

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 READ AS FOLLOWS:

5 *(1) For any enactment of the General Assembly that requires an administrative body*
6 *to promulgate an administrative regulation, the administrative body shall*
7 *promulgate the relevant administrative regulation as follows:*

8 *(a) For a statutory requirement that becomes effective on a date when the*
9 *General Assembly is not in session, the administrative regulation shall be*
10 *promulgated within ninety (90) days after the effective date of the Act which*
11 *contains the statutory requirement; or*

12 *(b) For a statutory requirement that becomes effective on a date when the*
13 *General Assembly is in session, the administrative regulation shall be*
14 *promulgated within ninety (90) days after the sine die adjournment of that*
15 *session.*

16 *(2) (a) If an administrative body fails to promulgate an administrative regulation*
17 *before the deadline established by subsection (1) of this section has expired,*
18 *the cabinet secretary, the cabinet secretary's designee, or the head of the*
19 *administrative body responsible for the failure to promulgate shall appear*
20 *before the subcommittee at the subcommittee's next scheduled meeting*
21 *immediately following the expiration.*

22 *(b) The representative of the cabinet or administrative body shall explain why*
23 *the administrative regulation has not been promulgated and may request a*
24 *time extension as authorized by subsection (3) of this section.*

25 *(c) The subcommittee may allow other interested persons to testify on the*
26 *matter at the same meeting.*

27 *(3) After hearing the testimony presented under subsection (2) of this section at a*

1 subcommittee meeting, the subcommittee may grant the administrative body an
 2 extension of thirty (30) days after the adjournment of the subcommittee meeting
 3 to promulgate the relevant administrative regulation. The subcommittee may only
 4 grant the administrative body one (1) extension of time for each matter addressed
 5 under this subsection.

6 (4) If the administrative body fails to meet the requirements of this section, the
 7 cabinet secretary, the cabinet secretary's designee, or the head of the
 8 administrative body shall be subject to the process of the Commission described
 9 under Section 2 of this Act.

10 ➔Section 2. KRS 7.110 is amended to read as follows:

11 (1) The Commission, its co-chairmen or director, any other member of the General
 12 Assembly authorized by the director, or any employee authorized by the director:~~;~~

13 (a) Shall have access to all public records as provided in KRS 61.870 to 61.884,
 14 of every agency, division, or department of state government, and of any
 15 agency or institution, public or private, which has been the recipient of public
 16 funds~~. The Commission, its co-chairmen or director, any other member of the~~
 17 ~~General Assembly authorized by the director, or any employee authorized by~~
 18 ~~the director,];~~

19 (b) May utilize automated data processing procedures and equipment in the
 20 accession of public records, if such records exist in machine readable form.
 21 To effect the purposes of this section, the Commission shall promulgate such
 22 rules and regulations relating to the accession of public records as are
 23 necessary~~. The Commission, its co-chairmen or director, any other member~~
 24 ~~of the General Assembly authorized by the director, or any employee~~
 25 ~~authorized by the director,]; and~~

26 (c) May require information on oath of any person touching any matter which the
 27 person~~he~~ is instructed to respond, investigate, study, or audit, and shall have

1 the power to subpoena witnesses and records for such purpose, and otherwise
2 compel the giving of evidence of any matter under study. If any person fails or
3 refuses to testify or furnish documentary evidence concerning any matter with
4 respect to a public agency's failure to comply with Section 1 of this Act or to
5 which the Commission desires information pertaining to the studies in which
6 it is engaged, the Franklin Circuit Court, on application of the Commission,
7 may compel obedience by proceedings for contempt as in the case of
8 disobedience of a subpoena issued from the Circuit Court or a refusal to
9 testify therein. Every attending witness so subpoenaed under this section shall
10 receive~~[for his attendance]~~ the fee and mileage provided for witnesses in civil
11 cases in Circuit Court, which shall be audited and paid upon the presentation
12 of proper vouchers sworn to by the witness and approved by the Commission.

13 (2) All state agencies and institutions shall cooperate with the Commission to effectuate
14 the purposes of KRS 7.090 to 7.110 and shall submit copies of their annual or
15 biennial reports to the Commission.

