

CHAPTER 138**(SB 157)**

AN ACT relating to administrative regulations.

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

➔Section 1. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;
- (2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:
 - (a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;
 - (b) Declaratory rulings;
 - (c) Intradepartmental memoranda not in conflict with KRS 13A.130;
 - (d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or
 - (e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;
- (3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;
- (4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;
- (5) "Commission" means the Legislative Research Commission;
- ~~(6)~~ ~~"Economic impact" means a financial impact on:~~
 - ~~(a) — Commercial enterprises;~~
 - ~~(b) — Retail businesses;~~
 - ~~(c) — Service businesses;~~
 - ~~(d) — Small businesses;~~
 - ~~(e) — Industry;~~
 - ~~(f) — Government;~~
 - ~~(g) — Consumers of a product or service; or~~
 - ~~(h) — Taxpayers;~~
- ~~(7)~~ "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;
- ~~(7)~~~~(8)~~ "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

- (8)~~(9)~~ "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;
- (9)~~(10)~~ "Filed" or "promulgated" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;
- (10)~~(11)~~ "Government" means and includes a city, county, urban-county, charter county, consolidated local government, special district, or a quasi-governmental body authorized by the Kentucky Revised Statutes or a local ordinance;
- (11)~~(12)~~ "Proposed administrative regulation" means an administrative regulation that:
- (a) **Has been filed by** an administrative body; **and**
 - (b) **Has not become effective or been withdrawn**~~[proposes to promulgate]~~;
- (12)~~(13)~~ "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;
- (13)~~(14)~~ "Small business" means a business entity, including its affiliates, that:
- (a) Is independently owned and operated; and
 - (b)
 1. Employs fewer than one hundred fifty (150) full-time employees or their equivalent; or
 2. Has gross annual sales of less than six million dollars (\$6,000,000).
- (14)~~(15)~~ "Statement of consideration" means **the document required by Section 12 of this Act in which the**~~[that an]~~ administrative body **summarizes the comments received, its responses to those comments, and the action taken, if any, as a result of those comments and responses**~~[must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation]~~;
- (15)~~(16)~~ "Subcommittee" means the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, an interim joint committee, or a House and Senate standing committee; and
- (16)~~(17)~~ "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

➔Section 2. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

- (1) Receive administrative regulations, and other documents required to be filed by the provisions of this chapter, tendered for filing;
- (2) Stamp administrative regulations tendered for filing with the time and date of receipt;
- (3) Provide administrative and support services to the subcommittee;
- (4) Maintain a file of administrative regulations and other documents required to be filed by this chapter, for public inspection, with suitable indexes;
- (5) Maintain a file of ineffective administrative regulations;
- (6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;
- (7) Prepare the Kentucky Administrative Regulations Service;
- (8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;
- (9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;
- (10) Change items in an administrative regulation in response to a specific written request submitted by the administrative body if the regulations compiler determines that the requested changes do not affect the substance of the administrative regulation. The changes may include the address of the administrative body,

citations to statutes or other administrative regulations if a format change within that statute or administrative regulation has changed the numbering or lettering of parts, or other changes in accordance with KRS 13A.312;

- (11) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the drafting, format, or filing requirements established by the provisions of **Sections 4 and 8 of this Act and subsections (1), (2), and (3) of Section 5 of this Act**~~[KRS Chapter 13A]~~, and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing; and
- (12) Perform other duties required by the Commission or by a subcommittee.

➔Section 3. KRS 13A.050 is amended to read as follows:

- (1) The Legislative Research Commission shall compile, publish, and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service. **The Legislative Research Commission shall maintain the official version of the administrative regulations in an electronic database that shall be made available to the public as provided by KRS 7.500**~~and shall constitute the official state publication of administrative regulations.~~
- (2)
 - (a) There is hereby created a publication known as "The Administrative Register" to be ~~printed and~~ published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of administrative regulations filed in accordance with this chapter.
 - (b) Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text **published**~~printed~~ in the Administrative Register along with the accompanying statements required by KRS 13A.190, 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.
 - (c) Within five (5) workdays of the publication of an administrative regulation in the Administrative Register, an administrative body shall:
 1. Review the text and accompanying statements of the administrative regulation; and
 2. Notify the regulations compiler in writing or by e-mail of errors.
- (3) The Administrative Register shall be published the first day of each month and shall include all administrative regulations received by the Legislative Research Commission by 12 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the workday which immediately precedes the Saturday, Sunday, or holiday.
- (4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as **published**~~printed~~ in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be **provided to**~~maintained in~~ the Office of the Secretary of State.~~[All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.]~~
- (5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.
- (6) Copies of **administrative regulations or other items required to be filed by this chapter**~~regulatory impact analysis~~ shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

➔Section 4. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

- (1) (a) An administrative body shall file with the regulations compiler:
 - 1.~~(a)~~ The original and five (5) copies of an administrative regulation; and
 - 2.~~(b)~~ At the same time the original and five (5) copies are filed, an electronic version~~, if available,~~ of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.

