

1 AN ACT relating to administrative regulations.

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

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

5 **(1) An administrative body may use an administrative regulation management**
6 **application approved or developed and maintained by the Legislative Research**
7 **Commission, if available, to satisfy the following requirements of this chapter:**

8 **(a) Paper-based filing requirements; and**

9 **(b) Notifications to the regulations compiler.**

10 **(2) If the filing and notification requirements of this chapter are not available in the**
11 **administrative regulation management application, the administrative body shall**
12 **use the paper-based process established by this chapter.**

13 **(3) As used in this section, "paper-based" includes any procedure in this chapter**
14 **that requires an administrative body to file or submit a hard copy to the compiler.**

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

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

18 (1) Receive administrative regulations, and other documents required to be filed by the
19 provisions of this chapter, tendered for filing;

20 (2) Stamp administrative regulations tendered for filing with the time and date of
21 receipt;

22 (3) Provide administrative and support services to the subcommittee;

23 (4) Maintain a file of administrative regulations and other documents required to be
24 filed by this chapter, for public inspection, with suitable indexes;

25 (5) Maintain a file of ineffective administrative regulations;

26 (6) Maintain a file of material incorporated by reference, including superseded or
27 ineffective material incorporated by reference;

- 1 (7) Prepare the Kentucky Administrative Regulations Service;
- 2 (8) Upon request, certify copies of administrative regulations and other documents that
3 have been filed with the regulations compiler;
- 4 (9) Correct errors that do not change the substance of an administrative regulation,
5 including, but not limited to, typographical errors, errors in format, and grammatical
6 errors;
- 7 (10) (a) Change ***the following*** items in an administrative regulation in response to a
8 specific written request for a technical amendment submitted by the
9 administrative body if the regulations compiler determines that the requested
10 changes do not affect the substance of the administrative regulation:
- 11 ***1. The administrative body's address, phone number, fax number, Web***
12 ***site address, e-mail address, and other identifying information;***
- 13 ***2. Typographical errors, errors in format, and grammatical errors;***
- 14 ***3. [~~Examples of technical amendments include the address of the~~***
15 ***administrative body,]Citations to statutes or other administrative***
16 ***regulations if a format change within that statute or administrative***
17 ***regulation has changed the numbering or lettering of parts;[~~]~~*** or
- 18 ***4. Other changes in accordance with KRS 13A.312; and***
- 19 (b) Notify the administrative body within thirty (30) business days of receipt of a
20 technical amendment letter the status of the request, including:
- 21 1. Any requested changes that are accepted as technical amendments; and
22 2. Any requested changes that are not accepted as technical amendments;
- 23 (11) Refuse to accept for filing administrative regulations, and other documents required
24 to be filed by this chapter, that do not conform to the drafting, formatting, or filing
25 requirements established by the provisions of KRS 13A.190(4) to (10), 13A.220,
26 13A.222(1), (2), and (3), 13A.230, and 13A.280, and notify the administrative body
27 in writing of the reasons for refusing to accept an administrative regulation for

1 filing;

2 (12) Maintain a list of all administrative regulation numbers and the corresponding last
3 effective date, based on the information included in the history line of each
4 administrative regulation; and

5 (13) Perform other duties required by the Commission or by a subcommittee.

6 ➔Section 3. KRS 13A.290 is amended to read as follows:

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

11 (b) The agenda shall:

- 12 1. Include each administrative regulation that completed the public
13 comment process;
- 14 2. Include each administrative regulation for which a statement of
15 consideration was received on or before 12 noon, eastern time, on the
16 fifteenth day of the prior calendar month;
- 17 3. Include each effective administrative regulation that the subcommittee
18 has decided to review;
- 19 4. Include each administrative regulation that was deferred from the prior
20 month's meeting of the subcommittee; and
- 21 5. Not include an administrative regulation that is deferred, withdrawn,
22 expired, or automatically taken off the agenda under the provisions of
23 this chapter.

24 (c) Review of an administrative regulation shall include the entire administrative
25 regulation and all attachments filed with the administrative regulation. The
26 review of amendments to existing administrative regulations shall not be
27 limited to only the changes proposed by the promulgating administrative

1 body.

2 (2) The meetings shall be open to the public.

3 (3) Public notice of the time, date, and place of the Administrative Regulation Review
4 Subcommittee meeting shall be given in the Administrative Register.

5 (4) (a) A representative of the administrative body for an administrative regulation
6 under consideration shall be present to explain the administrative regulation
7 and to answer questions thereon.

8 (b) If a representative of the administrative body with authority to amend a filed
9 administrative regulation is not present at the subcommittee meeting, the
10 administrative regulation shall be deferred to the next regularly scheduled
11 meeting of the subcommittee.

