

1 AN ACT relating to executive branch ethics.

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

3 ➔Section 1. KRS 11A.100 is amended to read as follows:

4 (1) The provisions of KRS Chapter 13B shall apply to all commission administrative  
5 hearings, ***except for the provisions of:***

6 ***(a) KRS 13B.030(2)(b);***

7 ***(b) Subsections (1), (2), and (3) of Section 3 of this Act when a party fails to file***  
8 ***an answer or otherwise participate; and***

9 ***(c) Subsection (7) of Section 4 of this Act.***

10 (2) All administrative hearings of the commission carried out pursuant to the provisions  
11 of this section shall be public, unless the members vote to go into executive session  
12 in accordance with KRS 61.810.

13 (3) The commission, upon a finding pursuant to an administrative hearing that there has  
14 been clear and convincing proof of a violation of this chapter, may:

15 (a) Issue an order requiring the violator to cease and desist the violation; and

16 (b) Issue an order requiring the violator to file any report, statement, or other  
17 information as required by this chapter; and

18 (c) In writing, publicly reprimand the violator for potential violations of the law  
19 and provide a copy of the reprimand to the alleged violator's appointing  
20 authority, if any; and

21 (d) In writing, recommend to the violator's appointing authority that the violator  
22 be removed or suspended from office or employment, and include a  
23 recommendation for length of suspension, to be approved by the appointing  
24 authority, if any; and

25 (e) Issue an order requiring the violator to pay a civil penalty of not more than  
26 five thousand dollars (\$5,000) for each violation of this chapter.

27 (4) In addition to any other remedies provided by law, any violation of this chapter

1 which has substantially influenced the action taken by any state agency in any  
2 particular matter shall be grounds for voiding, rescinding, or canceling the action on  
3 such terms as the interests of the state and innocent third persons require.

4 (5) The commission shall refer to the Attorney General evidence of violations of KRS  
5 11A.040 for prosecution. The Attorney General shall have responsibility for all  
6 prosecutions under the law and may request from the commission all evidence  
7 collected in its investigation. The commission may represent itself through the  
8 general counsel in all subsequent proceedings.

9 ➔Section 2. KRS 13B.020 is amended to read as follows:

10 (1) The provisions of this chapter shall apply to all administrative hearings conducted  
11 by an agency, with the exception of those specifically exempted under this section.  
12 The provisions of this chapter shall supersede any other provisions of the Kentucky  
13 Revised Statutes and administrative regulations, unless exempted under this section,  
14 to the extent these other provisions are duplicative or in conflict. This chapter  
15 creates only procedural rights and shall not be construed to confer upon any person  
16 a right to hearing not expressly provided by law.

17 (2) The provisions of this chapter shall not apply to:

18 (a) Investigations, hearings to determine probable cause, or any other type of  
19 information gathering or fact finding activities;

20 (b) Public hearings required in KRS Chapter 13A for the promulgation of  
21 administrative regulations;

22 (c) Any other public hearing conducted by an administrative agency which is  
23 nonadjudicatory in nature and the primary purpose of which is to seek public  
24 input on public policy making;

25 (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter  
26 35;

27 (e) Administrative hearings conducted by the legislative and judicial branches of

- 1 state government;
- 2 (f) Administrative hearings conducted by any city, county, urban-county, charter  
3 county, or special district contained in KRS Chapters 65 to 109, or any other  
4 unit of local government operating strictly in a local jurisdictional capacity;
- 5 (g) Informal hearings which are part of a multilevel hearing process that affords  
6 an administrative hearing at some point in the hearing process if the  
7 procedures for informal hearings are approved and promulgated in accordance  
8 with subsections (4) and (5) of this section;
- 9 (h) Limited exemptions granted for specific hearing provisions and denoted by  
10 reference in the text of the applicable statutes or administrative regulations;
- 11 (i) Administrative hearings exempted pursuant to subsection (3) of this section;
- 12 (j) Administrative hearings exempted, in whole or in part, pursuant to  
13 subsections (4) and (5) of this section; and
- 14 (k) Any administrative hearing which was commenced but not completed prior to  
15 July 15, 1996.
- 16 (3) The following administrative hearings are exempt from application of this chapter  
17 in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- 18 (a) Finance and Administration Cabinet
- 19 1. Higher Education Assistance Authority
- 20 a. Wage garnishment hearings conducted under authority of 20  
21 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
- 22 b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A  
23 and sec. 3716, and 34 C.F.R. sec. 30.33
- 24 2. Department of Revenue
- 25 a. Any licensing and bond revocation hearings conducted under the  
26 authority of KRS 138.210 to 138.448 and 234.310 to 234.440
- 27 b. Any license revocation hearings under KRS 131.630 and 138.130