- (b) *If there are differences between the paper copy and the electronic version of an administrative regulation filed with the regulations compiler, the electronic version shall be the controlling version.*
- (2) The original and ~~four (4) copies [each copy]~~ of each administrative regulation shall be stapled in the top left corner. ***The fifth copy of each administrative regulation shall not be stapled.*** The original and the five (5) copies of each administrative regulation shall be grouped together.
- (3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.
- (4) The format of an administrative regulation shall be as follows:
- (a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced through the last line of the body of the administrative regulation. The first page shall have a two (2) inch top margin. The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered, with each page starting with line number one (1). Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;
 - (b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;
 - (c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After Comments)," "(Repealer)," "(New Emergency Administrative Regulation)," "(Emergency Amendment)," or "(Emergency Repealer)," whichever is applicable;
 - (d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;
 - (e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261; and
 - (f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).
- (5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period (e.g., a., b., c., etc.). Subclauses shall be designated by lower case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.).
- (6) After the complete text of an administrative regulation, on the following page, the administrative body shall include the following information:
- (a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;

- (b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;
- (c) Information relating to public hearings ~~[as required by KRS 13A.160 and 13A.270]~~ and the public comment period required by KRS 13A.270; and
- (d) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:
 - 1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;
 - 2. Negotiate changes in language with a subcommittee in order to resolve such issues; and
 - 3. Answer questions relating to the administrative regulation.
- (7) The format for signatures required by paragraphs (a) and (b) of subsection (6) of this section shall be as follows:
 - (a) The signature shall be placed on a signature line; and
 - (b) The name and title of the person signing shall be typed immediately beneath the signature line.

➔Section 5. KRS 13A.222 is amended to read as follows:

- (1) In a new administrative regulation, there shall be no underlining or bracketing.
- (2) In an amendment to an administrative regulation, the new words shall precede the deleted words. ~~[Exceptions may be permitted by the regulations compiler.]~~ The administrative body shall:
 - (a) Underline all new words; and
 - (b) Place the deleted words in brackets and strike through these words.
- (3) (a) An administrative regulation shall not be amended by reference to a section only. An amendment shall contain the full text of the **existing** administrative regulation being amended.
 - (b) A section of an administrative regulation shall not be reserved for future use.
- (4) In drafting administrative regulations, the administrative body shall comply with the **requirements established in this subsection.** ~~[following:]~~
 - (a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases. ~~[:]~~
 - (b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may." ~~[:]~~
 - (c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used. ~~[:]~~
 - (d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which the definitions appear. ~~[:]~~
 - (e) If definitions are used, they shall be placed in alphabetical order in the first section of an administrative regulation or in a separate administrative regulation. The section or administrative regulation shall be titled "Definitions." If definitions are placed in the first section of an administrative regulation, the definitions shall govern only the terms in that administrative regulation. If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of the specific chapter of the Kentucky Administrative Regulations Service to which the definitions apply. The title of the administrative regulation shall also contain the number of the chapter

of the Kentucky Administrative Regulations Service to which the definitions apply. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;
 2. To avoid repetition of a phrase; or
 3. To limit or extend the provisions of an administrative regulation.~~{}~~
- (f) If a word has the same meaning as a phrase, the word shall be used.~~{}~~
- (g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed.~~{}~~
- (h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations.~~{}~~
- (i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where."~~{}~~
- (j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things.~~{}~~
- (k) Any reference in an administrative regulation to "medical doctor," "M.D.," or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless either of those terms is specifically excluded.
- (l) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	----
At the time	when
And the same hereby is	is
Either directly or indirectly	----
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
<i>Including but not limited to</i>	<i>State the specific items to be included.</i>
Is authorized; Is empowered	may
Is defined and shall be construed to mean	means
Is hereby required to	shall
It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology.

Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if

- (m) 1. Unless the authority for an administrative regulation is an appropriation provision that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of an administrative regulation shall be cited.
2. a. If an act has not been codified in the Kentucky Revised Statutes at the time an administrative regulation is promulgated, or if the authority is any branch budget bill, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), sec. (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.
- b. For acts of extraordinary sessions, the citation shall be as follows: "(year) (Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)." If there is more than one (1) extraordinary session of the General Assembly in the year, the citation shall specify the specific extraordinary session, as follows: "(year) (2d Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)."
3. When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation of the Kentucky Revised Statutes in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.
4. If the statutory authority is an appropriation act, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), Part (part and subpart numbers)."
5. If the authority is an executive order, the citation shall be as follows: "EO (year executive order issued)-(number of executive order)."
- (n) If the statutory authority is a federal ~~statute~~^{law}, the citation shall be the:
1. United States Code (U.S.C.), if it has been codified; or
2. Public Law (Pub. L.) and official session laws, if it has not been codified.
- (o) 1. If the statutory authority is a federal regulation codified in the Code of Federal Regulations, the citation shall include the title, part, and section number, as follows: "(title number) C.F.R. (part and section number)."
2. a. If the statutory authority is a federal regulation that has not been codified in the Code of Federal Regulations, the citation shall be to the Federal Register, as follows: "(volume number) Fed. Reg. (page number) (effective date of the federal regulation) (section of Code of Federal Regulations in which it will be codified)."
- b. When the federal regulation is codified, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.
3. a. If the statutory authority is a federal regulation that has been amended, and the amendment is not reflected in the current issue date of the volume of the Code of Federal Regulations in which the federal regulation is codified, the citation shall be to the Federal Register as follows: "(federal regulation that has been amended), (volume number) Fed. Reg. (page number) (effective date of the amendment)."
- b. When the amendment is codified in the appropriate volume of the Code of Federal Regulations, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.
- (p) Citations of items in the "RELATES TO" paragraph of an administrative regulation shall comply with paragraphs (m), (n), and (o) of this subsection.

- (q) An administrative regulation may cite the popular name of a federal or state law if the popular name is accompanied by the citation required by this paragraph.

➔Section 6. KRS 13A.2245 is amended to read as follows:

- (1) An administrative body may incorporate by reference a code or uniform standard if a federal or state statute:
 - (a) Requires *or authorizes* an administrative body to implement, or a regulated entity to comply with, the provisions of that code or uniform standard; and
 - (b) Does not set forth the code or uniform standard, or a comprehensive scheme of regulation.
- (2) If a code or uniform standard is changed by the administrative body, the administrative body shall:
 - (a) Clearly state the provisions in the body of the administrative regulation that are different than those included in the code or uniform standard; and
 - (b) File with the regulations compiler a:
 1. Copy of the code or uniform standard;
 2. Summary listing the pages upon which changes have been made; and
 3. Detailed summary of the changes and their effect.

The summaries shall be attached to the back of the proposed administrative regulation.

- (3) If a federal regulation requires an administrative body to adopt, develop, or implement material of a scientific or technical nature that does not lend itself to the format requirements of KRS Chapter 13A, the administrative body may incorporate the material by reference in an administrative regulation as provided by KRS 13A.2251 and 13A.2255.

➔Section 7. KRS 13A.2255 is amended to read as follows:

When an administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:

- (1) An entire new document in which the amendments have been made but are not reflected in the manner specified in KRS 13A.222(2);~~and~~
- (2) A detailed summary of the changes and their effect. This summary shall be attached to the administrative regulation; *and*
- (3) *The page or pages of any document developed by the promulgating administrative body in which changes have been made, with the changes accomplished in the manner specified in subsection (2) of Section 5 of this Act. Notwithstanding the provisions of subsection (6) of Section 2 of this Act, the regulations compiler shall not be required to keep these marked copies once the administrative regulation has been adopted or withdrawn.*

➔Section 8. KRS 13A.230 is amended to read as follows:

- (1) The administrative body shall attach the following forms to the back of the original and each copy of an administrative regulation:
 - (a) Regulatory impact analysis as required by KRS 13A.240;
 - (b) Tiering statement as required by KRS 13A.210;
 - (c) Fiscal note as required by KRS 13A.250~~if the administrative regulation relates to any aspect of local government or any service provided thereby~~;
 - (d) Federal mandate comparison, if applicable, as required by KRS 13A.245; and
 - (e) The summaries provided for in KRS 13A.2245, *13A.2251, or Section 7 of this Act*, if applicable.
- (2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

➔Section 9. KRS 13A.250 is amended to read as follows:

- (1) Each administrative body that 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.