12 (c) If a representative of an administrative body for an effective administrative
13 regulation fails to appear before the subcommittee, the subcommittee may:

14 1. Defer the administrative regulation to the next regularly scheduled
15 meeting of the subcommittee; or

16 2. Make a nonbinding determination pursuant to KRS 13A.030(2), (3), and
17 (4).

18 (5) Following the meeting and before the next regularly scheduled meeting of the
19 Commission, the Administrative Regulation Review Subcommittee shall forward to
20 the Commission its findings, recommendations, or other comments it deems
21 appropriate in writing. The Administrative Regulation Review Subcommittee shall
22 also forward to the Commission its findings, recommendations, or other comments
23 it deems appropriate on an effective administrative regulation it has reviewed. The
24 Administrative Regulation Review Subcommittee's findings shall be published in
25 the Administrative Register.

26 (6) (a) After review by the Administrative Regulation Review Subcommittee, the
27 Commission shall, on the first Wednesday of the following month, or if the

- 1 first Wednesday is a legal holiday, the next workday of the month, assign a
2 filed administrative regulation to:
- 3 1. An interim joint committee with subject matter jurisdiction; or
 - 4 2. The Senate and House standing committees with subject matter
5 jurisdiction.
- 6 (b) Upon notification of the assignment by the Commission, the legislative
7 subcommittee to which the administrative regulation is assigned shall notify
8 the regulations compiler:
- 9 1. Of the date, time, and place of the meeting at which it will consider the
10 administrative regulation; or
 - 11 2. That it will not meet to consider the administrative regulation.
- 12 (7) (a) Within ninety (90) days of the assignment, the subcommittee may hold a
13 public meeting during which the administrative regulation shall be reviewed.
- 14 (b) If the ninetieth day of the assignment falls on a Saturday, Sunday, or holiday,
15 the deadline for review shall be the workday following the Saturday, Sunday,
16 or holiday.
- 17 (c) 1. If the administrative regulation is assigned to an interim joint committee
18 and a session of the General Assembly begins during the review period,
19 the assignment shall transfer to the Senate and House standing
20 committees with subject matter jurisdiction.
- 21 2. If the administrative regulation is assigned to Senate and House standing
22 committees and a session of the General Assembly adjourns sine die
23 during the review period, the assignment shall transfer to the interim
24 joint committee with subject matter jurisdiction.
- 25 3. An administrative regulation may be transferred more than one (1) time
26 under this paragraph. A transfer shall not extend the review period
27 established by this subsection.

1 (d) Notice of the time, date, and place of the meeting shall be placed in the
2 legislative calendar.

3 (8) Except as provided in subsection (9) of this section, a subcommittee shall be
4 empowered to make the same nonbinding determinations and to exercise the same
5 authority as the Administrative Regulation Review Subcommittee.

6 (9) (a) This subsection shall apply to administrative regulations filed with the
7 Commission.

8 (b) A majority of the entire membership of the subcommittee to which an
9 administrative regulation is referred pursuant to subsection (6)(a) of this
10 section shall constitute a quorum for purposes of reviewing administrative
11 regulations.

12 (c) In order to amend an administrative regulation pursuant to KRS 13A.320,
13 defer an administrative regulation pursuant to KRS 13A.300, or find an
14 administrative regulation deficient pursuant to KRS 13A.030(2), (3), and (4),
15 the motion to amend, defer, or find deficient shall be approved by a majority
16 of the entire membership of the subcommittee. Additionally, during a session
17 of the General Assembly, standing committees of the Senate and House of
18 Representatives shall agree in order to amend an administrative regulation,
19 defer an administrative regulation, or find an administrative regulation
20 deficient by:

- 21 1. Meeting separately; or
- 22 2. Meeting jointly. If the standing committees meet jointly, it shall require
23 a majority vote of Senate members voting and a majority of House
24 members voting, as well as the majority vote of the entire membership
25 of the standing committees meeting jointly, in order to take action on the
26 administrative regulation.

27 (10) (a) The quorum requirements of subsection (9)(b) of this section shall apply to an

1 effective administrative regulation under review by a subcommittee.

2 (b) A motion to find an effective administrative regulation deficient shall be
3 approved by:

4 1. A majority of the entire membership of the Administrative Regulation
5 Review Subcommittee;

6 2. **A majority of the entire membership of an interim joint committee;**

7 **3.** A majority of **the entire membership of a:**

8 **a.** House **standing committee; and**~~[or]~~

9 **b.** Senate standing committee; or

10 ~~4.~~~~[3.]~~A joint standing committee in accordance with subsection (9)(c)2. of
11 this section.

