

Session of 2017

HOUSE BILL No. 2280

By Representative Ward

2-6

1 AN ACT concerning administrative rules and regulations; joint committee
2 on administrative rules and regulations; state rules and regulations
3 board; membership; amending K.S.A. 2016 Supp. 77-423 and 77-436
4 and repealing the existing sections.
5

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

7 Section 1. K.S.A. 2016 Supp. 77-423 is hereby amended to read as
8 follows: 77-423. There is hereby created a state rules and regulations board
9 consisting of the attorney general or the attorney general's designee, the
10 secretary of state or the secretary of state's designee, the secretary of
11 administration or the secretary of administration's designee, the
12 chairperson of the joint committee on administrative rules and regulations
13 or a member of the joint committee designated by the chairperson from the
14 same house of the legislature as the chairperson ~~and~~, the vice-chairperson
15 of the joint committee on administrative rules and regulations or a member
16 of the joint committee designated by the vice-chairperson from the same
17 house of the legislature as the vice-chairperson, *and the ranking minority*
18 *member of the joint committee on administrative rules and regulations or*
19 *a member of the joint committee designated by the minority leader of the*
20 *same house of the legislature as the chairperson.* If a member is
21 designated to serve on the board by the chairperson or vice-chairperson of
22 the joint committee, the designated member shall serve in lieu of the
23 designating officer on a temporary or permanent basis as specified by the
24 designating officer. The attorney general shall be the chairperson of the
25 board. The secretary of state shall serve as the secretary to the board. The
26 state rules and regulations board shall determine whether a rule and
27 regulation should be adopted as a temporary rule and regulation, shall
28 determine the rules and regulations to be published in the Kansas
29 administrative regulations and in the annual supplement to such
30 regulations as provided for in this act and shall perform such other duties
31 as may be required by this act.

32 Sec. 2. K.S.A. 2016 Supp. 77-436 is hereby amended to read as
33 follows: 77-436. (a) There is hereby established a joint committee on
34 administrative rules and regulations ~~which shall consist~~ of five senators
35 and seven members of the house of representatives. The five senator
36 members shall be appointed as follows: Three by the committee on

relating to review of rules and regulations by state agencies; reporting
impact on business;

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

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

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

(c) Prior to January 14, 2019, the joint committee on administrative rules and regulations shall submit a report to the speaker of the house of representatives and the president of the senate summarizing the committee's findings regarding information submitted under subsection (b).

Sec. 2. K.S.A. 2016 Supp. 77-416 is hereby amended to read as follows:
[see insert]

consisting

1 organization, calendar and rules and two by the minority leader of the
 2 senate. The seven representative members shall be appointed as follows:
 3 Four by the speaker of the house of representatives and three by the
 4 minority leader of the house of representatives. The committee on
 5 organization, calendar and rules shall designate a senator member to be
 6 chairperson or vice-chairperson of the joint committee as provided in this
 7 section. The speaker of the house of representatives shall designate a
 8 representative member to be chairperson or vice-chairperson of the joint
 9 committee as provided in this section. *The minority leader of the senate*
 10 *shall designate a senator member to be the ranking minority member of*
 11 *the joint committee as provided in this section. The minority leader of the*
 12 *house of representatives shall designate a representative member to be the*
 13 *ranking minority member of the joint committee as provided in this*
 14 *section.*

15 (b) A quorum of the joint committee on administrative rules and
 16 regulations shall be seven. All actions of the committee may be taken by a
 17 majority of those present when there is a quorum. In odd-numbered years
 18 the chairperson *and the ranking minority member* of the joint committee
 19 shall be the designated ~~member~~ *members* of the house of representatives
 20 from the convening of the regular session in that year until the convening
 21 of the regular session in the next ensuing year. In even-numbered years the
 22 chairperson *and the ranking minority member* of the joint committee shall
 23 be the designated ~~member~~ *members* of the senate from the convening of
 24 the regular session of that year until the convening of the regular session of
 25 the next ensuing year. The vice-chairperson shall exercise all of the powers
 26 of the chairperson in the absence of the chairperson.

27 (c) All proposed rules and regulations shall be reviewed by the joint
 28 committee on administrative rules and regulations during the public
 29 comment period required by K.S.A. 77-421, and amendments thereto. The
 30 committee may introduce such legislation as it deems necessary in
 31 performing its functions of reviewing administrative rules and regulations.

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

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

The committee may communicate to state agencies the committee's concerns, suggestions and comments regarding proposed rules and regulations to state agencies, including the committee's concerns regarding the effect of proposed rules and regulations on business and economic development within the state of Kansas.

And by renumbering sections accordingly;
 And by adjusting the title and repealer accordingly

Insert for proposed amendment to HB 2280
Senate Committee on Ways and Means
Prepared by Scott Abbott
Office of Revisor of Statutes

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. 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~~ that 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 consider the economic impact of such proposed rule and regulation or amendment upon all governmental agencies or units and all persons ~~which~~ who will be subject thereto and upon the general public. 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:

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

(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;

(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~~ that are the subject of the rules and regulations or the enforcement thereof; ~~and~~

(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; and

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

(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~~ that will increase their expenditures or fiscal liability.

(3) The state agency shall reevaluate and, when necessary, update the statement 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 consider the environmental benefit of such proposed rule and regulation or amendment. 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 that~~ 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 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 that~~ 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.