1 to 138.205

2 (b) Cabinet for Health and Family Services

3 1. Office of Health Policy

4 a. Certificate-of-need hearings and licensure conducted under  
5 authority of KRS Chapter 216B

6 b. Licensure revocation hearings conducted under authority of KRS  
7 Chapter 216B

8 2. Department for Community Based Services

9 a. Supervised placement revocation hearings conducted under  
10 authority of KRS Chapter 630

11 3. Department for Income Support

12 a. Disability determination hearings conducted under authority of 20  
13 C.F.R. sec. 404

14 4. Department for Medicaid Services

15 a. Administrative appeal hearings following an external independent  
16 third-party review of a Medicaid managed care organization's final  
17 decision that denies, in whole or in part, a health care service to an  
18 enrollee or a claim for reimbursement to the provider for a health  
19 care service rendered by the provider to an enrollee of the  
20 Medicaid managed care organization, conducted under authority of  
21 KRS 205.646

22 (c) Justice and Public Safety Cabinet

23 1. Department of Kentucky State Police

24 a. Kentucky State Police Trial Board disciplinary hearings conducted  
25 under authority of KRS Chapter 16

26 2. Department of Corrections

27 a. Parole Board hearings conducted under authority of KRS Chapter

- 1 439
- 2 b. Prison adjustment committee hearings conducted under authority
- 3 of KRS Chapter 197
- 4 c. Prison grievance committee hearings conducted under authority of
- 5 KRS Chapters 196 and 197
- 6 3. Department of Juvenile Justice
- 7 a. Supervised placement revocation hearings conducted under KRS
- 8 Chapter 635
- 9 (d) Energy and Environment Cabinet
- 10 1. Department for Natural Resources
- 11 a. Surface mining hearings conducted under authority of KRS
- 12 Chapter 350
- 13 2. Department for Environmental Protection
- 14 a. Wild River hearings conducted under authority of KRS Chapter
- 15 146
- 16 b. Water resources hearings conducted under authority of KRS
- 17 Chapter 151
- 18 c. Water plant operator and water well driller hearings conducted
- 19 under authority of KRS Chapter 223
- 20 d. Environmental protection hearings conducted under authority of
- 21 KRS Chapter 224
- 22 e. Petroleum Storage Tank Environmental Assurance Fund hearings
- 23 under authority of KRS Chapter 224
- 24 3. Public Service Commission
- 25 a. Utility hearings conducted under authority of KRS Chapters 74,
- 26 278, and 279
- 27 (e) Labor Cabinet

- 1           1. Department of Workers' Claims
- 2           a. Workers' compensation hearings conducted under authority of
- 3           KRS Chapter 342
- 4           2. Kentucky Occupational Safety and Health Review Commission
- 5           a. Occupational safety and health hearings conducted under authority
- 6           of KRS Chapter 338
- 7       (f) Public Protection Cabinet
- 8           1. Kentucky Claims Commission
- 9           a. Liability hearings conducted under authority of KRS 49.020(1) and
- 10          49.040 to 49.180
- 11       (g) Education and Workforce Development Cabinet
- 12          1. Unemployment Insurance hearings conducted under authority of KRS
- 13          Chapter 341
- 14       (h) Secretary of State
- 15          1. Registry of Election Finance
- 16          a. Campaign finance hearings conducted under authority of KRS
- 17          Chapter 121
- 18       (i) State universities and colleges
- 19          1. Student suspension and expulsion hearings conducted under authority of
- 20          KRS Chapter 164
- 21          2. University presidents and faculty removal hearings conducted under
- 22          authority of KRS Chapter 164
- 23          3. Campus residency hearings conducted under authority of KRS Chapter
- 24          164
- 25          4. Family Education Rights to Privacy Act hearings conducted under
- 26          authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
- 27          5. Federal Health Care Quality Improvement Act of 1986 hearings

1                   conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS  
2                   Chapter 311.

