

SESSION OF 2020

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2411

As Amended by House Committee on Federal
and State Affairs

Brief*

HB 2411, as amended, would amend law related to the review of administrative rules and regulations.

Economic Impact Statements

Current law requires, as part of the rules and regulations approval process, state agencies provide an economic impact statement to the Director of the Budget (Director) that considers, among other things, the total annual implementation and compliance costs to businesses, local governments, or individuals; a determination of whether costs would be more than \$3,000,000 over two years; and an estimate of such costs expressed as a single dollar figure.

Under current law, the Director, among other things, is also required to make an independent determination regarding implementation and compliance costs and may approve or disapprove of a rule and regulation based upon the accuracy of the economic impact statement or a determination that implementation and compliance costs will be more than \$3,000,000 over two years. Additionally, if it is determined that such costs would be over \$3,000,000, the state agency must also conduct a public hearing.

The bill would remove the requirement that the Director make an independent determination of the amount of implementation and compliance costs and would remove

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

provisions requiring the Director to approve all rules and regulations, and would specify the Director would not be required to review or approve rules and regulations if the submitting agency would not result in costs of more than \$3,000,000 over two years. Agencies would still be required to provide the Director with a copy of the economic impact statement for every rule and regulation submitted for approval.

The bill would also specify that the implementation and compliance costs would be those costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local government units, and members of the public. The bill would further specify that in its determination of costs, the agency should not account for any actual or estimated cost savings realized by those entities.

The bill would further state, if a state agency is proposing a rule and regulation because of a federal mandate, the state agency would be required to provide an economic impact statement, but the Director would not be required to review or approve the proposed rule and regulation, regardless of estimated implementation and compliance costs. The bill would specify, for rules and regulations proposed due to a federal mandate, compliance costs would be calculated from the effective date of the rule and regulation.

Order of Review of Proposed Rules and Regulations

The bill would amend the order of submission to require state agencies send proposed rules and regulations to the Secretary of Administration and Attorney General before submission to the Director of the Budget. Current law requires proposed rules and regulations be submitted to the Director of the Budget before being submitted to the Secretary of Administration and Attorney General.

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced on March 25, 2019, by the House Committee on Federal and State affairs at the request of Representative Highland.

In the House Committee hearing on January 23, 2020, Representatives Highland and Carmichael; the Director of the Budget; and a representative of the Kansas Department of Wildlife, Parks and Tourism testified in support of the bill. Proponents indicated the bill would help streamline the rules and regulations approval process and would lighten the administrative workload of the Director of the Budget, as most rules and regulations submitted estimated costs well below the \$3,000,000 threshold in statute.

Neutral testimony was provided by representatives of the Kansas Chamber of Commerce, the Kansas Cooperative Council, and the Kansas Grain and Feed Association. Written-only neutral testimony was provided by the Kansas Soybean Association.

The House Committee amended the bill by inserting provisions related to cost savings, amending the agency review order of proposed rules and regulations, and changing the effective date of the bill.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Secretary of State and Department of Administration indicate enactment of the bill would not increase or decrease agency expenditures or revenues and the requirements of the bill could be met within existing resources. The Director of the Budget states the changes in the bill will allow the agency to maintain its current resource budget and if the bill is not enacted, the Division of the Budget will have to request supplemental funding for FY

2020 and beyond for additional staff to meet the requirements of the rules and regulations process. The Office of the Attorney General (Office) states the bill would have a negligible effect on the legality review conducted by the Office and it is unlikely the bill would cause any additional expenditures. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.