

CHAPTER 166**(HB 374)**

AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.240 is amended to read as follows:

- (1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include the following information:
 - (a) A brief narrative summary of:
 1. What the administrative regulation does;
 2. The necessity of the administrative regulation;
 3. How the administrative regulation conforms to the content of the authorizing statutes; and
 4. How the administrative regulation currently assists or will assist in the effective administration of the statutes;
 - (b) If this is an amendment to an existing administrative regulation, a brief narrative summary of:
 1. How the amendment will change the existing administrative regulation;
 2. The necessity of the amendment to the administrative regulation;
 3. How the amendment conforms to the content of the authorizing statutes; and
 4. How the amendment to the administrative regulation will assist in the effective administration of the statutes;
 - (c) The type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation;
 - (d) An **analysis** ~~[assessment]~~ of how the **entities referenced in paragraph (c) of this subsection** ~~[above group or groups]~~ will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation. **The analysis shall include, but not be limited to:**
 1. **A detailed explanation of the actions the entities referenced in paragraph (c) of this subsection will be required to undertake in order to comply with the proposed administrative regulation;**
 2. **An estimate of the costs imposed on entities referenced in paragraph (c) of this subsection in order to comply with the proposed administrative regulation; and**
 3. **The benefits that may accrue to the entities referenced in paragraph (c) of this subsection as a result of compliance;**
 - (e) An estimate of how much it will cost **the administrative body** to implement this administrative regulation, both initially and on a continuing basis;
 - (f) The source of the funding to be used for the implementation and enforcement of the administrative regulation;
 - (g) An assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation;
 - (h) A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees; and
 - (i) The tiering statement required by KRS 13A.210.
- (2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The

Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

Section 2. KRS 13A.250 is amended to read as follows:

- (1) Each administrative body ~~that~~^{which} promulgates an administrative regulation which relates to any aspect of *state or* local government or any service provided thereby shall ***consider the cost that the administrative regulation may cause the state or local government to incur. The cost analysis shall include the projected cost or cost savings to the Commonwealth of Kentucky and each of its affected agencies, and the projected cost or cost savings to affected local governments, including cities, counties, fire departments, and school districts. Agencies affected by the administrative regulation may submit comments in accordance with KRS 13A.270(1) to the promulgating administrative body or to a subcommittee reviewing the administrative regulation.***
- (2) ***Each administrative body that promulgates an administrative regulation which relates to any aspect of state or local government or any service provided thereby shall*** prepare and submit with the administrative regulation a fiscal note.

~~{(2)}~~ The fiscal note shall state:

- (a) The number of the administrative regulation;
 - (b) The name and telephone number of the contact person of the administrative body;
 - (c) Whether the administrative regulation relates to any aspect of *state or* ~~a~~ local government, including any service provided by that *state or* local government;
 - (d) The unit, part, or division of *state or* local government the administrative regulation will affect;
 - (e) In detail, the aspect or service of *state or* local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation; and
 - (f) The estimated effect of the administrative regulation on the expenditures and revenues of a *state or* local government *agency* for the first full year the administrative regulation will be in effect. If specific dollar estimates cannot be determined, the administrative body shall provide a brief narrative to explain the fiscal impact of the administrative regulation.
- (3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

Section 3. KRS 13A.270 is amended to read as follows:

- (1)
 - (a) In addition to the public comment period required by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (7) of this section, hold a hearing, open to the public, on the administrative regulation.
 - (b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.
 - (c) The administrative body shall accept written comments regarding the administrative regulation until the end of the calendar month in which the administrative regulation was published in the Administrative Register. If the last day of the calendar month falls on a Saturday, Sunday, or holiday, the administrative body shall consider all comments received prior to the close of business of the first workday following the Saturday, Sunday, or holiday.
- (2) Each administrative regulation shall state:
 - (a) The place, time, and date of the scheduled public hearing;
 - (b) The manner in which interested persons shall submit their:
 1. Notification of attending the public hearing; and
 2. Written comments;