- 3 (4) Any administrative hearing, or portion thereof, may be certified as exempt by the  
4 Attorney General based on the following criteria:
- 5       (a) The provisions of this chapter conflict with any provision of federal law or  
6           regulation with which the agency must comply, or with any federal law or  
7           regulation with which the agency must comply to permit the agency or  
8           persons within the Commonwealth to receive federal tax benefits or federal  
9           funds or other benefits;
- 10       (b) Conformity with the requirement of this chapter from which exemption is  
11           sought would be so unreasonable or so impractical as to deny due process  
12           because of undue delay in the conduct of administrative hearings; or
- 13       (c) The hearing procedures represent informal proceedings which are the  
14           preliminary stages or the review stages of a multilevel hearing process, if the  
15           provisions of this chapter or the provisions of a substantially equivalent  
16           hearing procedure exempted under subsection (3) of this section are applied at  
17           some level within the multilevel process.
- 18 (5) The Attorney General shall not exempt an agency from any requirement of this  
19       chapter until the agency establishes alternative procedures by administrative  
20       regulation which, insofar as practical, shall be consistent with the intent and purpose  
21       of this chapter. When regulations for alternative procedures are submitted to the  
22       Administrative Regulation Review Subcommittee, they shall be accompanied by the  
23       request for exemption and the approval of exemption from the Attorney General.  
24       The decision of the Attorney General, whether affirmative or negative, shall be  
25       subject to judicial review in the Franklin Circuit Court within thirty (30) days of the  
26       date of issuance. The court shall not overturn a decision of the Attorney General  
27       unless the decision was arbitrary or capricious or contrary to law.

1 (6) Except to the extent precluded by another provision of law, a person may waive any  
2 procedural right conferred upon that person by this chapter.

3 **(7) The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings**  
4 **held under Section 1 of this Act.**

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

6 (1) In any administrative hearing, the agency shall conduct the hearing as soon as  
7 practicable and shall give notice of the hearing to the parties not less than twenty  
8 (20) days in advance of the date set for the hearing, unless otherwise required by  
9 federal law. An agency shall make reasonable effort to schedule a hearing on a date  
10 that is convenient to the parties involved.

11 (2) The notice required by subsection (1) of this section shall be served on the parties  
12 by certified mail, return receipt requested, sent to the last known address of the  
13 parties, or by personal service, with the exception of notices of Personnel Board  
14 hearings and all board orders which may be served by first-class mail. Service by  
15 certified mail shall be complete upon the date on which the agency receives the  
16 return receipt or the returned notice.

17 (3) The notice required by this section shall be in plain language and shall include:

18 (a) A statement of the date, time, place, and nature of the hearing;

19 (b) The name, official title, and mailing address of the hearing officer;

20 (c) The names, official titles, mailing addresses, and, if available, telephone  
21 numbers of all parties to the hearing, including the counsel or representative  
22 of the agency;

23 (d) A statement of the factual basis for the agency action along with a statement  
24 of issues involved, in sufficient detail to give the parties reasonable  
25 opportunity to prepare evidence and argument;

26 (e) A reference to the specific statutes and administrative regulations which relate  
27 to the issues involved and the procedure to be followed in the hearing;



- 1 (f) A statement advising the person of his right to legal counsel;
- 2 (g) A statement of the parties' right to examine, at least five (5) days prior to the
- 3 hearing, a list of witnesses the parties expect to call at the hearing, any
- 4 evidence to be used at the hearing and any exculpatory information in the
- 5 agency's possession; and
- 6 (h) A statement advising that any party who fails to attend or participate as
- 7 required at any stage of the administrative hearing process may be held in
- 8 default under this chapter.

9 (4) If an agency decides not to conduct an administrative hearing in response to a

10 petition, the agency shall notify the petitioner of its decision in writing, with a brief

11 statement of the agency's reasons and any administrative review available to the

12 petitioner.

13 **(5) Subsections (1), (2), and (3) of this section shall not apply to notices issued under**

14 **KRS 11A.080(4)(b) when a party fails to file an answer or otherwise fails to**

15 **participate.**

16 ➔Section 4. KRS 13B.090 is amended to read as follows:

- 17 (1) In an administrative hearing, findings of fact shall be based exclusively on the
- 18 evidence on the record. The hearing officer shall exclude evidence that is irrelevant,
- 19 immaterial, unduly repetitious, or excludable on constitutional or statutory grounds
- 20 or on the basis of evidentiary privilege recognized in the courts of this
- 21 Commonwealth. Hearsay evidence may be admissible, if it is the type of evidence
- 22 that reasonable and prudent persons would rely on in their daily affairs, but it shall
- 23 not be sufficient in itself to support an agency's findings of facts unless it would be
- 24 admissible over objections in civil actions.
- 25 (2) All testimony shall be made under oath or affirmation. Any part of the evidence
- 26 may be received in written form if doing so will expedite the hearing without
- 27 substantial prejudice to the interests of any party. The hearing officer may make a

1 recommended order in an administrative hearing submitted in written form if the  
2 hearing officer determines there are no genuine issues of material fact in dispute and  
3 judgment is appropriate as a matter of law.

