

SENATE BILL No. 254

By Senator Denning

1-10

1 AN ACT concerning requirements of publication of certain documents by
2 the secretary of state; relating to session laws, the Kansas register,
3 proposed amendments to the constitution of the state of Kansas, and
4 Kansas administrative rules and regulations and guidance documents;
5 amending K.S.A. 45-315, 64-103, 75-430, 75-433, 77-417, 77-430, 77-
6 430a, 77-431 and 77-438 and K.S.A. 2019 Supp. 45-107 and repealing
7 the existing sections.

8

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

10 Section 1. K.S.A. 2019 Supp. 45-107 is hereby amended to read as
11 follows: 45-107. (a) The secretary of state shall sell copies of the session
12 laws at the per volume price for such copies fixed by the secretary of state
13 under this section. The secretary of state shall remit all moneys received
14 under this section to the state treasurer in accordance with the provisions
15 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
16 remittance, the state treasurer shall deposit the entire amount in the state
17 treasury to the credit of the information and services fee fund of the
18 secretary of state.

19 (b) Whenever the inventory of copies of any volume of the session
20 laws exceeds 100 and a later volume of the session laws has been
21 published, the secretary of state may dispose of copies of such volume
22 without making a charge therefor until the inventory of such volume is
23 reduced to 100 copies. When the inventory of any volume of the session
24 laws is 100 copies or less, the secretary of state, with the approval of the
25 revisor of statutes, may dispose of copies from such inventory without
26 making a charge therefor.

27 (c) The secretary of state shall fix ~~by rules and regulations~~ the per
28 volume price for copies of the session laws sold under this section to
29 recover the costs of ~~printing, binding~~ *publishing* and storing such volumes,
30 *whether published in print or electronic form*. The secretary of state shall
31 revise all such prices from time to time as necessary for the purposes of
32 covering and recovering such costs.

33 Sec. 2. K.S.A. 45-315 is hereby amended to read as follows: 45-315.
34 ~~The secretary of state shall furnish to the state printer, within twenty (20)~~
35 ~~days after the sine die adjournment of each legislative session occurring in~~
36 ~~odd-numbered years and within forty (40) days after the sine die~~

1 adjournment of the legislative session occurring in even-numbered years, a
2 copy of all acts, resolutions and other matters except the index which are
3 required to be published and bound in the session laws, and in the form
4 required by K.S.A. 45-301. Thereupon. *After the sine die adjournment of*
5 *each legislative session*, the state printer and the secretary of state shall
6 complete preparation and printing of at least a limited number of each
7 volume *of the session laws* for publication on or before July 1 of such year.
8 The state printer shall thereafter, as rapidly as practicable, print and deliver
9 to the secretary of state bound copies as provided by law.

10 Sec. 3. K.S.A. 64-103 is hereby amended to read as follows: 64-103.

11 (a) All acts of the legislature ~~which that~~ shall provide for their taking effect
12 on publication in any newspaper or in the Kansas register shall be
13 published in the Kansas register, which shall be deemed the official
14 publication. *Publication of the Kansas register may be in print or*
15 *electronic form.* Except as otherwise provided in this subsection, all
16 proclamations, orders, notices and advertisements authorized by any state
17 officer shall be printed and published in the Kansas register. Payment for
18 such publication shall be made by the state at the rates prescribed by law.
19 The provisions of this subsection shall not apply to: (1) Resolutions
20 making propositions to amend the constitution; or (2) proclamations issued
21 by the governor ~~which that~~ are not required by law to be issued by the
22 governor. All proclamations issued by the governor ~~which that~~ are not
23 published in the Kansas register shall be published on the official Kansas
24 internet-website.

25 (b) For the purpose of informing the electors of the propositions to be
26 voted on at the election thereon, the secretary of state shall cause
27 resolutions making propositions to amend the constitution to be published
28 *in a newspaper of general circulation in each county* ~~one newspaper in~~
29 ~~each county of the state where a newspaper is published,~~ once each week
30 for three consecutive weeks immediately preceding the election at which
31 the proposition is to be submitted.

