

SCOTT SCHWAB
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564
sos.kansas.gov

STATE OF KANSAS

Testimony: SB244 (Neutral)

Senate Committee on Ways & Means
Monday, January 27, 2020

Chairwoman McGinn and members of the Committee:

SB244 would sunset administrative rules and regulations five years after adoption unless an extension is approved by the Legislature. Under current law, administrative rules and regulations do not sunset unless specifically stated in state or federal legislation, rules and regulations or court order.

Although SB244 is well intended legislation aimed at eliminating outdated regulations it also raises the potential for severe unintended consequences. The Office of Secretary of State must receive, review, proof and publish each rule and regulation pursuant to state law. As of December 31, 2019, there were 9,318 active rules and regulations. Under SB244 each rule and regulation would need to be revised, refiled or deleted over the next five years to prevent its sunset.

The regulation process takes a minimum of 114 days from start to finish. The process can take much longer if the regulations are lengthy, heavily amended or sent back for revisions by the Attorney General, Secretary of State or Department of Administration. The process outlined in SB244 raises logistical concerns for the agencies involved in the regulation process, especially those with large numbers of active regulations. Our office anticipates significant impact resulting from this legislation due to a large increase in the number of regulations needing proofed, filed and published.

Consider the following - one Kansas agency currently has 1,779 active regulations. In 2019, this agency filed nine regulations. In the past five years, the highest number of regulations submitted by this agency is 57. Under SB244, this agency would need to file over 355 regulations a year, excluding new regulations required by state or federal law, to remain in compliance with SB244.

SB244, in its current form, is unclear on what follows after the expiring rules and regulations are certified by the revisor of statutes and delivered to the President of the Kansas Senate and Speaker of the Kansas House of Representatives. The definition of "amend" in the bill does not account for updates and corrections to rules and regulations. Many fee regulations and regulations that adopt material by reference are updated annually but do not contain amendments to expand or narrow the scope of the regulation. Finally, uncertainty exists around the term "certify" and the role of the Revisor of Statutes. In 1988, the responsibility for filing regulations were transferred from the revisor to the Office of Secretary of State. The revisor no longer has direct access to filed, stamped regulations.

As previously stated, SB244 is well intended but raises serious logistical concerns with our office. On behalf of the Office of Secretary of State, we appreciate your time and thoughtful consideration of these concerns and are happy to stand for questions at the appropriate time.

Respectfully Submitted,

Katie Koupal
Deputy Assistant Secretary of State
Communications & Policy
785.296.4052 | Katie.Koupal@ks.gov