4 (3) Any party shall have the right to inspect, at least five (5) days prior to the hearing, a  
5 list of all witnesses every other party expects to call at the hearing, and the available  
6 documentary or tangible evidence relating to an administrative hearing either in  
7 person or by counsel. Copies of documentary evidence may be obtained upon the  
8 payment of a fee, except documents protected from disclosure by state or federal  
9 law. Nothing in this section shall be construed as giving a party the right to examine  
10 or copy the personal notes, observations, or conclusions of the agency staff, unless  
11 exculpatory in nature, nor shall it be construed as allowing access to the work  
12 product of counsel for the agency. Conditions for examining and copying agency  
13 records, fees to be charged, and other matters pertaining to access to these records  
14 shall be governed by KRS 61.870 to 61.884. To the extent required by due process,  
15 the hearing officer may order the inspection of any records excluded from the  
16 application of KRS 61.870 to 61.884 under KRS 61.878 that relate to an act,  
17 transaction, or event that is a subject of the hearing, and may order their inclusion in  
18 the record under seal.

19 (4) Objections to evidentiary offers may be made by any party and shall be noted in the  
20 record.

21 (5) The hearing officer may take official notice of facts which are not in dispute, or of  
22 generally-recognized technical or scientific facts within the agency's specialized  
23 knowledge. The hearing officer shall notify all parties, either before or during the  
24 hearing, or in preliminary reports or otherwise, of any facts so noticed and their  
25 source. All parties shall be given an opportunity to contest facts officially noticed.

26 (6) The agency shall cause all testimony, motions, and objections in a hearing to be  
27 accurately and completely recorded. Any person, upon request, may receive a copy

1 of the recording or a copy of the transcript, if the hearing has been transcribed, at  
 2 the discretion of the agency, unless the hearing is closed by law. The agency may  
 3 prepare a transcript of a hearing or a portion of a hearing upon request but the party  
 4 making the request shall be responsible for the transcription costs. The form of all  
 5 requests and fees charged shall be consistent with KRS 61.870 to 61.884.

6 (7) In all administrative hearings, unless otherwise provided by statute or federal law,  
 7 the party proposing the agency take action or ~~to~~ grant a benefit has the burden to  
 8 show the propriety of the agency action or entitlement to the benefit sought. The  
 9 agency has the burden to show the propriety of a penalty imposed or the removal of  
 10 a benefit previously granted. The party asserting an affirmative defense has the  
 11 burden to establish that defense. The party with the burden of proof on any issue has  
 12 the burden of going forward and the ultimate burden of persuasion as to that issue.  
 13 The ultimate burden of persuasion in all administrative hearings is met by a  
 14 preponderance of evidence in the record, except when a higher standard of proof is  
 15 required by law. Failure to meet the burden of proof is grounds for a recommended  
 16 order from the hearing officer.

17 ➔SECTION 5. A NEW SECTION OF KRS 13A.290 TO 13A.335 IS CREATED  
 18 TO READ AS FOLLOWS:

19 (1) After the last regularly scheduled meeting of the Administrative Regulation  
 20 Review Subcommittee in a calendar year, but by the thirty-first day of December  
 21 of that calendar year, the staff of the Administrative Regulation Review  
 22 Subcommittee shall submit a report to the co-chairs of that subcommittee  
 23 regarding administrative regulations that were found deficient by any  
 24 subcommittee of the Commission during that calendar year. The report shall  
 25 contain at least the following information for each applicable administrative  
 26 regulation:

27 (a) Administrative regulation number and title;

- 1       **(b) Name of the promulgating agency;**  
 2       **(c) Date of deficiency determination;**  
 3       **(d) Name of the subcommittee that made the deficiency determination;**  
 4       **(e) Administrative regulation effective date, if it is in effect;**  
 5       **(f) The finding of deficiency and any other findings, recommendations, or**  
 6               **comments sent to the Governor; and**  
 7       **(g) If received, the Governor's determination that the administrative regulation**  
 8               **shall become effective notwithstanding the finding of deficiency.**  
 9       **(2) The first page of the report required by subsection (1) of this section shall contain**  
 10       **the following text, in fourteen (14) point font or larger:**  
 11       **"To ratify the deficiency findings listed in this report, a co-chair or other**  
 12       **legislator may request that Legislative Research Commission staff prepare a bill:**  
 13       **(a) Declaring that each administrative regulation listed in the report shall be**  
 14               **void; or**  
 15       **(b) Amending the relevant subject matter statutes in conformity with the**  
 16               **findings of deficiency."**

17       ➔Section 6. KRS 13A.190 is amended to read as follows:

- 18       (1) An emergency administrative regulation is one that:
- 19               (a) Must be placed into effect immediately in order to:
- 20                       1. Meet an imminent threat to public health, safety, or welfare;
- 21                       2. Prevent a loss of federal or state funds;
- 22                       3. Meet a deadline for the promulgation of an administrative regulation that
- 23                               is established by state statute or federal law; or
- 24                       4. Protect human health and the environment; and
- 25               (b) 1. Is temporary in nature and will expire as provided in this section; or
- 26                       2. Is temporary in nature and will be replaced by an ordinary administrative
- 27                               regulation as provided in this section.

