

SENATE BILL No. 245

By Committee on Ways and Means

4-5

1 AN ACT concerning administrative rules and regulations; relating to
2 review of rules and regulations by state agencies; functions of the joint
3 committee on administrative rules and regulations; reports including
4 impact on business and economic development; amending K.S.A. 2016
5 Supp. 77-416 and 77-436 and repealing the existing sections.
6

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

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

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

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

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

1 (b).

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

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

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

28 (B) whether the proposed rule and regulation is mandated by federal
29 law as a requirement for participating in or implementing a federally
30 subsidized or assisted program and whether the proposed rules and
31 regulations exceed the requirements of applicable federal law;

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

38 (D) a description of any less costly or less intrusive methods that
39 were considered by the state agency for achieving the stated purpose of the
40 rules and regulations and why such methods were rejected in favor of the
41 proposed rules and regulations. The state agency may consult with other
42 state agencies when preparing the economic impact statement; *and*

43 (E) *a description of businesses that would be directly affected by the*

1 *proposed rules and regulations, the benefits of the proposed rules and*
2 *regulations and measures taken to minimize the impact of the proposed*
3 *rules and regulations on business and economic development within the*
4 *state of Kansas.*

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

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

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

36 (d) At the time of drafting a proposed environmental rule and
37 regulation or amendment to an existing environmental rule and regulation,
38 the state agency shall consider the environmental benefit of such proposed
39 rule and regulation or amendment. Prior to giving notice of a hearing on a
40 proposed rule and regulation, the state agency shall prepare an
41 environmental benefit statement that shall include a description of the need
42 for and the environmental benefits—~~which~~ *that* will likely accrue as the
43 result of the proposed rule and regulation or amendment. The description

1 shall summarize, when applicable, research indicating the level of risk to
2 the public health or the environment being removed or controlled by the
3 proposed rule and regulation or amendment. When specific contaminants
4 are to be controlled by the proposed rule and regulation or amendment, the
5 description shall indicate the level at which the contaminants are
6 considered harmful according to currently available research. The state
7 agency may consult with other state agencies when preparing the
8 environmental benefit statement. The state agency shall reevaluate and,
9 when necessary, update the statement at the time of filing a rule and
10 regulation with the secretary of state. A copy of the current environmental
11 benefit statement shall be available from the state agency upon request by
12 any party interested therein.

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

15 (1) A description of the capital and annual costs of compliance with
16 the proposed rules and regulations, and the persons who will bear those
17 costs;

18 (2) a description of the initial and annual costs of implementing and
19 enforcing the proposed rules and regulations, including the estimated
20 amount of paperwork, and the state agencies, other governmental agencies
21 or other persons or entities who will bear the costs;

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

26 (4) a detailed statement of the data and methodology used in
27 estimating the costs used in the statement.

28 Sec. 3. K.S.A. 2016 Supp. 77-436 is hereby amended to read as
29 follows: 77-436. (a) There is hereby established a joint committee on
30 administrative rules and regulations ~~which shall consist~~ *consisting* of five
31 senators and seven members of the house of representatives. The five
32 senator members shall be appointed as follows: Three by the committee on
33 organization, calendar and rules and two by the minority leader of the
34 senate. The seven representative members shall be appointed as follows:
35 Four by the speaker of the house of representatives and three by the
36 minority leader of the house of representatives. The committee on
37 organization, calendar and rules shall designate a senator member to be
38 chairperson or vice-chairperson of the joint committee as provided in this
39 section. The speaker of the house of representatives shall designate a
40 representative member to be chairperson or vice-chairperson of the joint
41 committee as provided in this section.

42 (b) A quorum of the joint committee on administrative rules and
43 regulations shall be seven. All actions of the committee may be taken by a

1 majority of those present when there is a quorum. In odd-numbered years,
2 the chairperson of the joint committee shall be the designated member of
3 the house of representatives from the convening of the regular session in
4 that year until the convening of the regular session in the next ensuing
5 year. In even-numbered years, the chairperson of the joint committee shall
6 be the designated member of the senate from the convening of the regular
7 session of that year until the convening of the regular session of the next
8 ensuing year. The vice-chairperson shall exercise all of the powers of the
9 chairperson in the absence of the chairperson.

10 (c) All proposed rules and regulations shall be reviewed by the joint
11 committee on administrative rules and regulations during the public
12 comment period required by K.S.A. 77-421, and amendments thereto. The
13 committee may introduce such legislation as it deems necessary in
14 performing its functions of reviewing administrative rules and regulations.
15 *The committee may communicate the committee's concerns, suggestions*
16 *and comments regarding proposed rules and regulations to state agencies,*
17 *including the committee's concerns regarding the effect of proposed rules*
18 *and regulations on business and economic development within the state of*
19 *Kansas.*

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

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

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

37 Sec. 4. K.S.A. 2016 Supp. 77-416 and 77-436 are hereby repealed.

38 Sec. 5. This act shall take effect and be in force from and after its
39 publication in the statute book.