

Adoption of Administrative Rules and Regulations; HB 2648

HB 2648 makes various changes to the process for the adoption of administrative rules and regulations.

Legislative Ratification Requirement

The bill generally prohibits the adoption of any rule and regulation for which the economic impact statement indicates \$1.0 million or more in implementation or compliance costs are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals during the initial five-year period following the adoption of the rule and regulation, unless the rule and regulation has been ratified by the Legislature by the enactment of a bill authorizing such rule and regulation. Any member of the Legislature is authorized to introduce such legislation.

“Implementation and compliance costs” are defined to mean direct costs that are readily ascertainable based upon standard business practices, including, but not limited to, fees, the cost to obtain a license or registration, the cost of equipment required to be installed or used, additional operating costs incurred, the cost of monitoring and reporting, and any other costs to comply with the requirements of the proposed rule and regulation.

The bill requires the economic impact statements filed with proposed rules and regulations to include a determination of whether adoption of the rule and regulation would result in more than \$1.0 million in such costs in the first five years following adoption of the rule and regulation and eliminates a requirement that such statements include similar determinations over two-year periods.

State agencies prohibited from adopting rules and regulations pursuant to this limitation are authorized to modify the proposed rule and regulation and prepare a revised economic impact statement. The adoption of the modified rule and regulation is authorized if the \$1.0 million limitation is not anticipated to be exceeded by the modified rule and regulation.

This requirement does not apply to temporary rules and regulations, rules and regulations proposed because of a federal mandate, or rules and regulations of the Kansas Agricultural Remediation Board.

Duties of the Director of the Budget

The bill requires the Director of the Budget (Director), in reviewing the economic impact statements for proposed rules and regulations, to conduct an independent analysis to determine that the agency has complied with the requirements for economic impact statements and review the agency’s determination of the amount of implementation and compliance costs reasonably expected to be incurred by or passed along to businesses, local governments, and individuals over the initial five-year period following adoption of the rule and regulation.

If such costs do not exceed \$1.0 million, the bill requires the Director to approve a rule and regulation if the Director independently determines the economic impact statement is a

complete analysis and the Director concurs with the economic impact statement and to disapprove the rule and regulation if the economic statement is incomplete or contains substantive inaccuracies.

If such costs do exceed \$1.0 million, the Director is required to approve a rule and regulation if the proposed rule and regulation has been ratified by the Legislature and disapprove the proposed rule and regulation if the economic impact statement is incomplete or contains substantive inaccuracies.

The Director's annual reports to the Joint Committee on Administrative Rules and Regulations and the Legislature are required to include information regarding rules and regulations denied due to exceeding the \$1.0 million requirement provided by the bill.

Establishment of Rules Governing Future Private Conduct through Adjudication Policy Establishment

The bill provides that policies established by orders in adjudications under the Kansas Administrative Procedure Act or other procedures may not include the establishment of rules governing future private conduct that have the force of law.

Elimination of Legislative Post Audit Study of Economic Impact Statements

The bill eliminates a requirement that the Legislative Division of Post Audit conduct an audit in 2026 to study the accuracy of economic impact statements submitted with proposed rules and regulations, the impact of the review of the Director on the accuracy of such statements, and the appropriate amount of economic impact to trigger additional rules and regulations hearing procedures.

Use of Term "Individual" in the Rules and Regulations Filing Act

The bill replaces the terms "person" and "member of the public" with the term "individual" or "individual and entity," as appropriate, in the amended sections of the Rules and Regulations Filing Act.