- 1 (2) Emergency administrative regulations shall become effective and shall be  
2 considered as adopted upon filing. Emergency administrative regulations shall be  
3 published in the Administrative Register in accordance with the publication  
4 deadline established in KRS 13A.050(3).
- 5 (3) (a) Except as provided by paragraph (b) of this subsection, emergency  
6 administrative regulations shall expire ***two hundred ten (210)***~~one hundred~~  
7 ~~eighty (180)~~ days after the date of filing or when the same matter filed as an  
8 ordinary administrative regulation filed for review is adopted, whichever  
9 occurs first.
- 10 (b) If an administrative body extends the time for filing a statement of  
11 consideration as provided by KRS 13A.280(2)(b), an emergency  
12 administrative regulation shall remain in effect for ***two hundred ten (210)***~~one~~  
13 ~~hundred eighty (180)~~ days after the date of filing plus the number of days  
14 extended under the provisions of KRS 13A.280(2)(b) or when the same matter  
15 filed as an ordinary administrative regulation filed for review is adopted,  
16 whichever occurs first.
- 17 (4) Except as established in subsection (5) of this section, an emergency administrative  
18 regulation with the same number or title or governing the same subject matter shall  
19 not be filed for a period of nine (9) months after it has been initially filed. No other  
20 emergency administrative regulation that is identical to the previously filed  
21 emergency administrative regulation shall be promulgated.
- 22 (5) If an emergency administrative regulation with the same number or title or  
23 governing the same subject matter as an emergency administrative regulation filed  
24 within the previous nine (9) months is filed, it shall contain a detailed explanation  
25 of the manner in which it differs from the previously filed emergency administrative  
26 regulation. The detailed explanation shall be included in the statement of emergency  
27 regulation required by subsection (6) of this section.

- 1 (6) Each emergency administrative regulation shall contain a statement of:
- 2 (a) The nature of the emergency;
- 3 (b) The reasons why an ordinary administrative regulation is not sufficient;
- 4 (c) Whether or not the emergency administrative regulation will be replaced by an
- 5 ordinary administrative regulation;
- 6 (d) If the emergency administrative regulation will be replaced by an ordinary
- 7 administrative regulation, the following statement: "The ordinary
- 8 administrative regulation (is or is not) identical to this emergency
- 9 administrative regulation.";
- 10 (e) If the emergency administrative regulation will not be replaced by an ordinary
- 11 administrative regulation, the reasons therefor; and
- 12 (f) If applicable, the explanation required by subsection (5) of this section.
- 13 (7) (a) An administrative body shall attach the:
- 14 1. Statement of emergency required by subsection (6) of this section to the
- 15 front of the original and each copy of a proposed emergency
- 16 administrative regulation; and
- 17 2. Regulatory impact analysis, tiering statement, federal mandate
- 18 comparison, fiscal note, summary of material incorporated by
- 19 reference if applicable, and other forms or documents required by
- 20 the provisions of this chapter to the back of the emergency
- 21 administrative regulation.
- 22 (b) An administrative body shall file with the regulations compiler:
- 23 1. The original and five (5) copies of the emergency administrative
- 24 regulation; and
- 25 2. At the same time as, or prior to, filing the paper version, an electronic
- 26 version of the emergency administrative regulation and the attachments
- 27 required by paragraph (a) of this subsection saved as a single document

1           for each emergency administrative regulation in an electronic format  
2           approved by the regulations compiler.

3           (c) The original and four (4) copies of each emergency administrative regulation  
4           shall be stapled in the top left corner. The fifth copy of each emergency  
5           administrative regulation shall not be stapled. The original and the five (5)  
6           copies of each emergency administrative regulation shall be grouped together.

7 (8) (a) If an emergency administrative regulation will not be replaced by an ordinary  
8           administrative regulation, the administrative body shall schedule a public  
9           hearing and public comment period pursuant to KRS 13A.270(1). The public  
10          hearing and public comment period information required by KRS 13A.270(2)  
11          shall be attached to the back of the emergency administrative regulation.