16 (3) The Commission shall encourage and arrange conferences with officials of other
17 states and of other units of government; carry forward the participation of this state
18 as a member of the Council of State Governments, both regionally and nationally,
19 and formulate proposals for cooperation between this state and other states. The
20 Legislative Research Commission shall function as Kentucky's commission on
21 interstate cooperation in carrying out the program of the Council of State
22 Governments as it relates to Kentucky.

23 (4) The Commission shall designate persons to represent Kentucky at the National
24 Conference of Commissioners on Uniform State Laws. The Commission shall
25 report the findings and recommendations of the national conference to the General
26 Assembly. Any funds appropriated to the commissioners on uniform state laws shall
27 be paid out on vouchers approved by the director of the Commission.

1 (5) The Commission may establish such subcommittees and advisory citizens'
 2 committees as may be convenient or desired for the proper and efficient
 3 performance of its functions. Members of the General Assembly other than those
 4 who are members of the Commission designated to serve on subcommittees shall
 5 receive the same travel allowances and compensation for attending meetings as they
 6 do for attending meetings during a session of the General Assembly, except that
 7 each General Assembly member who is a chairman of a joint interim committee of
 8 the Legislative Research Commission shall be paid, in addition to such allowances
 9 and compensation, ten dollars (\$10) per day for each committee meeting that *the*
 10 *member*~~he~~ chairs.

11 (6) The Commission shall report its findings, either with or without recommendations,
 12 to the Governor of the Commonwealth, and to each member of the General
 13 Assembly at least thirty (30) days prior to the convening of each regular session of
 14 the General Assembly.

15 ➔Section 3. KRS 13A.030 is amended to read as follows:

16 (1) The Administrative Regulation Review Subcommittee shall:

17 (a) Conduct a continuous study as to whether additional legislation or changes in
 18 legislation are needed based on various factors, including, but not limited to,
 19 review of new, emergency, and existing administrative regulations, the lack of
 20 administrative regulations, and the needs of administrative bodies;

21 (b) Except as provided by KRS 158.6471 and 158.6472, review and comment
 22 upon effective administrative regulations pursuant to subsections (2), (3), and
 23 (4) of this section or administrative regulations filed with the Commission;

24 (c) Make recommendations for changes in statutes, new statutes, repeal of statutes
 25 affecting administrative regulations or the ability of administrative bodies to
 26 promulgate them;

27 *(d) Fulfill its duties as described in Section 1 of this Act relating to*

1 administrative bodies; and

2 ~~(e)~~(d) Conduct such other studies relating to administrative regulations as may
3 be assigned by the Commission.

4 (2) The subcommittee may make a determination:

5 (a) That an effective administrative regulation or an administrative regulation
6 filed with the Commission is deficient because it:

7 1. Is wrongfully promulgated;

8 2. Appears to be in conflict with an existing statute;

9 3. Appears to have no statutory authority for its promulgation;

10 4. Appears to impose stricter or more burdensome state requirements than
11 required by the federal mandate, without reasonable justification;

12 5. Fails to use tiering when tiering is applicable;

13 6. Is in excess of the administrative body's authority;

14 7. Appears to impose an unreasonable burden on government or small
15 business, or both;

16 8. Is filed as an emergency administrative regulation without adequate
17 justification of the emergency nature of the situation as described in
18 KRS 13A.190(1);

19 9. Has not been noticed in conformance with the requirements of KRS
20 13A.270(3); or

21 10. Appears to be deficient in any other manner;

22 (b) That an administrative regulation is needed to implement an existing statute;
23 or

24 (c) That an administrative regulation should be amended or repealed.

25 (3) The subcommittee may review an effective administrative regulation if requested by
26 a member of the subcommittee.

27 (4) The subcommittee may require any administrative body to submit data and

1 information as required by the subcommittee in the performance of its duties under
2 this chapter, and no administrative body shall fail to provide the information or data
3 required.

