

## CHAPTER 125

( HB 429 )

AN ACT relating to administrative regulations.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO BE NUMBERED AS KRS 13A.215 AND TO READ AS FOLLOWS:

- (1) *An administrative body may use an administrative regulation management application developed and maintained by the Legislative Research Commission, if available, to satisfy the following requirements of this chapter:*
  - (a) *Paper-based filing requirements; and*
  - (b) *Notifications to the regulations compiler.*
- (2) *If the filing and notification requirements of this chapter are not available in the administrative regulation management application, the administrative body shall use the paper-based process established by this chapter.*
- (3) *Paper-based shall include any procedure in this chapter that requires an administrative body to file or submit a hard copy to the compiler.*

➔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- (6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;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) (a) Change *the following* items in an administrative regulation in response to a specific written request for a technical amendment submitted by the administrative body if the regulations compiler determines that the requested changes do not affect the substance of the administrative regulation:
  1. *The administrative body's identifying information, including address, phone number, fax number, Web site address, and e-mail address;*
  2. *Typographical errors, errors in format, and grammatical errors;*
  3. ~~[Examples of technical amendments 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
  4. Other changes in accordance with KRS 13A.312; and

- (b) Notify the administrative body within thirty (30) business days of receipt of a technical amendment letter the status of the request, including:
1. Any requested changes that are accepted as technical amendments; and
  2. Any requested changes that are not accepted as technical amendments;
- (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, formatting, or filing requirements established by the provisions of KRS 13A.190(4) to (10), 13A.220, 13A.222(1), (2), and (3), 13A.230, and 13A.280, and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing;
- (12) Maintain a list of all administrative regulation numbers and the corresponding last effective date, based on the information included in the history line of each administrative regulation; and
- (13) Perform other duties required by the Commission or by a subcommittee.
- ➔Section 3. KRS 13A.3104 is amended to read as follows:
- (1) If an administrative body does not want an administrative regulation to expire under KRS 13A.3102, the administrative body shall, ***in the twelve (12) months prior to the expiration date:***
- (a) Review the administrative regulation in its entirety for compliance with current law governing the subject matter of the administrative regulation;
  - (b) ~~File a certification letter with the regulations compiler stating whether the administrative regulation:~~
    1. Shall be amended ***because it is not in compliance with current governing law or otherwise needs amendment;***~~or~~
    2. ***Shall*** remain in effect without amendment ***because it is in compliance with current governing law; or***
    3. ***Is in need of amendment and a proposed amendment has already been filed;*** and
  - (c) Not be required to consider KRS Chapter 13A drafting and formatting requirements as part of its review.
- (2) The certification letter shall be on the administrative body's official letterhead, in the format prescribed by the regulations compiler, and include the following information:
- (a) The name of the administrative body;
  - (b) The number of the administrative regulation;
  - (c) The title of the administrative regulation;
  - (d) ~~The~~***[A]*** statement ***required by subsection (1)(b) of this section***~~that:~~
    1. ~~The administrative body shall be amending the administrative regulation; or~~
    2. ~~The administrative regulation shall remain in effect without amendment;~~~~and~~
  - (e) A brief statement in support of the decision; ***and***
  - (f) ***The authorizing signature of the administrative body.***
- (3) (a) If the certification letter was filed pursuant to subsection (1)(b)***I.*** of this section, stating that the administrative regulation shall be amended, the administrative body shall file an amendment to the administrative regulation in accordance with KRS Chapter 13A within eighteen (18) months of the date the certification letter was filed.
- (b) If the amendment was filed in accordance with paragraph (a) of this subsection:
1. The administrative regulation shall not expire if ***the amendment***~~it~~ is continuing through the administrative regulations process; or
  2. The administrative regulation shall expire on the date the amendment is withdrawn or otherwise ceases going through the administrative regulations process.

