

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 developed and maintained by the Legislative Research Commission, if**
7 **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) Paper-based shall include any procedure in this chapter that requires an**
14 **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26 (6) Maintain a file of material incorporated by reference, including superseded or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 identifying information, including address,**
12 **phone number, fax number, Web site address, and e-mail address;**
- 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.3104 is amended to read as follows:

7 (1) If an administrative body does not want an administrative regulation to expire under
8 KRS 13A.3102, the administrative body shall, in the twelve (12) months prior to
9 the expiration date:

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

12 (b) ~~[Prior to the expiration date,]~~File a certification letter with the regulations
13 compiler stating whether the administrative regulation:

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

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

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

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

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

25 (a) The name of the administrative body;

26 (b) The number of the administrative regulation;

27 (c) The title of the administrative regulation;

- 1 (d) ~~The~~^[A] statement **required by subsection (1)(b) of this section**~~that:~~
 2 1. ~~The administrative body shall be amending the administrative~~
 3 ~~regulation; or~~
 4 2. ~~The administrative regulation shall remain in effect without~~
 5 ~~amendment];~~~~and]~~

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

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

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

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

- 15 1. The administrative regulation shall not expire if **the amendment**~~it~~ is
 16 continuing through the administrative regulations process; or
 17 2. The administrative regulation shall expire on the date the amendment is
 18 withdrawn or otherwise ceases going through the administrative
 19 regulations process.

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

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

26 (4) If the certification letter was filed pursuant to subsection (1)(b)2. of this section,
 27 stating that the administrative regulation shall remain in effect without amendment,

1 the regulations compiler shall:

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

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

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

8 1. The administrative regulation shall not expire if the amendment is
9 continuing through the administrative regulations process; or

10 2. The administrative regulation shall expire on the date the amendment
11 is withdrawn or otherwise ceases going through the administrative
12 regulations process.

13 (b) Once the amendment is effective, the regulations compiler shall update the
14 last effective date for that administrative regulation to reflect the
15 amendment's effective date.

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

19 (a) In summary format; or

20 (b) In its entirety.

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

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

27 (2) (a) If the subcommittee places an administrative regulation on its agenda for

1 review, and at that meeting the subcommittee fails to achieve a quorum to
 2 conduct the review, the administrative regulation shall be deferred for up to
 3 forty-five (45) days and shall be placed on the agenda for review at the
 4 subcommittee's next meeting.

5 (b) If at the next meeting the subcommittee fails to achieve a quorum, then the
 6 administrative regulation shall be considered reviewed by the subcommittee
 7 and shall proceed in accordance with the process outlined under KRS
 8 Chapter 13A.

9 (3) The subcommittee may request the same professional and clerical support as is
 10 provided to the Administrative Regulation Review Subcommittee in reviewing
 11 administrative regulations.

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

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

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

19 ~~(4) A representative of the Department of Education shall be present to explain the~~
 20 ~~administrative regulation and to answer questions thereon. If a representative of the~~
 21 ~~Department of Education is not present at the subcommittee meeting, the~~
 22 ~~administrative regulation shall be deferred to the next regularly scheduled meeting~~
 23 ~~of the subcommittee.~~

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

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

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

10 **(5) When reviewing an administrative regulation, the Education Committee shall**
11 **have the same powers and use the same process and procedures as other interim**
12 **joint committees or standing committees with subject matter jurisdiction under**
13 **KRS Chapter 13A**

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

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

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

19 ~~(7) Within thirty (30) days of the assignment, the Education Committee, when it plans~~
20 ~~to consider an administrative regulation, shall hold a public meeting during which~~
21 ~~the regulation shall be reviewed. If the thirtieth day of the assignment falls on a~~
22 ~~Saturday, Sunday, or holiday, the deadline for review shall be the workday~~
23 ~~following the Saturday, Sunday, or holiday. The committee may also review an~~
24 ~~existing administrative regulation and make a determination as provided by KRS~~
25 ~~13A.030(2), (3), and (4). Notice of the time, date, and place of the meeting shall be~~
26 ~~placed in the legislative calendar.~~

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

- 1 ~~(9) The Education Committee shall be empowered to make the same nonbinding~~
2 ~~determinations and to exercise the same authority as the Administrative Regulation~~
3 ~~Review Subcommittee.~~
- 4 ~~(10) (a) Upon adjournment of the meeting at which the Education Committee has~~
5 ~~considered an administrative regulation pursuant to subsection (7) of this~~
6 ~~section, the committee shall inform the regulations compiler of its findings,~~
7 ~~recommendations, or other action taken on the administrative regulation.~~
- 8 ~~(b) Following the meeting and before the next regularly scheduled meeting of the~~
9 ~~Commission, the committee shall forward to the Commission its findings,~~
10 ~~recommendations, or other comments it deems appropriate in writing. One (1)~~
11 ~~copy shall be sent to the Department of Education. The committee's findings~~
12 ~~shall be published in The Administrative Register].~~