

77-706. Written report prepared by state agency prior to governmental action; guidelines. On and after January 1, 1996: (a) Before any governmental action is initiated, the state agency shall prepare a written report available for public inspection that follows the guidelines established by the attorney general and complies with the following, when applicable:

- (1) Clearly and specifically identifies the public health, safety or welfare risk created by the use of the private property;
 - (2) describes the manner in which the proposed action will substantially advance the purpose of protecting public health, safety or welfare against the specifically identified risk;
 - (3) sets forth the facts relied upon to establish and justify the need for the restrictions or limitations;
 - (4) analyzes the likelihood that the governmental action may result in a taking;
 - (5) identifies the alternatives, if any, to the proposed governmental action that may:
 - (A) Fulfill the legal obligations of the state agency;
 - (B) reduce the extent of limitation of the use of the private property; and
 - (C) reduce the risk to the state that the action will be deemed a taking; and
 - (6) ensure that any conditions imposed on issuing a permit shall relate directly to the public health, safety or welfare purpose for which the permit is to be issued, shall substantially advance that purpose and shall be authorized by law.
- (b) If there is an immediate threat to public health, safety or welfare that constitutes an emergency requiring immediate action to eliminate the risk, the report required by this section shall be prepared when the emergency action is completed, in which case the report shall include a complete description of the facts relied upon by the agency in declaring the need for emergency action.
- (c) If a governmental action involves a permit process or any other procedure that will limit or otherwise prohibit the use of private property pending completion of the process or procedure, the duration of the limitation on or prohibited use of the property shall not extend beyond a reasonable period of time.
- (d) Before any state agency implements a governmental action for which a report is required under this section, the state agency shall submit a copy of the report to the governor and the attorney general.
- (e) Each state agency shall submit with the economic impact statement as required by K.S.A. 77-416, and amendments thereto, a copy of the taking assessment as required pursuant to this act.

History: L. 1995, ch. 170, § 6; July 1.