12 (11) (a) Upon adjournment of the meeting at which a legislative subcommittee has
13 considered an administrative regulation pursuant to subsection (7) or (10) of
14 this section, the subcommittee shall inform the regulations compiler of its
15 findings, recommendations, or other action taken on the administrative
16 regulation.

17 (b) Following the meeting and before the next regularly scheduled meeting of the
18 Commission, the subcommittee shall forward to the Commission its findings,
19 recommendations, or other comments it deems appropriate in writing. The
20 subcommittee's findings shall be published in the Administrative Register.

21 ➔Section 4. KRS 13A.3104 is amended to read as follows:

22 (1) If an administrative body does not want an administrative regulation to expire under
23 KRS 13A.3102, the administrative body shall, **in the year prior to the expiration**
24 **date:**

25 (a) Review the administrative regulation in its entirety for compliance with
26 current law governing the subject matter of the administrative regulation;

27 (b) ~~[Prior to the expiration date,]~~File a certification letter with the regulations

1 compiler stating whether the administrative regulation:

2 1. Shall be amended *because it is not in compliance with current*
 3 *governing law or otherwise needs amendment;*~~[or]~~

4 2. *Shall* remain in effect without amendment *because it is in compliance*
 5 *with current governing law; or*

6 3. *Is in need of amendment and a proposed amendment has already been*
 7 *filed;* and

8 (c) Not be required to consider KRS Chapter 13A drafting and formatting
 9 requirements as part of its review.

10 (2) The certification letter shall be on the administrative body's official letterhead, in
 11 the format prescribed by the regulations compiler, and include the following
 12 information:

13 (a) The name of the administrative body;

14 (b) The number of the administrative regulation;

15 (c) The title of the administrative regulation;

16 (d) ~~The~~^[A] statement *required by subsection (1)(b) of this section*~~that:~~

17 ~~1. The administrative body shall be amending the administrative~~
 18 ~~regulation; or~~

19 ~~2. The administrative regulation shall remain in effect without~~
 20 ~~amendment];~~~~[and]~~

21 (e) A brief statement in support of the decision; *and*

22 *(f) The authorizing signature of the administrative body.*

23 (3) (a) If the certification letter was filed pursuant to subsection (1)(b)1. of this
 24 section, stating that the administrative regulation shall be amended, the
 25 administrative body shall file an amendment to the administrative regulation
 26 in accordance with KRS Chapter 13A within eighteen (18) months of the date
 27 the certification letter was filed.

1 (b) If the amendment was filed in accordance with paragraph (a) of this
2 subsection:

3 1. The administrative regulation shall not expire if the amendment~~[it]~~ is
4 continuing through the administrative regulations process; or

5 2. The administrative regulation shall expire on the date the amendment is
6 withdrawn or otherwise ceases going through the administrative
7 regulations process.

8 (c) Once the amendment is effective, the regulations compiler shall update the
9 last effective date for that administrative regulation to reflect the amendment's
10 effective date.

11 **(d) If the amendment was not filed in accordance with paragraph (a) of this**
12 **subsection, the administrative regulation shall expire at the end of the**
13 **eighteen (18) month period.**

14 (4) If the certification letter was filed pursuant to subsection (1)(b)2. of this section,
15 stating that the administrative regulation shall remain in effect without amendment,
16 the regulations compiler shall:

17 (a) Update the administrative regulation's history line to state that a certification
18 letter was received; and

19 (b) Change the last effective date of the administrative regulation to the date the
20 certification letter was received.

21 (5) **(a) If the certification letter was filed pursuant to subsection (1)(b)3. of this**
22 **section, stating that a proposed amendment has already been filed:**

23 **1. The administrative regulation shall not expire if the amendment is**
24 **continuing through the administrative regulations process; or**

25 **2. The administrative regulation shall expire on the date the amendment**
26 **is withdrawn or otherwise ceases going through the administrative**
27 **regulations process.**

1 **(b) Once the amendment is effective, the regulations compiler shall update the**
 2 **last effective date for that administrative regulation to reflect the**
 3 **amendment's effective date.**

4 **(6)** If filed by the deadline established in KRS 13A.050(3), the regulations compiler
 5 shall publish in the Administrative Register of Kentucky each certification letter
 6 received:

7 (a) In summary format; or

8 (b) In its entirety.

