

State of Kansas
Department of Labor
Notice of Public Hearing on Proposed Administrative
Regulation
June 24, 2021

Proposed

A public hearing will be conducted on the 30th of August, 2021 at 11:00 a.m. to 12:00 p.m. in Room 509 of the Landon State Office Building, 900 S.W. Jackson, Topeka, Kansas to consider the revocation of an existing permanent regulation of the Division of the Kansas Employment Security Board of Review, Department of Labor.

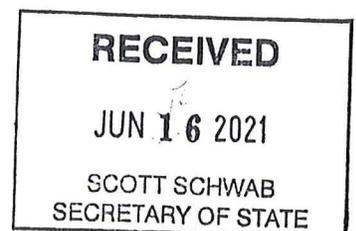
This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rule and regulation. All interested parties may submit written comments prior to the hearing to the Division of the Kansas Employment Security Board of Review, 401 S.W. Topeka Blvd., Topeka, Kansas 66603-3182 or by email to KDOL.KESBOR@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the revocation of the existing permanent regulation during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting the state's ADA Coordinator, Anthony Fadale at (785) 296-1389 (TTY 711) or Anthony.fadale@ks.gov.

Summaries of the revocation of the permanent regulation and the economic impact follow. (Note: Statements indicating that a regulation is "not anticipated to have any economic impact" are intended to indicate that no economic impact on the Department of Labor, other state agencies, state employees, or the general public has been identified.)

Copies of the proposed regulation and the Economic Impact Statement for the proposed regulation can be requested by submitting an e-mail request to KDOL.KESBOR@ks.gov. Please ensure the subject line of the e-mail request states "K.A.R. 48-2-3."

K.A.R. 48-2-3—KESBOR Appeals—The regulation is being revoked since the statute permits greater discretionary authority by the Kansas Employment Security Board of Review than is currently allowed by regulation. No economic impact is anticipated as a result of revoking the regulation.



Proposed

48-2-3. (Authorized by K.S.A. 2008 Supp. 44-709(g); implementing K.S.A. 2008 Supp. 44-709(c) and (f); effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1980; amended Jan. 22, 2010; revoked P- _____.)

APPROVED
MAY 07 2021
DIVISION OF THE BUDGET

APPROVED
MAY 10 2021
DEPT. OF ADMINISTRATION

APPROVED
MAY 24 2021
ATTORNEY GENERAL

RECEIVED
JUN 16 2021
SCOTT SCHWAB
SECRETARY OF STATE

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Department of Labor
Agency

Julie Menghini
Agency Contact

785-438-7244
Contact Phone Number

K.A.R. 48-2-3
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

This regulation currently requires the Kansas Employment Security Board of Review (Board) to accept any appeal from an Appeal Referee's Decision. We propose revoking this regulation so as to allow the Board to exercise discretion regarding what decisions may be appealed as set forth in statute.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

Secondary review of an examiner's Notice of Determination is a matter of state law and not federal law.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

No anticipated impact.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

No implementation or compliance costs on specific businesses, sectors, public utility ratepayers, individuals, and local governments anticipated because revoking the regulation addresses the board's ability to review and accept appeals in compliance with what is allowed by statute. There is no fee to appeal an Appeal Referee's decision to the board, but any appeal of the board's decision to state district court by a party will result in the party paying a filing fee to the court.

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C. Businesses that would be directly affected by the proposed rule and regulation;

All employers in the state of Kansas subject to the Kansas Employment Security Law, K.S.A. 44-701, *et seq.*

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

- 1) Decreases the number of appeals reviewed by the board in which there have previously been two KDOL determinations making the same finding;
- 2) Increases the number of appeals the board may review at each meeting in which there has been a dispute between the examiner and Appeals Referee, which will result in decreasing the backlog of appeals so that parties will have a more timely resolution of their case.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

This involves implementation of a process whereby agency attorneys review each case received and subsequently make recommendations to the KESBOR regarding disposition of the case. Agency has consulted with other states regarding their processes and procedures for reviewing UI determinations known as lower authority appeals. Agency's review of appeals to the KESBOR in 2020 showed only 2 percent of KESBOR decisions were appealed to state district court, which supports the position that the proposed regulation would have a *de minimis* impact on business and economic development in Kansas, local government, and individuals.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

N/A

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated

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costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

No anticipated increased or decreased revenues because the proposed regulation is not imposing a function or responsibility on cities, counties, or school districts.

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Businesses, associations, local governments, state agencies or institutions, and members of the public should already be aware because K.S.A. 44-709(f)(7) has permitted the board to accept an appeal by a party, but only required the board to accept an appeal in which an Appeal Referee disagrees with an examiner since the board was created. 1959 Session Laws Ch. 223 § 4.

I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A.

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