32 Sec. 4. K.S.A. 75-430 is hereby amended to read as follows: 75-430.

33 (a) The secretary of state shall compile, index and publish a publication to
34 be known as the Kansas register. Such register shall contain:

35 (1) All acts of the legislature required to be published in the Kansas
36 register;

37 (2) all executive orders and directives of the governor ~~which that~~ are
38 required to be filed in the office of the secretary of state;

39 (3) summaries of all opinions of the attorney general interpreting acts
40 of the legislature as prepared by the office of the attorney general;

41 (4) notice of any public comment period on contemplated
42 modification of an existing rule and regulation, and, in accordance with the
43 provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, and

1 amendments thereto, all notices of hearings on proposed administrative
 2 rules and regulations and the full text of all administrative rules and
 3 regulations that have been adopted and filed with the secretary of state;

4 (5) the full text of all administrative rules and regulations ~~which~~*that*
 5 have been adopted and filed in accordance with the provisions of article 4
 6 of chapter 77 of the Kansas Statutes Annotated, and amendments thereto,
 7 except that the secretary of state may publish a summary of any rule and
 8 regulation together with the address of the state agency from which a copy
 9 of the full text of the proposed rules and regulations may be received, if
 10 such rule and regulation is lengthy and expensive to publish and otherwise
 11 available in published form and a summary will, in the opinion of the
 12 secretary, properly notify the public of the contents of such rule and
 13 regulation;

14 (6) a cumulative index of all administrative rules and regulations
 15 ~~which~~*that* have been adopted and filed in accordance with the provisions
 16 of article 4 of chapter 77 of the Kansas Statutes Annotated, and
 17 amendments thereto;

18 (7) all notices of hearings of special legislative interim study
 19 committees, ~~descriptions of all prefiled bills and resolutions~~ and
 20 descriptions of all bills and resolutions introduced in the legislature during
 21 any session of the legislature, and other legislative information which is
 22 approved for publication by the legislative coordinating council;

23 ~~(8) the hearings docket of the Kansas supreme court and the court of~~
 24 ~~appeals;~~

25 ~~(9)~~(8) summaries of all orders of the state board of tax appeals ~~which~~
 26 *that* have statewide application;

27 ~~(10)~~(9) all advertisements for contracts for construction, repairs,
 28 improvements or purchases by the state of Kansas or any agency thereof
 29 for which competitive bids are required; and

30 ~~(11)~~(10) any other information ~~which~~*that* the secretary of state
 31 deems to be of sufficient interest to the general public to merit its
 32 publication or which is required by law to be published in the Kansas
 33 register.

34 (b) The secretary of state shall publish such register at regular
 35 intervals, but not less than weekly.

36 (c) Each ~~issue~~*publication* of the register shall contain a table of
 37 contents.

38 (d) A cumulative index to all information required by K.S.A. 75-430
 39 through 75-434, and amendments thereto, to be published during the
 40 previous year shall be published at least once each year.

41 (e) The secretary of state may omit from the register any information
 42 the publication of which the secretary deems cumbersome, expensive, or
 43 otherwise inexpedient, if the information is made available in printed or

1 processed form by the adopting agency on application for it, and if the
 2 register contains a notice stating the general subject matter of the
 3 information and the manner in which a copy of it may be obtained.

4 (f) ~~One copy of each issue of a~~ *subscription* to the register shall be
 5 made available without charge on request to each officer, board,
 6 commission, and department of the state having statewide jurisdiction, to
 7 each member of the legislature, to each county clerk in the state, and to the
 8 supreme court, court of appeals and each district court.

9 (g) The secretary of state shall make ~~paper copies of a~~ *subscription to*
 10 the register available upon payment of a fee to be fixed by the secretary of
 11 state under K.S.A. 75-433, and amendments thereto.

12 Sec. 5. K.S.A. 75-433 is hereby amended to read as follows: 75-433.

13 (a) The secretary of state may fix, charge and collect publication fees from
 14 state agencies for the publication of documents and information required
 15 or authorized by law to be published in the Kansas register.

16 (b) The secretary of state ~~shall~~ *may* sell annual subscriptions to the
 17 Kansas register and ~~shall~~ *may* fix, charge and collect subscription fees
 18 from subscribers.

19 (c) ~~On and after July 1, 1984, Fees established under this section shall~~
 20 ~~be fixed in amounts adequate to recover the costs of printing, binding,~~
 21 ~~postage and handling attributable to the preparation and distribution of~~
 22 ~~producing and distributing the Kansas register.~~

23 (d) The secretary of state shall remit all moneys received by the
 24 secretary under this act to the state treasurer in accordance with the
 25 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
 26 each such remittance the state treasurer shall deposit the entire amount in
 27 the state treasury to the credit of the state register fee fund. All
 28 expenditures from such fund shall be made in accordance with
 29 appropriation acts upon warrants of the director of accounts and reports
 30 issued pursuant to vouchers approved by the secretary or a person or
 31 persons designated by the secretary.