4 ➔Section 4. KRS 13A.290 is amended to read as follows:

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

9 (b) The agenda shall:

- 10 1. Include each administrative regulation that completed the public
11 comment process;
- 12 2. Include each administrative regulation for which a statement of
13 consideration was received on or before 12 noon, eastern time, on the
14 fifteenth day of the prior calendar month;
- 15 3. Include each effective administrative regulation that the subcommittee
16 has decided to review;
- 17 4. Include each administrative regulation that was deferred from the prior
18 month's meeting of the subcommittee;

19 **5. Include testimony from each administrative body that has violated**
20 **Section 1 of this Act since the subcommittee's last meeting;** and

21 ~~6. [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 determination pursuant to KRS 13A.030(2), (3), and (4), or KRS
17 13A.190(3).

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 a legislative committee with subject matter
3 jurisdiction.

4 (b) Upon notification of the assignment by the Commission, the legislative
5 committee to which the administrative regulation is assigned shall notify the
6 regulations compiler:

7 1. Of the date, time, and place of the meeting at which it will consider the
8 administrative regulation; or

9 2. That it will not meet to consider the administrative regulation.

10 (7) (a) Within ninety (90) days of the assignment, the legislative committee may hold
11 a public meeting during which the administrative regulation shall be reviewed.

12 (b) If the ninetieth day of the assignment falls on a Saturday, Sunday, or holiday,
13 the deadline for review shall be the workday following the Saturday, Sunday,
14 or holiday.

15 (c) 1. If the administrative regulation is assigned to an interim joint committee
16 and a session of the General Assembly begins during the review period,
17 the assignment shall transfer to the Senate and House standing
18 committees with subject matter jurisdiction.

19 2. If the administrative regulation is assigned to Senate and House standing
20 committees and a session of the General Assembly adjourns sine die
21 during the review period, the assignment shall transfer to the interim
22 joint committee with subject matter jurisdiction.

23 3. An administrative regulation may be transferred more than one (1) time
24 under this paragraph. A transfer shall not extend the review period
25 established by this subsection.

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

- 1 (8) Except as provided in subsection (9) of this section, a legislative committee shall be
2 empowered to make the same determinations and to exercise the same authority as
3 the Administrative Regulation Review Subcommittee.
- 4 (9) (a) This subsection shall apply to administrative regulations filed with the
5 Commission.
- 6 (b) A majority of the entire membership of the legislative committee shall
7 constitute a quorum for purposes of reviewing administrative regulations.
- 8 (c) In order to amend an administrative regulation pursuant to KRS 13A.320,
9 defer an administrative regulation pursuant to KRS 13A.300, or find an
10 administrative regulation deficient pursuant to KRS 13A.030(2), (3), or (4) or
11 13A.190(3), the motion to amend, defer, or find deficient shall be approved by
12 a majority of the entire membership of the legislative committee.
13 Additionally, during a session of the General Assembly, standing committees
14 of the Senate and House of Representatives shall agree in order to amend an
15 administrative regulation, defer an administrative regulation, or find an
16 administrative regulation deficient by:
- 17 1. Meeting separately; or
 - 18 2. Meeting jointly. If the standing committees meet jointly, it shall require
19 a majority vote of Senate members voting and a majority of House
20 members voting, as well as the majority vote of the entire membership
21 of the standing committees meeting jointly, in order to take action on the
22 administrative regulation.
- 23 (10) (a) The quorum requirements of subsection (9)(b) of this section shall apply to an
24 effective administrative regulation under review by a legislative committee.
- 25 (b) A motion to find an effective administrative regulation deficient shall be
26 approved by:
- 27 1. A majority of the entire membership of the Administrative Regulation

- 1 Review Subcommittee; or
- 2 2. A legislative committee in accordance with subsection (9)(c) of this
- 3 section.
- 4 (11) (a) Upon adjournment of the meeting at which a legislative committee has
- 5 considered an administrative regulation pursuant to subsection (7) or (10) of
- 6 this section, the legislative committee shall inform the regulations compiler of
- 7 its findings, recommendations, or other action taken on the administrative
- 8 regulation.
- 9 (b) Following the meeting and before the next regularly scheduled meeting of the
- 10 Commission, the legislative committee shall forward to the Commission its
- 11 findings, recommendations, or other comments it deems appropriate in
- 12 writing. The legislative committee's findings shall be published in the
- 13 Administrative Register.