12          (b) If an emergency administrative regulation will be replaced by an ordinary  
13          administrative regulation:

14                  1. The ordinary administrative regulation shall be filed at the same time as  
15                  the emergency administrative regulation that will be replaced; and

16                  2. A public hearing and public comment period shall not be required for  
17                  the emergency administrative regulation.

18 (9) The statement of emergency shall have a two (2) inch top margin. The number of  
19          the emergency administrative regulation shall be typed directly below the heading  
20          "Statement of Emergency." The number of the emergency administrative regulation  
21          shall be the same number as the ordinary administrative regulation followed by an  
22          "E."

23 (10) Each executive department emergency administrative regulation shall be signed by  
24          the head of the administrative body and countersigned by the Governor prior to  
25          filing with the Commission. These signatures shall be on the statement of  
26          emergency attached to the front of the emergency administrative regulation.

27 (11) (a) If an ordinary administrative regulation that was filed to replace an emergency

1 administrative regulation is withdrawn, the emergency administrative  
2 regulation shall expire on the date the ordinary administrative regulation is  
3 withdrawn.

4 (b) If an ordinary administrative regulation that was filed to replace an emergency  
5 administrative regulation is withdrawn, the administrative body shall inform  
6 the regulations compiler of the reasons for withdrawal in writing.

7 (12) (a) If an emergency administrative regulation that was intended to be replaced by  
8 an ordinary administrative regulation is withdrawn, the emergency  
9 administrative regulation shall expire on the date it is withdrawn.

10 (b) If an emergency administrative regulation has been withdrawn, the ordinary  
11 administrative regulation that was filed with it shall not expire unless the  
12 administrative body informs the regulations compiler that the ordinary  
13 administrative regulation is also withdrawn.

14 (c) If an emergency administrative regulation is withdrawn, the administrative  
15 body shall inform the regulations compiler of the reasons for withdrawal in  
16 writing.

17 (13) A subcommittee may review an emergency administrative regulation and may  
18 recommend to the Governor that the administrative regulation be withdrawn.

19 ➔Section 7. KRS 13A.290 is amended to read as follows:

20 (1) (a) Except as provided by KRS 158.6471 and 158.6472, the Administrative  
21 Regulation Review Subcommittee shall meet monthly to review  
22 administrative regulations prior to close of business on the fifteenth day of the  
23 calendar month.

24 (b) The agenda shall:

25 1. Include each administrative regulation that was published in the prior  
26 month's Administrative Register not including the administrative  
27 regulations published in the "As Amended" section;



- 1           2. Include each administrative regulation for which a statement of  
2           consideration was received on or before 12 noon, eastern time, on the  
3           fifteenth day of the prior calendar month;
  - 4           3. Include each administrative regulation that was deferred from the prior  
5           month's meeting of the subcommittee; and
  - 6           4. Not include an administrative regulation that is deferred, withdrawn,  
7           expired, or automatically taken off the agenda under the provisions of  
8           this chapter.
- 9           (c) Review of an administrative regulation shall include the entire administrative  
10          regulation and all attachments filed with the administrative regulation. The  
11          review of amendments to existing administrative regulations shall not be  
12          limited to only the changes proposed by the promulgating administrative  
13          body.
- 14       (2) The meetings shall be open to the public.
  - 15       (3) Public notice of the time, date, and place of the Administrative Regulation Review  
16          Subcommittee meeting shall be given in the Administrative Register.
  - 17       (4) A representative of the administrative body promulgating the administrative  
18          regulation under consideration shall be present to explain the administrative  
19          regulation and to answer questions thereon. If a representative of the administrative  
20          body with authority to amend the administrative regulation is not present at the  
21          subcommittee meeting, the administrative regulation shall be deferred to the next  
22          regularly scheduled meeting of the subcommittee.
  - 23       (5) Following the meeting and before the next regularly scheduled meeting of the  
24          Commission, the Administrative Regulation Review Subcommittee shall forward to  
25          the Commission its findings, recommendations, or other comments it deems  
26          appropriate in writing. The Administrative Regulation Review Subcommittee shall  
27          also forward to the Commission its findings, recommendations, or other comments

1 it deems appropriate on an existing administrative regulation it has reviewed. The  
2 Administrative Regulation Review Subcommittee's findings shall be published in  
3 the Administrative Register.

4 (6) (a) After review by the Administrative Regulation Review Subcommittee, the  
5 Commission shall, on the first Wednesday of the following month, or if the  
6 first Wednesday is a legal holiday, the next workday of the month, assign the  
7 administrative regulation to:

- 8 1. An interim joint committee of appropriate jurisdiction over the subject  
9 matter of the administrative regulation; or
- 10 2. During a session of the General Assembly, the House of Representatives  
11 and Senate standing committees of appropriate jurisdiction over the  
12 subject matter of the administrative regulation.