- (c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;
 - (d) The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and
 - (e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.
- (3) (a) ~~An administrative body shall provide a form to be completed and filed by~~ A person who wishes to be notified that ~~an~~~~(the)~~ administrative body has filed an administrative regulation **shall:**
- 1. **Contact the administrative body by telephone or written letter to request that the administrative body send the information required by paragraph (c) or (d) of this subsection to the person; or**
 - 2. **Complete an electronic registration form located on a centralized state government Web site developed and maintained by the Commonwealth Office of Technology.**
- (b) **A registration submitted pursuant to paragraph (a) of this subsection shall:**
- 1. **Indicate whether the person wishes to receive notification regarding:**
 - a. **All administrative regulations promulgated by an administrative body; or**
 - b. **Each administrative regulation that relates to a specified subject area. The subject areas shall be provided by the administrative bodies and shall be listed on the centralized state government Web site in alphabetical order;**
 - 2. **Include a request for the person to provide an e-mail address in order to receive regulatory information electronically;**
 - 3. ~~This registration shall~~ Be valid for a period of four (4) years from the date the **registration is submitted**~~form is filed with the administrative body~~, or until the person submits a written request to be removed from the notification list, whichever occurs first; **and**
 - 4. **Be transmitted to the promulgating administrative body, if the registration was made through the centralized state government Web site.**~~The form shall include a space for the person to provide an e-mail address in order to receive the information electronically.~~ The collected e-mail addresses shall be used solely for the purposes of this subsection and shall not be sold, transferred, or otherwise made available to third parties, **other than the promulgating administrative body.**
- (c)~~(b)~~ A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be e-mailed:
- 1. To every person who has:
 - a. **Registered pursuant to paragraph (a) of this subsection**~~Filed this form with the administrative body~~; and
 - b. Provided an e-mail address **as part of the registration request**~~to the administrative body~~;
 - 2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and
 - 3. With a request from the administrative body that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.
- (d)~~(e)~~ Within five (5) working days after the date the administrative regulation is filed with the Commission, the administrative body shall mail the following information to every person who has **registered pursuant to paragraph (a) of this subsection**~~filed the form with the administrative body~~ but did not provide an e-mail address:

1. A cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation;
 2. A copy of the regulatory impact analysis required by KRS 13A.240 of this Act completed in detail sufficient to put the individual on notice as to the specific contents of the administrative regulation, including all proposed amendments to the administrative regulation; and
 3. A statement that a copy of the administrative regulation may be obtained from the Commission's Web site, which can be accessed on-line through public libraries or any computer with Internet access. The Commission's Web site address shall be included in the statement.
- (4) (a) If small business may be impacted by an administrative regulation, the administrative body shall e-mail a copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), to the chief executive officer of the Commission on Small Business Advocacy within one (1) working day after the date the administrative regulation is filed with the Commission.
- (b) The e-mail shall include a request from the administrative body that the Commission on Small Business Advocacy review the administrative regulation in accordance with KRS 11.202(1)(e) and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report shall be filed with the regulations compiler.
- (5) (a) If a government may be impacted by an administrative regulation, the administrative body shall send, by e-mail if the government has an e-mail address, a copy of the administrative regulation as filed and all attachments required by KRS 13A.230(1) to each government in the state within one (1) working day after the date the administrative regulation is filed with the Commission. If the government does not have an e-mail address, the material shall not be sent.
- (b) The e-mail shall include a request from the administrative body that the government review the administrative regulation in the same manner as would the Commission on Small Business Advocacy under KRS 11.202(1)(e), and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report or comments shall be filed with the regulations compiler.
- (6) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.
- (7) The administrative body shall immediately notify the regulations compiler by telephone and by letter if:
- (a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; and
- (b) No written comments have been received by the close of the last day of the public comment period.
- (8) (a) 1. Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.
2. If the public hearing is held but no comments are received during the hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing was held and that no comments were received.
- (b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.
- (9) If the notifications required by subsections (7) and (8) of this section are not received by the regulations compiler by close of business on the second workday of the calendar month, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (10) The notifications required by subsections (7) and (8) of this section shall be made by telephone and by letter. The letter may be sent by e-mail if the administrative body uses an electronic signature and letterhead for the e-mailed document.
- (11) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by

subsection (6) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

- (12) Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

- (1) *Each cabinet secretary on the Governor's Executive Cabinet, established pursuant to KRS 11.065, shall designate a small business ombudsman from among their respective existing cabinet employees.*
- (2) *The small business ombudsman shall:*
- (a) *Respond to inquiries from small businesses on administrative regulations and other regulatory matters; and*
 - (b) *Provide information regarding the procedure for submitting comments on administrative regulations as provided by subsection (1) of Section 3 of this Act.*
- (3) *Each cabinet shall provide contact information for the cabinet's small business ombudsman on the cabinet's Web site, including the ombudsman's name, telephone number, mailing address, and e-mail address.*
- (4) *No later than December 1 of each year, each small business ombudsman shall submit a report to the Commission on Small Business Advocacy, established pursuant to KRS 11.200, summarizing the number and nature of inquiries that the ombudsman has received from small businesses during the previous twelve (12) months.*

Approved April 5, 2006.