

Rules and Regulations Filing Act; State Rules and Regulations Board; Joint Committee on Administrative Rules and Regulations; HB 2280

HB 2280 revises the Rules and Regulations Filing Act pertaining to economic impact statements, new authority granted to the Director of the Budget (Director) to review and approve proposed rules and regulations, the composition of the State Rules and Regulations Board (State Board), the composition and powers of the Joint Committee on Administrative Rules and Regulations (Joint Committee), and an evaluation that will be conducted by the Legislative Division of Post Audit regarding the implementation of the new provisions contained in the bill.

Economic Impact Statements

The bill revises the contents of the economic impact statement that accompanies a state agency's proposed rule and regulation or, if applicable, the proposed amendment to a current rule and regulation. Previously, an economic impact statement was required to include a description of:

- The proposed rule and regulation;
- The extent to which the proposed rule and regulation is required by federal law;
- The cost, including the government agencies and other persons who will bear the expense; and
- The less intrusive or less costly methods to achieve the same end and the reasons for rejecting those methods.

The bill deletes references to the descriptions of cost and alternative means and requires instead an economic impact statement to include quantified cost-benefit analyses that will be performed by the state agency and the Director. If a state agency's proposed rule and regulation chose to address a policy issue differently than what an agency of a neighboring state or the federal government adopted, the state agency will be required to include an explanation as to why the Kansas policy differs.

The economic impact statement will include an analysis that addresses the following factors:

- The extent to which the rule and regulation will enhance or restrict business activities and growth;
- The economic effect on the Kansas economy, including specific businesses, business sectors, public utility ratepayers, individuals, and local units of government;
- The businesses that will be affected directly;

- The benefits compared to the cost;
- Measures taken by the agency to minimize the cost and impact on businesses and economic development within the state, local units of government, and individuals;
- An estimate of the total annual implementation and compliance costs, which will be expressed as a single dollar amount, that will be expected to be absorbed by businesses, local units of government, or members of the public, and which will include an agency determination of whether these costs will exceed \$3.0 million over a two-year period; and
- An estimate of the total implementation and compliance costs, which will be expressed as a single dollar amount, that will be expected to be absorbed by businesses, local units of government, and individuals.

In addition, the bill requires state agencies to consult and solicit information from businesses, business associations, local governmental units, state agencies or institutions, and members of the public who may be affected by the proposed rules and regulations or who may provide relevant information.

Approval Process by the Director of the Budget

Prior to an agency submitting a proposed rule and regulation to the Secretary of Administration (Secretary) and the Attorney General, as required by law, the agency will send the proposed rule and regulation to the Director, who will conduct an independent analysis, using the factors specified above, to determine whether the costs incurred by non-state government entities will be \$3.0 million or less over a two-year period. The Director will approve the proposed rule and regulation for submission to the Secretary and Attorney General if it is determined the impact will be less than or equal to \$3.0 million. If the impact exceeds \$3.0 million, the Director may either disapprove the proposed rule and regulation or approve it, provided the agency conducted a public hearing prior to submitting the proposed rule and regulation and found the costs have been accurately determined and will be necessary for achieving legislative intent.

Starting with the 2019 Legislative Session, the Director will submit an annual report to the Legislature and the Joint Committee that will include the text of each rule and regulation reviewed, the final economic impact statement, and a summary of the analysis supporting the Director's decision. If the Legislature is in session, the Director will submit a separate report to the Legislature and the Joint Committee regarding the Director's decision involving a proposed rule and regulation determined to cost more than \$3.0 million over a two-year period.

Composition of the State Rules and Regulations Board

The bill amends statutes governing the appointment of members to the State Board. The bill adds a member of the minority party to the membership of the State Board, along with the chairperson of the Senate Committee on Ways and Means (in even-numbered years) or the

chairperson of the House Committee on Appropriations (in odd-numbered years). Under the provisions of the bill, the new minority party member of the State Board will be either the ranking minority member of the Joint Committee or a member of the Joint Committee appointed by the minority leader of the same legislative chamber as the Joint Committee chairperson.

Composition and Powers of the Joint Committee on Administrative Rules and Regulations

A ranking minority member will be designated for the Joint Committee by the minority leader of the Senate or House, as will be applicable, so that the chairperson and the ranking minority member will be from the same chamber. Following each of its meetings where comments, recommendations, and concerns are expressed while reviewing proposed rules and regulations, the Joint Committee will issue a report to the Legislature. The report will be made available to each agency that had proposed rules and regulations. If it will be impractical to finalize a report in time for an agency's public hearing on the proposed rules and regulations, a preliminary report will be made available to the agency. In that case, the preliminary report will be made part of the final report, and it will be made available to each agency.

Evaluation

In 2021, the Legislative Post Audit Committee will direct the Legislative Division of Post Audit to conduct an audit that studies:

- The accuracy of economic impact statements submitted by state agencies for the preceding seven years;
- The impact the Director's review has had on the accuracy of economic impact statements; and
- Whether the \$3.0 million threshold is the appropriate level to trigger an additional public hearing.