to the several offices of the judicial branch of state government, the number of copies necessary to conduct the official business of such offices, as requested by the chief justice of the supreme court;~~

~~— (4) two copies to the Washburn university school of law, for use in the law library, and two copies to the university of Kansas school of law, for use in the law library;~~

~~— (5) one copy to each county law library, upon request by the librarian thereof;~~

~~— (6) one copy to the city library in each city of the first and second classes, upon request by the librarian thereof, and~~

~~— (7) one copy to each county library, upon request by the librarian thereof.~~

~~— *Third*, the secretary of state shall distribute to the several offices of the legislative branch of government, the number of copies necessary to conduct the official business of such offices, as follows: (1) To the office of revisor of statutes as the revisor of statutes shall request, (2) to the legislative research department as the director of legislative research shall request, (3) to the division of post audit as the post auditor shall request, and (4) to the division of legislative administrative services as the director of legislative administrative services shall request.~~

~~— *Fourth*, the balance of the Kansas administrative regulations after such distribution shall be kept by the secretary of state for sale as provided by this section. The secretary of state shall publish the Kansas administrative regulations in an electronic or paper medium. The secretary of state shall make the Kansas administrative regulations available by request to the following:~~

~~(1) The supreme court law library and the state library.~~

~~(2) The law schools and law libraries of the university of Kansas and Washburn university.~~

~~(3) Each member of the legislature at the time of taking office, after election or appointment, for the member's first term of office as a member of either house of the legislature which commences on or after the second Monday of January in 1991, except that a term of office as a member of either house of the legislature, whether a complete or partial term of office, shall not be construed for purposes of this distribution to be the member's first term of office if such term of office is part of a continuous period of service as a member of either house of the legislature or both houses of the legislature, in any combination of consecutive terms of office;~~

~~(4) each member of the joint committee on administrative rules and regulations;~~

~~(5) the governor, lieutenant governor, attorney general and state historical society library;~~

~~(6) the judicial branch of state government;~~

~~(7) each county law library;~~

- (8) *the city library in each city of the first and second class;*
- (9) *each county library;*
- (10) *the office of revisor of statutes;*
- (11) *the legislative research department;*
- (12) *the division of post audit; and*
- (13) *the division of legislative administrative services.*

(b) The Kansas administrative regulations may be purchased in complete sets or in single volumes. Single volumes of the Kansas administrative regulations shall be sold by the secretary of state at the per volume price fixed by the secretary of state under this section. Complete sets of the Kansas administrative regulations shall be sold by the secretary of state at the per set price fixed therefor by the secretary of state under this section. ~~Copies may be delivered by postpaid mail by the secretary of state.~~

(c) All moneys received from such sales shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund of the secretary of state.

(d) The secretary of state shall fix by rules and regulations the per volume and complete set prices of the Kansas administrative regulations sold under this section to recover the costs of ~~printing and binding such volumes~~ *publishing such volumes, whether in printed or electronic form.* The secretary of state shall revise such prices from time to time for the purposes of covering and recovering such costs.

Sec. 17. K.S.A. 77-430a is hereby amended to read as follows: 77-430a. (a) The secretary of state shall edit and prepare for ~~printing and~~ publication volumes of rules and regulations which replace existing volumes of the Kansas administrative regulations within the limitations of available appropriations therefor. Replacement volumes shall be published ~~and printed~~ in the same format and in accordance with the same ~~printing~~ specifications used in the volume replaced and shall be authenticated as required by K.S.A. 77-429, and amendments thereto. Replacement volumes of the Kansas administrative regulations shall be ~~printed by the director of printing and delivered to~~ *published by* the secretary of state who shall distribute and sell such replacement volumes in the same manner as provided in K.S.A. 77-430, and amendments thereto, for the distribution and sale of other volumes of the Kansas administrative regulations, except that each member of the senate or house of representatives shall receive, *upon request*, one copy of each replacement volume for the purpose of updating the set of the Kansas administrative regulations received at the time of taking office for the member's first term of office as a member of either house of the legislature as provided in K.S.A. 77-430, and amendments thereto.

(b) ~~Whenever it shall become necessary to print additional copies of any volume of the Kansas administrative regulations, the secretary of state shall requisition the necessary number of copies from the director of printing. Moneys received from the sale of replacement volumes under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund of the secretary of state.~~

(c) *The secretary of state shall fix by rules and regulations the per volume price, or the complete set price if more than one replacement volume is published, of any replacement volume of the Kansas administrative regulations sold under this section to recover the costs of publishing such volumes, whether in printed or electronic form. The secretary of state shall revise such prices from time to time for the purposes of covering and recovering such costs.*

Sec. 18. K.S.A. 2009 Supp. 77-431 is hereby amended to read as follows: 77-431. (a) ~~Copies of~~ *The secretary of state shall publish and make available* the annual supplements to the Kansas administrative regulations ~~shall be printed and delivered to the secretary of state who shall distribute them as follows:~~

~~—First.~~ The secretary of state shall transmit the same number of copies of each annual supplement in the same manner as provided in ~~the first, second and third clauses of subsection (a) of K.S.A. 77-430, and amendments thereto,~~ for distribution of Kansas administrative regulations, ex-

cept that each member of the senate or house of representatives shall receive, *upon request*, one copy of each annual supplement for the purpose of updating the set of the Kansas administrative regulations received at the time of taking office for the member's first term of office as a member of either house of the legislature as provided in K.S.A. 77-430, and amendments thereto.

