GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 129

AS ENACTED

TUESDAY, MARCH 29, 2016

RECEIVED AND FILED
DATE April 9, 2016
11:35 am
ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

AN ACT relating to administrative regulations.

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

➔Section 1. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, ***and*** the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;

(b) Declaratory rulings;

(c) Intradepartmental memoranda not in conflict with KRS 13A.130;

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;

(7) "Federal mandate" means any federal constitutional, legislative, or executive law or order ***that***~~[which]~~ requires or permits any administrative body to engage in regulatory activities ***that***~~[which]~~ impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(8) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(9) "Filed" or "promulgated" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(10) "***Local*** government" means and includes a city, county, urban-county, charter county, consolidated local government, special district, or a quasi-governmental body authorized by the Kentucky Revised Statutes or a local ordinance;

(11) "Proposed administrative regulation" means an administrative regulation that:

(a) Has been filed by an administrative body; and

(b) Has not become effective or been withdrawn;

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

(13) "Small business" means a business entity, including its affiliates, that:

(a) Is independently owned and operated; and

(b) 1. Employs fewer than one hundred fifty (150) full-time employees or their equivalent; or

2. Has gross annual sales of less than six million dollars ($6,000,000).

(14) "Statement of consideration" means the document required by KRS 13A.280 in which the administrative body summarizes the comments received, its responses to those comments, and the action taken, if any, as a result of those comments and responses;

(15) "Subcommittee" means the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, an interim joint committee, or a House and Senate standing committee;~~[and]~~

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities***; and***

(17) "Written comments" means comments submitted to the administrative body's contact person identified pursuant to subsection (6)(d) of Section 14 of this Act via hand delivery, United States mail, e-mail, or facsimile and may include but is not limited to comments submitted internally from within the promulgating administrative body or from another administrative body.

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

(1) There is hereby created a permanent subcommittee of the Legislative Research Commission to be known as the Administrative Regulation Review Subcommittee. The subcommittee shall be composed of eight (8) members appointed as follows: three (3) members of the Senate appointed by the President; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. The members of the subcommittee shall serve for terms of two (2) years, and the members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. Any vacancy ***that***~~[which]~~ may occur in the

membership of the subcommittee shall be filled by the same appointing authority who made the original appointment.

(2) On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be ***rescheduled***~~[canceled]~~ by agreement of both co-chairs. The co-chairs shall have joint responsibilities for subcommittee meeting agendas and presiding at subcommittee meetings. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(3).

(3) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) A majority of the entire membership of the Administrative Regulation Review Subcommittee shall constitute a quorum, and all actions of the subcommittee shall be by vote of a majority of its entire membership.

➔Section 3. KRS 13A.040 is amended to read as follows:

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

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

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

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

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

(5) Maintain a file of ineffective administrative regulations;

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

(7) Prepare the Kentucky Administrative Regulations Service;

(8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;

(9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;

(10) Change items in an administrative regulation in response to a specific written request ***for a technical amendment*** submitted by the administrative body if the regulations compiler determines that the requested changes do not affect the substance of the administrative regulation. ***Examples of technical amendments***~~[The changes may]~~ include the address of the administrative body, citations to statutes or other administrative regulations if a format change within that statute or administrative regulation has changed the numbering or lettering of parts, or other changes in accordance with KRS 13A.312;

(11) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the drafting, ***formatting***~~[format]~~, or filing requirements established by the provisions of ***subsections (4) to (10) of Section 12 of this Act,*** KRS 13A.220, 13A.222(1), (2), and (3),~~[and]~~ 13A.230, ***and Section 25 of this Act,*** and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing; and

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

➔Section 4. KRS 13A.050 is amended to read as follows:

(1) The Legislative Research Commission shall compile, publish, and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service. The Legislative Research Commission shall maintain the official version of the administrative regulations in an electronic database that shall be made available to the public as provided by KRS 7.500.

(2) (a) There is hereby created a publication known as "~~[~~The ~~]~~Administrative Register ***of Kentucky" or "Administrative Register***" to be published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of administrative regulations filed in accordance with this chapter.

(b) Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text published in the Administrative Register along with the accompanying statements required by KRS 13A.190, 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.

(c) Within five (5) workdays of the publication of an administrative regulation in the Administrative Register, an administrative body shall:

1. Review the text and accompanying statements of the administrative regulation; and

2. Notify the regulations compiler in writing or by e-mail of errors.

(3) The Administrative Register shall be published the first day of each month and shall include all administrative regulations received by the Legislative Research Commission by 12 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday, the deadline is the workday ***that***~~[which]~~ immediately precedes the Saturday, Sunday, or holiday.