13 (b) Upon notification of the assignment by the Commission, the legislative  
14 subcommittee to which the administrative regulation is assigned shall notify  
15 the regulations compiler:

- 16 1. Of the date, time, and place of the meeting at which it will consider the  
17 administrative regulation; or
- 18 2. That it will not meet to consider the administrative regulation.

19 (7) Within sixty (60)~~thirty (30)~~ days of the assignment, the subcommittee may hold a  
20 public meeting during which the administrative regulation shall be reviewed. If the  
21 sixtieth~~thirtieth~~ day of the assignment falls on a Saturday, Sunday, or holiday, the  
22 deadline for review shall be the workday following the Saturday, Sunday, or  
23 holiday. The subcommittee may also review an existing administrative regulation  
24 and make a determination as provided by KRS 13A.030(2) and (3). Notice of the  
25 time, date, and place of the meeting shall be placed in the legislative calendar.

26 (8) Except as provided in subsection (9) of this section, a subcommittee shall be  
27 empowered to make the same nonbinding determinations and to exercise the same

1 authority as the Administrative Regulation Review Subcommittee.

2 (9) (a) A majority of the entire membership of the subcommittee to which an  
3 administrative regulation is referred pursuant to subsection (6)(a) of this  
4 section shall constitute a quorum for purposes of reviewing administrative  
5 regulations.

6 (b) In order to amend an administrative regulation pursuant to KRS 13A.320 or to  
7 find an administrative regulation deficient pursuant to KRS 13A.030(2) and  
8 (3), the motion to amend or find deficient shall be approved by a majority of  
9 the entire membership of the subcommittee. Additionally, during a session of  
10 the General Assembly, standing committees of the Senate and House of  
11 Representatives shall agree in order to amend an administrative regulation or  
12 to find an administrative regulation deficient pursuant to KRS 13A.030(2) and  
13 (3) by:

- 14 1. Meeting separately; or
- 15 2. Meeting jointly. If the standing committees meet jointly, it shall require  
16 a majority vote of Senate members voting and a majority of House  
17 members voting, as well as the majority vote of the entire membership  
18 of the standing committees meeting jointly, in order to take action on the  
19 administrative regulation.

20 (10) (a) Upon adjournment of the meeting at which a legislative subcommittee has  
21 considered an administrative regulation pursuant to subsection (7) of this  
22 section, the subcommittee shall inform the regulations compiler of its  
23 findings, recommendations, or other action taken on the administrative  
24 regulation.

25 (b) Following the meeting and before the next regularly scheduled meeting of the  
26 Commission, the subcommittee shall forward to the Commission its findings,  
27 recommendations, or other comments it deems appropriate in writing. The

1 subcommittee's findings shall be published in the Administrative Register.

2 ➔Section 8. KRS 13A.330 is amended to read as follows:

3 The provisions of this section shall apply to administrative regulations that are assigned  
4 pursuant to KRS 13A.290(6)(a)1.

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

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

9 1. The administrative regulation is on the agenda of the subcommittee  
10 meeting;

11 2. A quorum of the subcommittee is present; and

12 3. The subcommittee:

13 a. Considers the administrative regulation; or

14 b. Fails to consider the administrative regulation and fails to agree to  
15 defer its consideration of the administrative regulation; or

16 (b) If a subcommittee fails to meet within sixty (60)~~thirty (30)~~ days of  
17 assignment of an administrative regulation as provided in KRS 13A.290(7), or  
18 does not place the administrative regulation on the agenda of a meeting held  
19 within sixty (60)~~thirty (30)~~ days of the referral of the administrative  
20 regulation to it by the Commission, at the expiration of the sixty (60)~~thirty~~  
21 ~~(30)~~ day period.

22 (2) If an administrative regulation has been found deficient by a legislative  
23 subcommittee, the legislative subcommittee shall transmit to the Governor:

24 (a) A copy of its finding of deficiency and other findings, recommendations, or  
25 comments it deems appropriate; and

26 (b) A request that the Governor determine whether the administrative regulation  
27 shall:

- 1           1.    Be withdrawn;
- 2           2.    Be withdrawn and amended to conform to the finding of deficiency; or
- 3           3.    Become effective pursuant to the provisions of this section
- 4                 notwithstanding the finding of deficiency.

5 (3) If an administrative regulation has been found deficient by a legislative  
6 subcommittee, the legislative subcommittee shall transmit copies of its transmittal  
7 to the Governor to the regulations compiler.