~~Second, the balance of annual supplement volumes after such distribution shall be kept by the secretary of state for sale at the per supplement volume price, or the complete set price if more than one volume is published for any annual supplement, which is fixed by the secretary of state under this section. The secretary of state may publish the supplements to the Kansas administrative regulations in an electronic or paper medium.~~

(b) Moneys received from the sale of supplements under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund of the secretary of state.

(c) The secretary of state shall fix by rules and regulations the per volume price, or the complete set price if more than one volume is published, for each annual supplement to the Kansas administrative regulations sold under this section to recover the costs of ~~printing and binding publishing, whether published in an electronic or paper medium.~~ The secretary of state shall revise such prices from time to time for the purposes of covering and recovering such costs.

Sec. 19. K.S.A. 2009 Supp. 77-435 is hereby amended to read as follows: 77-435. In publishing the material in the Kansas administrative regulations and latest supplements thereto, the secretary of state shall not alter the sense, meaning or effect of any rule and regulation but may correct manifest orthographical, clerical or typographical errors and may edit the rules and regulations in the following manner:

~~(a) By inserting the correct references in lieu of any internal cross-references to session laws or other outdated statutory references or outdated references to other rules and regulations sections.~~

~~(b) By changing descriptive-subject-word headings of sections, subsections or subparts of a rule and regulation in order to briefly and clearly indicate the subject matter of such sections.~~

~~(c) Wherever a board, commission, commissioner, department or other agency or officer of the state government has been abolished by statute and the powers, duties and jurisdiction thereof transferred to some other board, commission, commissioner, department or other agency or officer now in existence, the secretary of state may edit the rules and regulations affected thereby by striking out the name of the abolished board, commission, commissioner, department or other agency or officer and inserting in lieu thereof the name of the proper board, commission, commissioner, department or other agency or officer.~~

~~(d) (b) Where a pronoun of only masculine or only feminine gender appears a pronoun of the opposite gender may be added, or language may be changed for the same purpose, so long as the opening limitation of this section is not violated.~~

~~(e) (c) By striking the word "that" wherever it appears as the first word of any section in the Kansas administrative regulations or the latest supplement thereto.~~

~~(f) (d) By correcting doublets.~~

The secretary of state may submit to the state rules and regulations board, for the board's approval, any proposed changes made pursuant to the provisions of this section. No change made pursuant to the provisions of this section shall effect any change in the substantive meaning of the rule and regulation section, and any error made by the secretary of state in editing the rules and regulations as authorized by this section shall be construed as a clerical error only.

Sec. 20. K.S.A. 77-436 is hereby amended to read as follows: 77-436.

(a) There is hereby established a joint committee on administrative rules and regulations which shall consist of five senators and seven members of the house of representatives. The five senator members shall be appointed as follows: Three by the committee on organization, calendar and rules and two by the minority leader of the senate. The seven representative members shall be appointed as follows: Four by the speaker of the house of representatives and three by the minority leader of the house

of representatives. The committee on organization, calendar and rules shall designate a senator member to be chairperson or vice-chairperson of the joint committee as provided in this section. The speaker of the house of representatives shall designate a representative member to be chairperson or vice-chairperson of the joint committee as provided in this section.

(b) A quorum of the joint committee on administrative rules and regulations shall be seven. All actions of the committee may be taken by a majority of those present when there is a quorum. In odd-numbered years the chairperson of the joint committee shall be the designated member of the house of representatives from the convening of the regular session in that year until the convening of the regular session in the next ensuing year. In even-numbered years the chairperson of the joint committee shall be the designated member of the senate from the convening of the regular session of that year until the convening of the regular session of the next ensuing year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(c) All proposed rules and regulations shall be reviewed by the joint committee on administrative rules and regulations during the public comment period required by K.S.A. 77-421, and amendments thereto. All ~~proposed forms used by state agencies and all~~ proposed rules and regulations specifically excluded from the definition of rule and regulation under subsection ~~(4)~~ (e) of K.S.A. 77-415, and amendments thereto, shall be subject to review by the joint committee. The committee may introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations and agency forms.

(d) All rules and regulations filed each year in the office of secretary of state ~~and all forms used by state agencies~~ and all rules and regulations specifically excluded from the definition of rule and regulation under subsection ~~(4)~~ (e) of K.S.A. 77-415, and amendments thereto, shall be subject to review by the joint committee. The committee may introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations and agency forms.

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

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

Sec. 21. K.S.A. 77-415a, 77-415b, 77-417, 77-418, 77-419, 77-420, 77-421a, 77-423, 77-428, 77-429, 77-430a and 77-436 and K.S.A. 2009 Supp. 77-415, 77-416, 77-421, 77-422, 77-424, 77-430, 77-431 and 77-435 are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 8, 2010.