(4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as published in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be provided to the Office of the Secretary of State.

(5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative

Research Commission in carrying out the provisions of this section.

(6) Copies of administrative regulations or other items required to be filed by this chapter shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

➔Section 5. KRS 13A.070 is amended to read as follows:

(1) The Commission ***may***~~[shall]~~ promulgate administrative regulations governing the manner and form in which administrative regulations shall be prepared, to the end that all administrative regulations shall be prepared in a uniform manner.~~[The compiler shall refuse to accept for filing any administrative regulation that does not conform to KRS Chapter 13A and the administrative regulations promulgated thereunder.]~~

(2) The Commission shall furnish advice and assistance to all administrative bodies in the preparation of their administrative regulations, and in revising, codifying, and editing existing or new administrative regulations.

(3) An administrative regulation promulgated by the Commission shall be signed by the President of the Senate and the Speaker of the House of Representatives.

➔Section 6. KRS 13A.100 is amended to read as follows:

Subject to limitations in applicable statutes, any administrative body ***that***~~[which]~~ is empowered to promulgate administrative regulations shall, by administrative regulation, prescribe, consistent with applicable statutes:

(1) Each statement of general applicability, policy, procedure, memorandum, or other form of action that implements; interprets; prescribes law or policy; describes the organization, procedure, or practice requirements of any administrative body; or

affects private rights or procedures available to the public;

(2) The process for application for license, benefits available or other matters for which an application would be appropriate unless such process is prescribed by a statute;

(3) Fees, except for those exempted in paragraphs (a) through (j) of this subsection, to be charged by the administrative body if such fees are authorized by law and are not set by statute:

(a) State park room rates;

(b) Prices for food in restaurants at state facilities;

(c) Prices for goods at gift shops at state facilities;

(d) Prices for groceries and other items sold at state facilities;

(e) Prices charged for state publications;

(f) Prices charged for rides and amusement activities at state facilities;

(g) Admission fees to athletic and entertainment events at state facilities;

(h) Charges for swimming, skiing, horseback riding, and similar recreational activities at state facilities;

(i) Charges for boat and equipment rentals for recreational purposes at state facilities; and

(j) Admission fees charged for seminars and educational courses by state administrative bodies;

(4) The procedures to be utilized by the administrative body in the conduct of hearings by or for the administrative body unless such procedures are prescribed by a statute; and

(5) The disciplinary procedures within the jurisdiction of the administrative body unless such procedures are prescribed by statute.

➔Section 7. KRS 13A.110 is amended to read as follows:

Except as provided in Section 35 of this Act, and subject to limitations in applicable statutes, any administrative body ***that***~~[which]~~ is empowered to promulgate administrative

regulations may, consistent with applicable statutes, prescribe forms and tables for use by the administrative body and for the public in dealing with the administrative body unless the content of such form is prescribed by a statute. Forms that are required to be submitted by a regulated entity shall be included in an administrative regulation. Forms and tables that meet the requirements of KRS 13A.2245 may be incorporated by reference.

➔Section 8. KRS 13A.120 is amended to read as follows:

(1) (a) An administrative body may promulgate administrative regulations to implement a statute only when the act of the General Assembly creating or amending the statute specifically authorizes the promulgation of administrative regulations or administrative regulations are required by federal law, in which case administrative regulations shall be no more stringent than the federal law or regulations.

(b) An administrative body that promulgates an administrative regulation required by federal law or federal regulation shall comply with the provisions of this chapter.

(2) An administrative body shall not promulgate administrative regulations:

(a) When a statute prohibits the administrative body from promulgating administrative regulations;

(b) When the administrative body is not authorized by statute to promulgate administrative regulations;

(c) When a statute prohibits the administrative body from regulation of that particular matter;

(d) When the administrative body is not authorized by statute to regulate that particular matter;

(e) When a statute prescribes the same or similar procedure for the matter regulated;

(f) When a statute sets forth a comprehensive scheme of regulation of the particular matter;

(g) On any matter ***that***~~[which]~~ is not clearly within the jurisdiction of the administrative body;

(h) On any matter ***that***~~[which]~~ is beyond the statutory authorization of the administrative body to promulgate administrative regulations or ***that***~~[which]~~ is not clearly authorized by statute; and

(i) ***That***~~[Which]~~ modify or vitiate a statute or its intent.