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 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;
- ~~(d)~~~~(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
- ~~(e)~~~~(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 10. KRS 13A.255 is amended to read as follows:

- (1) Within five (5) working days of the filing of an ordinary administrative regulation that proposes to establish or increase fees, except those fees exempted by KRS 13A.100(3), an administrative body shall mail *or e-mail* a notice containing the information required by subsection (2) of this section, to each state association, organization, or other body representing a person or entity affected by the administrative regulation.
- (2) The notice shall include the following information:
 - (a) The name of the administrative body that filed the proposed administrative regulation;
 - (b) A statement that the administrative body has promulgated an administrative regulation that establishes or increases fees;
 - (c) A summary of the administrative regulation that includes:
 - 1. The amount of each fee being established;
 - 2. The amount of any increases to any fees previously established; and
 - 3. The necessity for the establishment or increase in the fees;
 - (d) A statement that a person or entity may contact the administrative body for additional information;
 - (e) The time, date, and place of the scheduled public hearing;
 - (f) The deadline for submitting written comments as established in KRS 13A.270(1)(c); and
 - (g) The name, address, and telephone number of the contact person for the administrative body.

➔Section 11. 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 *during the comment period. The comment period shall begin on the date the administrative regulation is filed with the regulations compiler and shall run* 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 *written* 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) A person who wishes to be notified that an 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. Be valid for a period of four (4) years from the date the registration is submitted, 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 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) 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; and
 - b. Provided an e-mail address as part of the registration request;
 - 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) 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 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 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.
- (e) ***An administrative body shall not be required to send a copy of an administrative regulation that was amended after comments in accordance with Section 12 of this Act to persons who have registered pursuant to paragraph (a) of this subsection, unless the person requested a copy pursuant to subsection (7) of Section 12 of this Act.***
- (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.
 - (c) ***An administrative body shall not be required to send a copy of an administrative regulation that was amended after comments in accordance with Section 12 of this Act to the Commission on Small Business Advocacy, unless its chief executive officer requested a copy pursuant to subsection (7) of Section 12 of this Act.***
- (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.
 - (c) ***An administrative body shall not be required to send a copy of an administrative regulation that was amended after comments in accordance with Section 12 of this Act to a government, unless its contact person requested a copy pursuant to subsection (7) of Section 12 of this Act.***
- (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 12. KRS 13A.280 is amended to read as follows:

- (1) Following the last day of the comment period, the administrative body shall give consideration to all comments received at the public hearing and *all written comments received* during the comment period, including any report filed by the Commission on Small Business Advocacy in accordance with KRS 11.202(1)(e) and 13A.270(4), or by a government in accordance with KRS 11.202(1)(e) and 13A.270(5).
- (2) (a) Except as provided in paragraph (b) of this subsection, the administrative body shall file with the commission on or before 12 noon, eastern time, on the fifteenth day of the calendar month following the month of publication the statement of consideration relating to the administrative regulation.
- (b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration by notifying the regulations compiler in writing on or before 12 noon, eastern time, on the fifteenth day of the calendar month following the month of publication. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the fifteenth day of the second calendar month following the month of publication.
- (3) (a) If the administrative regulation is amended as a result of the hearing or written~~[-or-oral]~~ comments received, the administrative body shall forward the items specified in paragraph (b) of this subsection to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of this section.
- (b) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from comments received at the public hearing and during the comment period;
2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and
3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

- (4) (a) If the administrative regulation is not amended as a result of the public hearing, or written ~~or oral~~ comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.
- (b) If comments are received either at the public hearing or during the public comment period, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee following the month in which the statement of consideration is due.
- (5) The format for the statement of consideration shall be as follows:
- (a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;
- (b) The first page of the statement of consideration shall have a two (2) inch top margin;
- (c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and comment period and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After Comments" or "Amended After Comments," whichever is applicable;
- (d) If a hearing has been held or written comments received, the heading is to be followed by:
1. A statement setting out the date, time and place of the hearing, if the hearing was held;
 2. A list of those persons who attended the hearing or who submitted comments and the organization, agency, or other entity represented, if applicable; and
 3. The name and title of the representative of the promulgating administrative body;
- (e) Following the general information, the promulgating administrative body shall summarize the comments received at the public hearing and during the comment period and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:
1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and
 2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;
- (f) Following the summary and comments, the promulgating administrative body shall:
1. Summarize the statement and the action taken by the administrative body as a result of comments received at the public hearing and during the comment period; and
 2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by KRS 13A.320(2)(c) and (d); and
- (g) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.
- (6) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. ***The changes made to the administrative regulation shall be typed in bold and made in the format prescribed by subsection (2) of Section 5 of this Act.*** The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.
- (7) If requested, copies of the statement of consideration ***and, if applicable, the amended-after-comments version of the administrative regulation*** shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments ***or who specifically request a copy from the administrative body.***

➔Section 13. KRS 13A.300 is amended to read as follows:

