

HOUSE BILL No. 2006

By Joint Committee on Administrative Rules and Regulations

1-8

1 AN ACT concerning the Kansas rules and regulations filing act; amending
2 K.S.A. 2012 Supp. 77-415 and repealing the existing section.
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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2012 Supp. 77-415 is hereby amended to read as
6 follows: 77-415. (a) K.S.A. 77-415 through 77-438, and amendments
7 thereto, shall be known and may be cited as the ~~Kansas~~ rules and
8 regulations filing act.

9 (b) (1) Unless otherwise provided by statute or constitutional
10 provision, each rule and regulation issued or adopted by a state agency
11 shall comply with the requirements of the ~~Kansas~~ rules and regulations
12 filing act. Except as provided in this section, any standard, requirement or
13 other policy of general application may be given binding legal effect only
14 if it has complied with the requirements of the ~~Kansas~~ rules and
15 regulations filing act.

16 (2) Notwithstanding the provisions of this section:

17 (A) An agency may bind parties, establish policies, and interpret
18 statutes or regulations by order in an adjudication under the Kansas
19 administrative procedure act or other procedures required by law, except
20 that such order shall not be used as precedent in any subsequent
21 adjudication against a person who was not a party to the original
22 adjudication unless the order is:

23 (i) Designated by the agency as precedent;

24 (ii) not overruled by a court or later adjudication; and

25 (iii) disseminated to the public in one of the following ways:

26 (a) Inclusion in a publicly available index, maintained by the agency
27 and published on its website, of all orders designated as precedent;

28 (b) publication by posting in full on an agency website in a format
29 capable of being searched by key terms; or

30 (c) being made available to the public in such other manner as may be
31 prescribed by the secretary of state.

32 (B) Any statement of agency policy may be treated as binding within
33 the agency if such statement of policy is directed to:

34 (i) Agency personnel relating to the performance of their duties.

35 (ii) The internal management of or organization of the agency.

36 No such statement of agency policy listed in clauses (i) and (ii) of this

1 subparagraph may be relied on to bind the general public.

2 (C) An agency may provide forms, the content or substantive
3 requirements of which are prescribed by rule and regulation or statute,
4 except that no such form may give rise to any legal right or duty or be
5 treated as authority for any standard, requirement or policy reflected
6 therein.

7 (D) An agency may provide guidance or information to the public,
8 describing any agency policy or statutory or regulatory requirement except
9 that no such guidance or information may give rise to any legal right or
10 duty or be treated as authority for any standard, requirement or policy
11 reflected therein.

12 (E) None of the following shall be subject to the ~~Kansas~~ rules and
13 regulations filing act:

14 (i) Any policy relating to the curriculum of a public educational
15 institution or to the administration, conduct, discipline, or graduation of
16 students from such institution.

17 (ii) Any parking and traffic regulations of any state educational
18 institution under the control and supervision of the state board of regents.

19 (iii) Any rule and regulation relating to the emergency or security
20 procedures of a correctional institution, as defined in subsection (d) of
21 K.S.A. 75-5202, and amendments thereto.

22 (iv) Any order issued by the secretary of corrections or any warden of
23 a correctional institution under K.S.A. 75-5256, and amendments thereto.

24 (F) When a statute authorizing an agency to issue rules and
25 regulations or take other action specifies the procedures for doing so, those
26 procedures shall apply instead of the procedures in the ~~Kansas~~ rules and
27 regulations filing act.

28 (c) As used in the ~~Kansas~~ rules and regulations filing act, and
29 amendments thereto, unless the context clearly requires otherwise:

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

32 (2) "Environmental rule and regulation" means:

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

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

39 (3) "Person" means an individual, firm, association, organization,
40 partnership, business trust, corporation, company or any other legal or
41 commercial entity.

42 (4) "Rule and regulation," "rule," and "regulation" means a standard,
43 requirement or other policy of general application that has the force and

1 effect of law, including amendments or revocations thereof, issued or
2 adopted by a state agency to implement or interpret legislation.

3 (5) "Rulemaking" shall have the meaning ascribed to it in K.S.A. 77-
4 602, and amendments thereto.

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

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

13 Sec. 2. K.S.A. 2012 Supp. 77-415 is hereby repealed.

14 Sec. 3. This act shall take effect and be in force from and after its
15 publication in the statute book.

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