(3) If a statute requires an administrative body or official to submit an administrative regulation to an official or administrative body for review or approval prior to filing the administrative regulation with the commission, the administrative body or official shall not file the administrative regulation without first having obtained the review or approval.

(4) Any administrative regulation in violation of this section or the spirit thereof is null, void, and unenforceable.

(5) No administrative body, other than the Court of Justice, shall issue rules.

(6) No administrative body shall issue standards or by any other name issue a document of any type where an administrative regulation is required or authorized by law.

➔Section 9. KRS 13A.125 is amended to read as follows:

Prior to the effective date of a ***proposed***~~[new]~~ administrative regulation~~[, or an amended administrative regulation that has been filed with the Legislative Research Commission]~~, an administrative body shall not file ***a*** subsequent ***proposed administrative regulation with the same number or title unless:***

(1) The proposed administrative regulation already filed is withdrawn in accordance with Section 28 of this Act; and

(2) A subsequent proposed administrative regulation is filed in accordance with Section 14 of this Act~~[amendments to that administrative regulation unless:~~

~~(1) Failure to do so would result in a loss of accreditation, or federal or state funds, or the imposition of another state or federal penalty; or~~

~~(2) A court decision, or a federal or state mandate requires immediate implementation of the amendment; or~~

~~(3) Conditions warrant the filing of an emergency administrative regulation; or~~

~~(4) The amendments are made:~~

~~(a) After a public hearing or public comment period as provided by KRS 13A.280; or~~

~~(b) At a subcommittee meeting during which the administrative regulation is reviewed as provided by KRS 13A.290~~].

➔Section 10. KRS 13A.130 is amended to read as follows:

(1) An administrative body shall not by internal policy, memorandum, or other form of action:

(a) Modify a statute or administrative regulation;

(b) Expand upon or limit a statute or administrative regulation; ***or***[~~and~~]

(c) Except as authorized by the Constitution of the United States, the Constitution of Kentucky, or a statute, expand or limit a right guaranteed by the Constitution of the United States, the Constitution of Kentucky, a statute, or an administrative regulation.

(2) Any administrative body memorandum, internal policy, or other form of action violative of this section or the spirit thereof is null, void, and unenforceable.

(3) This section shall not be construed to prohibit an administrative body issuing an opinion or administrative decision ***that***[~~which~~] is authorized by statute.

➔Section 11. KRS 13A.180 is amended to read as follows:

An ordinary administrative regulation is one that is promulgated in the normal manner by an administrative body ***and that***[~~which~~] does not require that it be placed in effect immediately.

➔Section 12. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that:

(a) Must be placed into effect immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of federal or state funds;

3. Meet a deadline for the promulgation of an administrative regulation that is established by state ***statute***~~[law,]~~ or federal law~~[or regulation]~~; or

4. Protect human health and the environment; and

(b) 1. Is temporary in nature and will expire as provided in this section; or

2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the~~[next]~~ Administrative Register ***in accordance with the publication deadline established in subsection (3) of Section 4 of this Act***.

(3) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred eighty (180) days after the date of filing or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(b) If an administrative body extends the time for filing a statement of consideration as provided by KRS 13A.280(2)(b), an emergency administrative regulation shall remain in effect for one hundred eighty (180) days after the date of filing plus the number of days extended under the provisions of KRS 13A.280(2)(b) or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) ***Except as established in subsection (5) of this section,*** an emergency

administrative regulation ***with the same number or title or governing the same subject matter*** shall not be filed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to~~[or substantially the same as]~~ the previously filed emergency administrative regulation shall be promulgated.

(5) ***If***~~[When]~~ an emergency administrative regulation ***with the same number or title or*** governing the same subject matter ***as***~~[governed by]~~ an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency ***required by subsection (6) of this section***.

(6) Each emergency administrative regulation shall contain a statement of:

(a) The nature of the emergency;

(b) The reasons why an ordinary administrative regulation is not sufficient;

(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;

(d) If the emergency administrative regulation will be replaced by an ordinary administrative regulation, the following statement: "The ordinary administrative regulation ***(is or is not)*** ~~[[is or is not]]~~identical to this emergency administrative regulation.";

(e) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and

(f) If applicable, the explanation required by subsection (5) of this section.

