

SENATE BILL No. 317

By Joint Committee on Administrative Rules and Regulations

1-23

1 AN ACT concerning administrative rules and regulations; relating to
2 reporting impact on business; joint committee on administrative rules
3 and regulations; state rules and regulations board; amending K.S.A.
4 2017 Supp. 77-416, 77-423 and 77-436 and repealing the existing
5 sections.
6

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

8 Section 1. K.S.A. 2017 Supp. 77-416 is hereby amended to read as
9 follows: 77-416. (a) Every state agency shall file with the secretary of state
10 every rule and regulation adopted by it and every amendment and
11 revocation thereof in the manner prescribed by the secretary of state. Each
12 rule and regulation shall include a citation to the statutory section or
13 sections being implemented or interpreted and a citation of the authority
14 pursuant to which it, or any part thereof, was adopted. Every rule and
15 regulation filed in the office of the secretary of state shall be accompanied
16 by a copy of the economic impact statement required by subsection (b) and
17 a copy of the environmental benefit statement if required by subsection
18 (d). A copy of any document adopted by reference in a rule and regulation
19 shall be available from the state agency ~~which~~ *that* adopted the rule and
20 regulation upon request by any person interested therein. The state agency,
21 under the direction of the secretary of state, shall number each section with
22 a distinguishing number and, in making a compilation of the rules and
23 regulations, the sections shall be arranged in numerical order. A decimal
24 system of numbering shall be prohibited.

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

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

34 (B) whether the proposed rule and regulation is mandated by federal
35 law as a requirement for participating in or implementing a federally
36 subsidized or assisted program and whether the proposed rules and

1 regulations exceed the requirements of applicable federal law;

2 (C) a description of the cost, the persons who will bear the costs and
3 those who will be affected by the proposed rules and regulations, including
4 the agency proposing the rules and regulations, other governmental
5 agencies or units, private citizens and consumers of the products or
6 services ~~which~~ *that* are the subject of the rules and regulations or the
7 enforcement thereof; ~~and~~

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

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

18 (2) The state agency shall consult with the League of Kansas
19 municipalities, Kansas association of counties and the Kansas association
20 of school boards, as appropriate, when preparing the economic impact
21 statement of a proposed rule and regulation which increases or decreases
22 revenues of cities, counties or school districts or imposes functions or
23 responsibilities on cities, counties or school districts ~~which~~ *that* will
24 increase their expenditures or fiscal liability.

25 (3) The state agency shall reevaluate and, when necessary, update the
26 statement at the time of filing a rule and regulation with the secretary of
27 state. If a public hearing was held prior to the adoption of the rule and
28 regulation, a state agency at the time of filing a rule and regulation with
29 the secretary of state shall include as a part of the economic impact
30 statement a statement specifying the time and place at which the hearing
31 was held and the attendance at the hearing. A copy of the current economic
32 impact statement shall be available from the state agency upon request by
33 any party interested therein.

34 (c) Upon request of the state rules and regulations board, the joint
35 committee on administrative rules and regulations or the chairperson of
36 either committee or board, the director of the budget shall review the
37 economic impact statement prepared by any state agency and shall prepare
38 a supplemental or revised statement. If possible, the supplemental or
39 revised statement shall include a reliable estimate in dollars of the
40 anticipated change in revenues and expenditures of the state. It also shall
41 include a statement, if determinable or reasonably foreseeable, of the
42 immediate and long-range economic impact of the rule and regulation
43 upon persons subject thereto, small employers and the general public. If,

1 after careful investigation, it is determined that no dollar estimate is
2 possible, the statement shall set forth the reasons why no dollar estimate
3 can be given. Every state agency is directed to cooperate with the division
4 of the budget in the preparation of any statement pursuant to this
5 subsection when, and to the extent, requested by the director of the budget.

6 (d) At the time of drafting a proposed environmental rule and
7 regulation or amendment to an existing environmental rule and regulation,
8 the state agency shall consider the environmental benefit of such proposed
9 rule and regulation or amendment. Prior to giving notice of a hearing on a
10 proposed rule and regulation, the state agency shall prepare an
11 environmental benefit statement that shall include a description of the need
12 for and the environmental benefits—~~which~~ *that* will likely accrue as the
13 result of the proposed rule and regulation or amendment. The description
14 shall summarize, when applicable, research indicating the level of risk to
15 the public health or the environment being removed or controlled by the
16 proposed rule and regulation or amendment. When specific contaminants
17 are to be controlled by the proposed rule and regulation or amendment, the
18 description shall indicate the level at which the contaminants are
19 considered harmful according to currently available research. The state
20 agency may consult with other state agencies when preparing the
21 environmental benefit statement. The state agency shall reevaluate and,
22 when necessary, update the statement at the time of filing a rule and
23 regulation with the secretary of state. A copy of the current environmental
24 benefit statement shall be available from the state agency upon request by
25 any party interested therein.