9 ➔Section 5. KRS 158.6471 is amended to read as follows:

10 **(1) When reviewing an administrative regulation pursuant to KRS 158.647, the**
 11 **Education Assessment and Accountability Review Subcommittee shall have the**
 12 **same powers and use the same process and procedures as the Administrative**
 13 **Regulation Review Subcommittee under KRS Chapter 13A, except as otherwise**
 14 **authorized by subsection (2) of this section.**

15 **(2) (a) If the subcommittee places an administrative regulation on the agenda for**
 16 **review, and at that meeting the subcommittee fails to achieve a quorum to**
 17 **conduct the review, the administrative regulation shall be deferred for thirty**
 18 **(30) days and shall be placed on the agenda for review at the**
 19 **subcommittee's next meeting.**

20 **(b) If at the second meeting the subcommittee fails to achieve a quorum, then**
 21 **the administrative regulation shall be considered reviewed by the**
 22 **subcommittee and shall proceed in accordance with the process outlined**
 23 **under KRS Chapter 13A.**

24 **(3) The subcommittee may request the same professional and clerical support as is**
 25 **provided to the Administrative Regulation Review Subcommittee in reviewing**
 26 **administrative regulations.**

27 ~~{Within forty-five (45) days after publication of an administrative regulation in "The~~

1 ~~Administrative Register" or within sixty (60) days of the receipt of a statement of~~
2 ~~consideration, the Education Assessment and Accountability Review Subcommittee~~
3 ~~shall meet to review the administrative regulation.~~

4 ~~(2) The meetings shall be open to the public.~~

5 ~~(3) Public notice of the time, date, and place of the subcommittee meeting shall be~~
6 ~~given in The Administrative Register.]~~

7 ~~(4) A representative of the Department of Education shall be present to explain the~~
8 ~~administrative regulation and to answer questions thereon. If a representative of the~~
9 ~~Department of Education is not present at the subcommittee meeting, the~~
10 ~~administrative regulation shall be deferred to the next regularly scheduled meeting~~
11 ~~of the subcommittee.~~

12 ~~(5) Following the meeting and before the next regularly scheduled meeting of the~~
13 ~~Legislative Research Commission, the subcommittee shall forward to the~~
14 ~~Commission its findings, recommendations, or other comments it deems~~
15 ~~appropriate in writing. The subcommittee shall also forward to the Commission its~~
16 ~~findings, recommendations, or other comments it deems appropriate on an existing~~
17 ~~administrative regulation it has reviewed. One (1) copy shall be sent to the~~
18 ~~Department of Education. The subcommittee's findings shall be published in The~~
19 ~~Administrative Register.~~

20 ~~(6) (a) After review by the subcommittee, the Commission shall at its next regularly~~
21 ~~scheduled meeting assign a filed administrative regulation [the matter] as~~
22 ~~appropriate to the Interim Joint Committee on Education, the Senate standing~~
23 ~~Education Committee, the House standing Education Committee, or the Senate and~~
24 ~~the House standing committees meeting jointly.~~

25 ~~**(5) When reviewing an administrative regulation, the Education Committee shall**~~
26 ~~**have the same powers and use the same process and procedures as other interim**~~
27 ~~**joint committees or standing committees with subject matter jurisdiction under**~~

1 **KRS Chapter 13A**

2 ~~{(b) Upon notification of the assignment by the Commission, the Education~~
3 ~~Committee shall notify the regulations compiler:~~

4 ~~1. Of the date, time, and place of the meeting at which it will consider the~~
5 ~~matter; or~~

6 ~~2. That it will not meet to consider the matter.~~

7 ~~(7) Within thirty (30) days of the assignment, the Education Committee, when it plans~~
8 ~~to consider an administrative regulation, shall hold a public meeting during which~~
9 ~~the regulation shall be reviewed. If the thirtieth day of the assignment falls on a~~
10 ~~Saturday, Sunday, or holiday, the deadline for review shall be the workday~~
11 ~~following the Saturday, Sunday, or holiday. The committee may also review an~~
12 ~~existing administrative regulation and make a determination as provided by KRS~~
13 ~~13A.030(2), (3), and (4). Notice of the time, date, and place of the meeting shall be~~
14 ~~placed in the legislative calendar.~~

15 ~~(8) The Department of Education shall comply with subsection (4) of this section.~~

16 ~~(9) The Education Committee shall be empowered to make the same nonbinding~~
17 ~~determinations and to exercise the same authority as the Administrative Regulation~~
18 ~~Review Subcommittee.~~

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

23 ~~(b) Following the meeting and before the next regularly scheduled meeting of the~~
24 ~~Commission, the committee shall forward to the Commission its findings,~~
25 ~~recommendations, or other comments it deems appropriate in writing. One (1)~~
26 ~~copy shall be sent to the Department of Education. The committee's findings~~
27 ~~shall be published in The Administrative Register].~~