(7) ***(a)*** An administrative body shall attach the:

1.~~[(a)]~~ Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and

2.~~[(b)]~~ Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

(b) An administrative body shall file with the regulations compiler:

1. The original and five (5) copies of the emergency administrative regulation; and

2. At the same time as, or prior to, filing the paper version, an electronic version of the emergency administrative regulation and the attachments required by paragraph (a) of this subsection saved as a single document for each emergency administrative regulation in an electronic format approved by the regulations compiler.

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

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

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

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

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

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

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

(11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

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

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

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

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

writing.

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

➔Section 13. KRS 13A.200 is amended to read as follows:

An administrative regulation in contemplation of a statute provides a means whereby an administrative body may promulgate and file an administrative regulation following the enactment of a statute authorizing or directing its promulgation by the General Assembly and its approval by the Governor or its becoming law without signature but before the effective date subject to the following:

(1) The administrative regulation may be filed any time after signature by the Governor or upon the act becoming law without the Governor's signature but prior to the act's effective date;~~[.]~~

(2) The administrative regulation may be reviewed, hearings held, and all other steps taken with regard thereto, except for adoption, prior to the effective date of the statute ***that***~~[which]~~ authorized or directed its issuance;~~[.]~~

(3) All dates and other procedures ***that***~~[which]~~ apply to an ordinary administrative regulation shall apply to an administrative regulation in contemplation of a statute; ***and***~~[.]~~

(4) An administrative regulation in contemplation of a statute shall in all other respects be considered as an ordinary administrative regulation.

➔Section 14. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) (a) An administrative body shall file with the regulations compiler:

1. The original and five (5) copies of an administrative regulation; and
2. At the same time ***as, or prior to, filing the paper version***~~[the original and five (5) copies are filed]~~, an electronic version of the administrative

regulation and required attachments ***saved as a single document for each administrative regulation*** ~~[on a diskette or by e-mail]~~ in an electronic format approved by the regulations compiler.

(b) If there are differences between the paper copy and the electronic version of an administrative regulation filed with the regulations compiler, the electronic version shall be the controlling version.

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

(3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.

(4) The format of an administrative regulation shall be as follows:

(a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced through the last line of the body of the administrative regulation. The first page shall have a two (2) inch top margin. The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered, with each page starting with line number one (1). Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

(b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first

page;

(c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After Comments)," "(Repealer)," "(New Emergency Administrative Regulation)," "(Emergency Amendment)," or "(Emergency Repealer)," whichever is applicable;

(d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;

(e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by ***subsection (4)(n) and (o) of Section 16 of this Act***~~[KRS 13A.2261]~~; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions

intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).

(5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period (e.g., a., b., c., etc.). Subclauses shall be designated by lower case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.). ***A section shall not be divided into subsections, paragraphs, subparagraphs, clauses, or subclauses if there is only one (1) item in that level of division.***

(6) After the complete text of an administrative regulation, on the following page, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;

(b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

(c) Information relating to public hearings and the public comment period required by KRS 13A.270; and

(d) The name, position, ***mailing*** address, telephone number, ***e-mail address,*** and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;
2. Negotiate changes in language with a subcommittee in order to resolve such issues; and
3. Answer questions relating to the administrative regulation.

(7) The format for signatures required by ***subsection (6)(a) and (b)*** ~~[paragraphs (a) and (b) of subsection (6)]~~ of this section shall be as follows:

(a) The signature shall be placed on a signature line; and

(b) The name and title of the person signing shall be typed immediately beneath the signature line.

(8) (a) A letter of request, notification, or withdrawal required to be filed with the regulations compiler pursuant to this chapter may be filed electronically if the letter:

1. Is on the administrative body's official letterhead; and

2. Contains the signature of a representative of that administrative body.

(b) Paragraph (a) of this subsection shall not apply to the letters required by subsection (2)(b) of Section 31 of this Act for amendments at a subcommittee meeting.

➔Section 15. KRS 13A.221 is amended to read as follows:

(1) An administrative body shall divide the general subject matter of administrative regulations it promulgates into topics. A separate administrative regulation shall be promulgated for each topic.

(2) An administrative body shall not incorporate all material relating to a general

subject matter in one (1) administrative regulation. Material incorporated by reference shall be incorporated by reference in the administrative regulation governing the specific topic to which the material relates.

(3) When an administrative regulation is ***promulgated, the administrative body shall review the administrative regulation, whether it is new or amended, in its entirety for compliance***~~[amended, it shall be amended or repealed, whichever is applicable, to comply]~~ with the requirements of KRS Chapter 13A ***and current law governing the subject matter of the administrative regulation***.