32 Sec. 6. K.S.A. 77-417 is hereby amended to read as follows: 77-417.

33 (a) The secretary of state shall:

34 (1) Endorse on each rule and regulation filed, the ~~time and~~ date of the
 35 filing thereof;

36 (2) maintain a file of such rules and regulations for public inspection;

37 (3) keep a complete record of all amendments and revocations of
 38 rules and regulations;

39 (4) index the rules and regulations so filed; and

40 (5) publish the rules and regulations as hereinafter provided.

41 (b) The secretary of state shall have the discretion to return to the
 42 appropriate state agency or to otherwise dispose of any document or other
 43 material ~~which~~ *that* had been adopted previously by reference and filed

1 with the secretary of state.

2 Sec. 7. K.S.A. 77-430 is hereby amended to read as follows: 77-430.

3 (a) The secretary of state shall publish the Kansas administrative
4 regulations in an electronic or paper medium. The secretary of state shall
5 make the Kansas administrative regulations available by request to the
6 following:

7 (1) The supreme court law library and the state library.

8 (2) The law schools and law libraries of the university of Kansas and
9 Washburn university.

10 (3) Each member of the legislature at the time of taking office, after
11 election or appointment, for the member's first term of office as a member
12 of either house of the legislature ~~which~~ *that* commences on or after the
13 second Monday of January in 1991, except that a term of office as a
14 member of either house of the legislature, whether a complete or partial
15 term of office, shall not be construed for purposes of this distribution to be
16 the member's first term of office if such term of office is part of a
17 continuous period of service as a member of either house of the legislature
18 or both houses of the legislature, in any combination of consecutive terms
19 of office;

20 (4) each member of the joint committee on administrative rules and
21 regulations;

22 (5) the governor, lieutenant governor, attorney general and state
23 historical society library;

24 (6) the judicial branch of state government;

25 (7) each county law library;

26 (8) the city library in each city of the first and second class;

27 (9) each county library;

28 (10) the office of revisor of statutes;

29 (11) the legislative research department;

30 (12) the division of post audit; and

31 (13) the division of legislative administrative services.

32 (b) The Kansas administrative regulations may be purchased in
33 complete sets or in single volumes. Single volumes of the Kansas
34 administrative regulations shall be sold by the secretary of state at the per
35 volume price fixed by the secretary of state under this section. Complete
36 sets of the Kansas administrative regulations shall be sold by the secretary
37 of state at the per set price fixed therefor by the secretary of state under
38 this section.

39 (c) All moneys received from such sales shall be remitted to the state
40 treasurer in accordance with the provisions of K.S.A. 75-4215, and
41 amendments thereto. Upon receipt of each such remittance, the state
42 treasurer shall deposit the entire amount in the state treasury to the credit
43 of the information and services fee fund of the secretary of state.

1 (d) The secretary of state shall fix ~~by rules and regulations~~ the per
2 volume and complete set prices of the Kansas administrative regulations
3 sold under this section to recover the costs of publishing *and storing* such
4 volumes, whether in printed or electronic form. The secretary of state shall
5 revise such prices from time to time for the purposes of covering and
6 recovering such costs.

7 Sec. 8. K.S.A. 77-430a is hereby amended to read as follows: 77-
8 430a. (a) The secretary of state shall edit and prepare for publication
9 volumes of rules and regulations ~~which~~ *that* replace existing volumes of
10 the Kansas administrative regulations within the limitations of available
11 appropriations therefor. Replacement volumes shall be published in the
12 same format and in accordance with the same specifications used in the
13 volume replaced and shall be authenticated as required by K.S.A. 77-429,
14 and amendments thereto. Replacement volumes of the Kansas
15 administrative regulations shall be published by the secretary of state who
16 shall distribute and sell such replacement volumes in the same manner as
17 provided in K.S.A. 77-430, and amendments thereto, for the distribution
18 and sale of other volumes of the Kansas administrative regulations, except
19 that each member of the senate or house of representatives shall receive,
20 upon request, one copy of each replacement volume for the purpose of
21 updating the set of the Kansas administrative regulations received at the
22 time of taking office for the member's first term of office as a member of
23 either house of the legislature as provided in K.S.A. 77-430, and
24 amendments thereto.