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

10 (5) An administrative regulation that has been found deficient by a legislative  
11 subcommittee shall be considered as adopted and become effective after:

12 (a) 1.    The subcommittee of appropriate jurisdiction to which an administrative  
13 regulation was assigned pursuant to KRS 13A.290(6) has:

- 14           a.    Considered the administrative regulation;
- 15           b.    Failed to consider the administrative regulation and failed to agree  
16                 to defer its consideration of the administrative regulation; or
- 17           c.    Failed to meet within sixty (60)~~thirty (30)~~ days of such  
18                 assignment; and

19           2.    The regulations compiler has received the Governor's determination that  
20                 the administrative regulation shall become effective pursuant to the  
21                 provisions of this section notwithstanding the finding of deficiency; or

22 (b) The legislative subcommittee that found the administrative regulation  
23 deficient subsequently determines that the administrative regulation is not  
24 deficient, provided that this determination was made prior to receipt by the  
25 regulations compiler of the Governor's determination.

26         ➔Section 9. KRS 13A.331 is amended to read as follows:

27 The provisions of this section shall apply to administrative regulations that are assigned

1 pursuant to KRS 13A.290(6)(a)2.

2 (1) An administrative regulation that has not been found deficient by both standing  
3 committees shall be considered as adopted and shall become effective:

4 (a) Upon adjournment on the day the second standing committee meets to  
5 consider the administrative regulation pursuant to KRS 13A.290 if:

6 1. The administrative regulation is on the agenda of the standing committee  
7 meeting;

8 2. A quorum of the standing committee is present;

9 3. The standing committee:

10 a. Considers the administrative regulation; or

11 b. Fails to consider the administrative regulation and fails to agree to  
12 defer its consideration of the administrative regulation; and

13 4. Pursuant to KRS 13A.290(9), the decision of the standing committee to  
14 amend the administrative regulation is the same as the decision of the  
15 corresponding standing committee of the other chamber to amend the  
16 administrative regulation;

17 (b) Upon adjournment on the day the standing committee meeting jointly meets to  
18 consider the administrative regulation pursuant to KRS 13A.290 if:

19 1. The administrative regulation is on the agenda of the joint standing  
20 committee meeting;

21 2. A quorum of the joint standing committee is present;

22 3. The joint standing committee meeting:

23 a. Considers the administrative regulation; or

24 b. Fails to consider the administrative regulation and fails to agree to  
25 defer its consideration of the administrative regulation; or

26 (c) If a standing committee fails to meet within sixty (60)~~thirty (30)~~ days of  
27 assignment of an administrative regulation as provided in KRS 13A.290, or

1 does not place the administrative regulation on the agenda of a meeting held  
2 within sixty (60)~~thirty (30)~~ days of the referral of the administrative  
3 regulation to it by the Commission, at the expiration of the sixty (60)~~thirty~~  
4 ~~(30)~~ day period.

5 (2) If an administrative regulation has been found deficient by both standing  
6 committees, or by the standing committees meeting jointly, the standing  
7 committees, or the standing committees meeting jointly shall transmit to the  
8 Governor:

9 (a) A copy of its finding of deficiency and other findings, recommendations, or  
10 comments it deems appropriate; and

11 (b) A request that the Governor determine whether the administrative regulation  
12 shall:

13 1. Be withdrawn;

14 2. Be withdrawn and amended to conform to the finding of deficiency; or

15 3. Become effective pursuant to the provisions of this section  
16 notwithstanding the finding of deficiency.

17 (3) If an administrative regulation has been found deficient by the standing committees  
18 or by the standing committees meeting jointly, the standing committees or standing  
19 committees meeting jointly shall transmit copies of its transmittal to the Governor  
20 to the regulations compiler.

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

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

27 (a) 1. The standing committees of appropriate jurisdiction to which an

- 1 administrative regulation was assigned pursuant to KRS 13A.290 has:
- 2 a. Considered the administrative regulation;
- 3 b. Failed to consider the administrative regulation and failed to agree
- 4 to defer its consideration of the administrative regulation; or
- 5 c. Failed to meet within sixty (60)~~thirty (30)~~ days of such
- 6 assignment; and
- 7 2. The regulations compiler has received the Governor's determination that
- 8 the administrative regulation shall become effective pursuant to the
- 9 provisions of this section notwithstanding the finding of deficiency; or
- 10 (b) The subcommittee, standing committees, or standing committees meeting
- 11 jointly that found the administrative regulation deficient subsequently
- 12 determines that the administrative regulation is not deficient, provided that
- 13 this determination was made prior to receipt by the regulations compiler of the
- 14 Governor's determination.