- (1) The administrative body which has promulgated an administrative regulation may request that consideration of the administrative regulation be deferred by the subcommittee.
 - (a) A request for deferral shall be automatically granted if:
 1. The administrative body submits a written letter to the regulations compiler; and
 2. The letter is received prior to the subcommittee meeting.
 - (b) A request for deferral may be granted at the discretion of the subcommittee if the request is made by the administrative body orally at a meeting of the subcommittee.
- (2) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.
- (3) Except as provided in subsection (4) of this section, an administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in those cases.
- (4) An administrative regulation ***shall not be deferred under this section more than twelve (12) consecutive months***~~[that has not gone into effect within one (1) year of the date of publication shall expire as provided in KRS 13A.315].~~

➔Section 14. KRS 13A.315 is amended to read as follows:

- (1) An administrative regulation shall expire and shall not be reviewed by a legislative subcommittee if:
 - (a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;
 - (b) An item is not filed on or before a deadline specified by this chapter;
 - (c) The administrative body has failed to comply with the provisions of this chapter governing the filing of administrative regulations, the public hearing and public comment period, or the statement of consideration; or
 - (d) The administrative regulation is deferred ***pursuant to Section 13 of this Act*** more than ***twelve (12) consecutive***~~[twelve (12)]~~ months.
- ~~(2) [An administrative regulation which has not complied with all the provisions of this chapter and any administrative regulations promulgated under this chapter shall be considered procedurally defective and void.~~
- ~~(3)~~ (a) An administrative regulation that has been found deficient by a subcommittee shall be withdrawn immediately if, pursuant to KRS 13A.330 or 13A.331, the Governor has determined that it shall be withdrawn.
- (b) The Governor shall notify the regulations compiler in writing and by telephone that he or she has determined that the administrative regulation found deficient shall be withdrawn.
- (c) The written withdrawal of an administrative regulation governed by the provisions of this subsection shall be made in a letter to the regulations compiler in the following format: "Pursuant to KRS 13A.330(2)(b) or 13A.331(2)(b), I have determined that (administrative regulation number and title) shall be (withdrawn, or withdrawn and amended to conform to the finding of deficiency, as applicable). The administrative regulation, (administrative regulation number and title), is hereby withdrawn."
- (d) An administrative regulation governed by the provisions of this subsection shall be considered withdrawn upon receipt by the regulations compiler of the written withdrawal.

➔Section 15. KRS 13A.320 is amended to read as follows:

- (1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

- (b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:
1. Considered at the public hearing;~~{or}~~
 2. Raised pursuant to a comment received by the administrative body at the public hearing or during the public comment period pursuant to KRS 13A.280(1); or
 3. Raised *during*~~{by}~~ the subcommittee *meeting*.
- (c) Nothing in this chapter shall be construed to require its resubmission or refileing or other action. The administrative regulation may be adopted as amended.
- (d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:
1. Relate only to the format and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and (l); and
 2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.
- (e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.
- (2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:
- (a) Amendments offered by the administrative body prior to a subcommittee meeting shall be approved by the head of the administrative body.
 - (b) Amendments shall be contained in a letter to the subcommittee. The letter shall:
 1. Identify the administrative body;
 2. State the number and title of the administrative regulation;
 3. Be dated;
 4. Be filed with the regulations compiler at least *three (3)*~~{five (5)}~~ workdays prior to the meeting of the subcommittee if the amendments are initiated by the administrative body; and
 5. Comply with the format requirements in paragraphs (c) and (d) of this subsection *if the amendments are initiated by the administrative body*.
 - (c) On separate lines, the amendment shall be identified by the number of the:
 1. Page;
 2. Section, subsection, paragraph, subparagraph, clause, or subclause, as appropriate; and
 3. Line.
 - (d)
 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.
 2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.
 3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.

4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.
- (3) *If an amendment is drafted by subcommittee staff on behalf of a subcommittee, the amendment shall be made:*
- (a) *In the format required by paragraphs (c) and (d) of subsection (2) of this section; or*
- (b) *By substituting the complete text of the administrative regulation, with the proposed changes made to the administrative regulation typed in bold, italicized, and in the format prescribed by subsection (2) of Section 5 of this Act.*
- (4) *An amendment to an administrative regulation may be made orally at a subcommittee meeting if the requirements of subsection (1)(a) of this section are met.*
- (5) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the Administrative Regulation Review Subcommittee meeting at which the amendment will be considered.

➔Section 16. The following KRS sections are repealed:

13A.080 Inclusion in Administrative Register of notice of review process and procedures for public comment.

13A.160 Notice of hearing to compiler when hearing is required before filing of administrative regulations --
Publication.

Signed by Governor April 11, 2012.