25 (b) Moneys received from the sale of replacement volumes under this
26 section shall be remitted to the state treasurer in accordance with the
27 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
28 each such remittance, the state treasurer shall deposit the entire amount in
29 the state treasury to the credit of the information and services fee fund of
30 the secretary of state.

31 (c) The secretary of state shall fix ~~by rules and regulations~~ the per
32 volume price, or the complete set price if more than one replacement
33 volume is published, of any replacement volume of the Kansas
34 administrative regulations sold under this section to recover the costs of
35 publishing *and storing* such volumes, whether in printed or electronic
36 form. The secretary of state shall revise such prices from time to time for
37 the purposes of covering and recovering such costs.

38 Sec. 9. K.S.A. 77-431 is hereby amended to read as follows: 77-431.
39 (a) The secretary of state shall publish and make available the annual
40 supplements to the Kansas administrative regulations. The secretary of
41 state shall transmit the same number of copies of each annual supplement
42 in the same manner as provided in ~~subsection (a) of~~ K.S.A. 77-430(a), and
43 amendments thereto, for distribution of Kansas administrative regulations,

1 except that each member of the senate or house of representatives shall
2 receive, upon request, one copy of each annual supplement for the purpose
3 of updating the set of the Kansas administrative regulations received at the
4 time of taking office for the member's first term of office as a member of
5 either house of the legislature as provided in K.S.A. 77-430, and
6 amendments thereto.

7 The secretary of state may publish the supplements to the Kansas
8 administrative regulations in an electronic or paper medium.

9 (b) Moneys received from the sale of supplements under this section
10 shall be remitted to the state treasurer in accordance with the provisions of
11 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
12 remittance, the state treasurer shall deposit the entire amount in the state
13 treasury to the credit of the information and services fee fund of the
14 secretary of state.

15 (c) The secretary of state shall fix ~~by rules and regulations~~ the per
16 volume price, or the complete set price if more than one volume is
17 published, for each annual supplement to the Kansas administrative
18 regulations sold under this section to recover the costs of publishing *and*
19 *storing such volumes*, whether published in an electronic or paper medium.
20 The secretary of state shall revise such prices from time to time for the
21 purposes of covering and recovering such costs.

22 Sec. 10. K.S.A. 77-438 is hereby amended to read as follows: 77-438.

23 (a) (1) A state agency may issue a guidance document without following
24 the procedures set forth in this act for the adoption of rules and
25 regulations.

26 (2) For the purposes of this section, "guidance document" means a
27 record of general applicability that:

28 (A) Is designated by a state agency as a guidance document;

29 (B) lacks the force of law; and

30 (C) states:

31 (i) The agency's current approach to, or interpretation of, law; or

32 (ii) general statements of policy that describe how and when the
33 agency will exercise discretionary functions.

34 (b) A guidance document may contain binding instructions to state
35 agency staff members except officers who preside in adjudicatory
36 proceedings.

37 (c) If a state agency proposes to act in an adjudication at variance
38 with a position expressed in a guidance document, the state agency shall
39 provide a reasonable explanation for the variance. If an affected person in
40 an adjudication claims to have reasonably relied on the agency's position,
41 the state agency's explanation for the variance shall include a reasonable
42 justification for the agency's conclusion that the need for the variance
43 outweighs the affected person's reliance interests.

1 (d) Each state agency shall:

2 (1) Maintain an index of all of its currently effective guidance
3 documents;

4 (2) publish the index on its website; *and*

5 (3) make all guidance documents available to the public; ~~and~~

6 ~~(4) file the index in the manner prescribed by the secretary of state.~~

7 (e) A guidance document may be considered by a presiding officer or
8 agency head in an agency adjudication, but such guidance document shall
9 not bind any party, the presiding officer or the agency head.

10 (f) Any agency that issues a guidance document shall provide a copy
11 of such document to the joint committee on administrative rules and
12 regulations. Such document may be submitted electronically.

13 Sec. 11. K.S.A. 45-315, 64-103, 75-430, 75-433, 77-417, 77-430, 77-
14 430a, 77-431 and 77-438 and K.S.A. 2019 Supp. 45-107 are hereby
15 repealed.

16 Sec. 12. This act shall take effect and be in force from and after its
17 publication in the statute book.