- (c) Once the amendment is effective, the regulations compiler shall update the last effective date for that administrative regulation to reflect the amendment's effective date.
  - (d) ***If the amendment was not filed in accordance with paragraph (a) of this subsection, the administrative regulation shall expire at the end of the eighteen (18) month period.***
- (4) If the certification letter was filed pursuant to subsection (1)(b)2. of this section, stating that the administrative regulation shall remain in effect without amendment, the regulations compiler shall:
- (a) Update the administrative regulation's history line to state that a certification letter was received; and
  - (b) Change the last effective date of the administrative regulation to the date the certification letter was received.
- (5) (a) ***If the certification letter was filed pursuant to subsection (1)(b)3. of this section, stating that a proposed amendment has already been filed:***
- 1. ***The administrative regulation shall not expire if the amendment is continuing through the administrative regulations process; or***
  - 2. ***The administrative regulation shall expire on the date the amendment is withdrawn or otherwise ceases going through the administrative regulations process.***
- (b) ***Once the amendment is effective, the regulations compiler shall update the last effective date for that administrative regulation to reflect the amendment's effective date.***
- (6) If filed by the deadline established in KRS 13A.050(3), the regulations compiler shall publish in the Administrative Register of Kentucky each certification letter received:
- (a) In summary format; or
  - (b) In its entirety.

➔Section 4. KRS 158.6471 is amended to read as follows:

- (1) ***When reviewing an administrative regulation pursuant to KRS 158.647, the Education Assessment and Accountability Review Subcommittee shall have the same powers and use the same process and procedures as the Administrative Regulation Review Subcommittee under KRS Chapter 13A, except as otherwise authorized by subsection (2) of this section.***
- (2) (a) ***If the subcommittee places an administrative regulation on its agenda for review, and at that meeting the subcommittee fails to achieve a quorum to conduct the review, the administrative regulation shall be deferred for up to forty-five (45) days and shall be placed on the agenda for review at the subcommittee's next meeting.***
- (b) ***If at the next meeting the subcommittee fails to achieve a quorum, then the administrative regulation shall be considered reviewed by the subcommittee and shall proceed in accordance with the process outlined under KRS Chapter 13A.***
- (3) ***The subcommittee may request the same professional and clerical support as is provided to the Administrative Regulation Review Subcommittee in reviewing administrative regulations.***

~~[Within forty five (45) days after publication of an administrative regulation in "The Administrative Register" or within sixty (60) days of the receipt of a statement of consideration, the Education Assessment and Accountability Review Subcommittee shall meet to review the administrative regulation.~~

- ~~(2) The meetings shall be open to the public.~~
- ~~(3) Public notice of the time, date, and place of the subcommittee meeting shall be given in The Administrative Register.]~~
- ~~(4) A representative of the Department of Education shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the Department of Education is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.~~
- ~~(5) Following the meeting and before the next regularly scheduled meeting of the Legislative Research Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other~~

~~comments it deems appropriate in writing. The subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy shall be sent to the Department of Education. The subcommittee's findings shall be published in The Administrative Register.~~

- ~~(6) (a) After review by the subcommittee, the Commission shall at its next regularly scheduled meeting assign a **filed administrative regulation** ~~the matter~~ as appropriate to the Interim Joint Committee on Education, the Senate standing Education Committee, the House standing Education Committee, or the Senate and the House standing committees meeting jointly.~~
- (5) When reviewing an administrative regulation, the Education Committee shall have the same powers and use the same process and procedures as other interim joint committees or standing committees with subject matter jurisdiction under KRS Chapter 13A**
- ~~{(b) Upon notification of the assignment by the Commission, the Education Committee shall notify the regulations compiler:~~
- ~~1. Of the date, time, and place of the meeting at which it will consider the matter; or~~
  - ~~2. That it will not meet to consider the matter.~~
- ~~(7) Within thirty (30) days of the assignment, the Education Committee, when it plans to consider an administrative regulation, shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The committee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2), (3), and (4). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.~~
- ~~(8) The Department of Education shall comply with subsection (4) of this section.~~
- ~~(9) The Education Committee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.~~
- ~~(10) (a) Upon adjournment of the meeting at which the Education Committee has considered an administrative regulation pursuant to subsection (7) of this section, the committee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.~~
- ~~(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the committee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy shall be sent to the Department of Education. The committee's findings shall be published in The Administrative Register}.~~

**Signed by Governor March 25, 2021.**