

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 READ AS FOLLOWS:

Except for an emergency administrative regulation promulgated under KRS 13A.190, any administrative regulation that has a major economic impact as defined by subsection (11) of Section 2 of this Act shall not take effect until the Kentucky General Assembly enacts legislation ratifying the administrative regulation. Following the ratification, the administrative regulation shall become effective on the effective date of the ratifying legislation.

➔Section 2. 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) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;
- (7) "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) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;
- (9) "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) "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) **"Major economic impact" means an overall annual economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on**

state and local government and regulated entities as determined by the promulgating administrative body;

(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;

(13)~~(12)~~ "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14)~~(13)~~ "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).

(15)~~(14)~~ "Statement of consideration" means the document required by KRS 13A.280 in which the 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;

(16)~~(15)~~ "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

(17)~~(16)~~ "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

➔Section 3. KRS 13A.250 is amended to read as follows:

(1) Each administrative body that promulgates an administrative regulation shall consider the cost that the administrative regulation may cause state or local government *and regulated entities* to incur.

(2) (a) A two (2) part cost analysis shall be completed for each administrative regulation.

(b) In the first part, 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.

(c) In the second part, the cost analysis shall include the projected cost or cost savings to the regulated entities affected by the administrative regulation.

(d) Agencies **or entities** 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.

(3)~~(2)~~ Each administrative body that promulgates an administrative regulation 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) **Each**~~The~~ unit, part, or division of state or local government the administrative regulation will affect;
- (d) 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) 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;

(f) The estimated effect of the administrative regulation on the expenditures and revenues of each regulated entity impacted by the administrative regulation 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 economic impact of the administrative regulation; and

(g) The conclusion of the promulgating administrative body as to whether the administrative regulation will have an overall economic impact of five hundred thousand dollars (\$500,000) or more on state and local government and regulated entities.

~~(4)(3)~~ Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

➔Section 4. KRS 13A.330 is amended to read as follows:

The provisions of this section shall apply to administrative regulations that are assigned pursuant to KRS 13A.290(6)(a)1. and that do not have a major economic impact.

(1) An administrative regulation that has not been found deficient by a legislative subcommittee shall be considered as adopted and shall become effective:

(a) Upon adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to KRS 13A.290(7) if:

1. The administrative regulation is on the agenda of the subcommittee meeting;
2. A quorum of the subcommittee is present; and
3. The subcommittee:
 - a. Considers the administrative regulation; or
 - b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or

(b) If a subcommittee fails to meet within thirty (30) days of assignment of an

administrative regulation as provided in KRS 13A.290(7), or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.

- (2) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit to the Governor:
 - (a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and
 - (b) A request that the Governor determine whether the administrative regulation shall:
 1. Be withdrawn;
 2. Be withdrawn and amended to conform to the finding of deficiency; or
 3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.
- (3) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit copies of its transmittal to the Governor to the regulations compiler.
- (4) The Governor shall transmit his determination to the Commission and the regulations compiler.
- (5) An administrative regulation that has been found deficient by a legislative subcommittee shall be considered as adopted and become effective after:
 - (a) 1. The subcommittee of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290(6) has:
 - a. Considered the administrative regulation;
 - b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or
 - c. Failed to meet within thirty (30) days of such assignment; and

2. The regulations compiler has received the Governor's determination that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or
- (b) The legislative subcommittee that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

➔Section 5. KRS 13A.331 is amended to read as follows:

The provisions of this section shall apply to administrative regulations that are assigned pursuant to KRS 13A.290(6)(a)2. **and that do not have a major economic impact.**

- (1) An administrative regulation that has not been found deficient by both standing committees shall be considered as adopted and shall become effective:
 - (a) Upon adjournment on the day the second standing committee meets to consider the administrative regulation pursuant to KRS 13A.290 if:
 1. The administrative regulation is on the agenda of the standing committee meeting;
 2. A quorum of the standing committee is present;
 3. The standing committee:
 - a. Considers the administrative regulation; or
 - b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; and
 4. Pursuant to KRS 13A.290(9), the decision of the standing committee to amend the administrative regulation is the same as the decision of the corresponding standing committee of the other chamber to amend the administrative regulation;
 - (b) Upon adjournment on the day the standing committee meeting jointly meets to consider the administrative regulation pursuant to KRS 13A.290 if:

1. The administrative regulation is on the agenda of the joint standing committee meeting;
 2. A quorum of the joint standing committee is present;
 3. The joint standing committee meeting:
 - a. Considers the administrative regulation; or
 - b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or
- (c) If a standing committee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290, or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.
- (2) If an administrative regulation has been found deficient by both standing committees, or by the standing committees meeting jointly, the standing committees, or the standing committees meeting jointly shall transmit to the Governor:
- (a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and
 - (b) A request that the Governor determine whether the administrative regulation shall:
 1. Be withdrawn;
 2. Be withdrawn and amended to conform to the finding of deficiency; or
 3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.
- (3) If an administrative regulation has been found deficient by the standing committees or by the standing committees meeting jointly, the standing committees or standing committees meeting jointly shall transmit copies of its transmittal to the Governor

to the regulations compiler.

(4) The Governor shall transmit his determination to the Commission and the regulations compiler.

(5) An administrative regulation that has been found deficient by the Administrative Regulation Review Subcommittee, the standing committees or by the standing committees meeting jointly shall be considered as adopted and become effective after:

- (a) 1. The standing committees of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290 has:
 - a. Considered the administrative regulation;
 - b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or
 - c. Failed to meet within thirty (30) days of such assignment; and
2. The regulations compiler has received the Governor's determination that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or
- (b) The subcommittee, standing committees, or standing committees meeting jointly that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

➔Section 6. This Act shall be known and may be cited as the Kentucky REINS Act, or the Kentucky Regulations from the Executive in Need of Scrutiny Act.