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

28 (1) A description of the capital and annual costs of compliance with
29 the proposed rules and regulations, and the persons who will bear those
30 costs;

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

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

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

41 Sec. 2. K.S.A. 2017 Supp. 77-423 is hereby amended to read as
42 follows: 77-423. There is hereby created a state rules and regulations board
43 consisting of the attorney general or the attorney general's designee, the

1 secretary of state or the secretary of state's designee, the secretary of
2 administration or the secretary of administration's designee, the
3 chairperson of the joint committee on administrative rules and regulations
4 or a member of the joint committee designated by the chairperson from the
5 same house of the legislature as the chairperson ~~and~~, the vice-chairperson
6 of the joint committee on administrative rules and regulations or a member
7 of the joint committee designated by the vice-chairperson from the same
8 house of the legislature as the vice-chairperson, *and the ranking minority*
9 *member of the joint committee on administrative rules and regulations or*
10 *a member of the joint committee designated by the minority leader of the*
11 *same house of the legislature as the chairperson.* If a member is
12 designated to serve on the board by the chairperson or vice-chairperson of
13 the joint committee, the designated member shall serve in lieu of the
14 designating officer on a temporary or permanent basis as specified by the
15 designating officer. The attorney general shall be the chairperson of the
16 board. The secretary of state shall serve as the secretary to the board. The
17 state rules and regulations board shall determine whether a rule and
18 regulation should be adopted as a temporary rule and regulation, shall
19 determine the rules and regulations to be published in the Kansas
20 administrative regulations and in the annual supplement to such
21 regulations as provided for in this act and shall perform such other duties
22 as may be required by this act.

23 Sec. 3. K.S.A. 2017 Supp. 77-436 is hereby amended to read as
24 follows: 77-436. (a) There is hereby established a joint committee on
25 administrative rules and regulations ~~which shall consist~~ *consisting* of five
26 senators and seven members of the house of representatives. The five
27 senator members shall be appointed as follows: Three by the committee on
28 organization, calendar and rules and two by the minority leader of the
29 senate. The seven representative members shall be appointed as follows:
30 Four by the speaker of the house of representatives and three by the
31 minority leader of the house of representatives. The committee on
32 organization, calendar and rules shall designate a senator member to be
33 chairperson or vice-chairperson of the joint committee as provided in this
34 section. The speaker of the house of representatives shall designate a
35 representative member to be chairperson or vice-chairperson of the joint
36 committee as provided in this section. *The minority leader of the senate*
37 *shall designate a senator member to be the ranking minority member of*
38 *the joint committee as provided in this section. The minority leader of the*
39 *house of representatives shall designate a representative member to be the*
40 *ranking minority member of the joint committee as provided in this*
41 *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 *and the ranking minority member* of the joint committee
3 shall be the designated-~~member~~ *members* of the house of representatives
4 from the convening of the regular session in that year until the convening
5 of the regular session in the next ensuing year. In even-numbered years the
6 chairperson *and the ranking minority member* of the joint committee shall
7 be the designated-~~member~~ *members* of the senate from the convening of
8 the regular session of that year until the convening of the regular session of
9 the next ensuing year. The vice-chairperson shall exercise all of the powers
10 of the chairperson in the absence of the chairperson.

11 (c) All proposed rules and regulations shall be reviewed by the joint
12 committee on administrative rules and regulations during the public
13 comment period required by K.S.A. 77-421, and amendments thereto. *As*
14 *part of such review, the committee may direct communications to state*
15 *agencies making comments and recommendations, and indicating*
16 *concerns and approval or disapproval of any proposed rules and*
17 *regulations.* The committee may introduce such legislation as it deems
18 necessary in performing its functions of reviewing administrative rules and
19 regulations.

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. 2017 Supp. 77-416, 77-423 and 77-436 are hereby
38 repealed.

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