➔Section 16. KRS 13A.222 is amended to read as follows:

(1) In a new administrative regulation, there shall be no underlining or bracketing.

(2) In an amendment to an administrative regulation, the new words shall precede the deleted words. The administrative body shall:

(a) Underline all new words; and

(b) Place the deleted words in brackets and strike through these words.

(3) (a) An administrative regulation shall not be amended by reference to a section only. An amendment shall contain the full text of the existing administrative regulation being amended. ***All changes made to the text of the existing administrative regulation shall be marked as required by subsection (2) of this section.***

(b) A section of an administrative regulation shall not be reserved for future use.

(4) In drafting administrative regulations, the administrative body shall comply with the ***following*** requirements:~~[established in this subsection.]~~

(a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;~~[.]~~

(b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be

expressed by the word "shall." A discretionary power shall be expressed by "may~~[.]~~";

(c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;~~[.]~~

(d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which the definitions appear. ***The format for this reference shall be: "("Defined term") is defined by KRS (specific citation).";***

(e) ***1.*** If definitions are used, they shall be placed in alphabetical order in the first section of an administrative regulation or in a separate administrative regulation.

2. a. ~~[The section or administrative regulation shall be titled "Definitions."]~~If definitions are placed in the first section of an administrative regulation, the definitions shall govern only the terms in that administrative regulation.

b. The section shall be titled "Definition." or "Definitions."

c. A definition shall not be included in a definitions section if the defined term is not used in that administrative regulation or the material incorporated by reference in that administrative

regulation.

3. a. If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of the specific chapter of the Kentucky Administrative Regulations Service to which the definitions apply.

b. The title of the administrative regulation shall~~[also]~~ contain the number of the chapter of the Kentucky Administrative Regulations Service to which the definitions apply ***and shall be in the format: "Definitions for (title number) KAR chapter (chapter number)."***

c. A definition shall not be included in a definitions administrative regulation if the defined term is not used in an administrative regulation in that specific chapter or the material incorporated by reference in an administrative regulation in that chapter.

4. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used.

5. Definitions shall be used only:

a.~~[1.]~~ When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;

b.~~[2.]~~ To avoid repetition of a phrase; or

c.~~[3.]~~ To limit or extend the provisions of an administrative regulation.

6. Definitions shall not establish requirements or standards;

(f) If a word has the same meaning as a phrase, the word shall be used;~~[.]~~

(g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;~~[.]~~

(h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;~~[.]~~

(i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where~~[.]~~";

(j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;~~[.]~~

(k) Any reference in an administrative regulation to "medical doctor," "M.D.," or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless either of those terms is specifically excluded;~~[.]~~

(l) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	----
~~[At the time when]~~	
And the same hereby is	is
Either directly or indirectly	----
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
Including but not limited to	State the specific items to be included.
Is authorized; Is empowered	may
Is defined and shall be	

construed to mean	means
Is hereby required to	shall
It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology. ***However, "et seq." may be used for citations.***
Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if;

(m) 1. Unless the authority for an administrative regulation is an appropriation provision that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of an administrative regulation shall be cited.

2. a. If an act has not been codified in the Kentucky Revised Statutes at the time an administrative regulation is promulgated, or if the authority is any branch budget bill, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), sec. (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.

b. For acts of extraordinary sessions, the citation shall be as follows: "(year) (Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section

number)." If there is more than one (1) extraordinary session of the General Assembly in the year, the citation shall specify the specific extraordinary session, as follows: "(year) (2d Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)."

3. When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation of the Kentucky Revised Statutes in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.

4. If the statutory authority is an appropriation act, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), Part (part and subpart numbers)."

5. If the authority is an executive order, the citation shall be as follows: "EO (year executive order issued)-(number of executive order)~~[.]~~";

(n) If the statutory authority is a federal statute, the citation shall be the:

1. United States Code (U.S.C.), if it has been codified; or

2. Public Law (Pub. L.) and official session laws, if it has not been codified;~~[.]~~

(o) 1. If the statutory authority is a federal regulation codified in the Code of Federal Regulations, the citation shall include the title, part, and section number, as follows: "(title number) C.F.R. (part and section number)."

2. a. If the statutory authority is a federal regulation that has not been codified in the Code of Federal Regulations, the citation shall be to the Federal Register, as follows: "(volume number) Fed. Reg. (page number) (effective date of the federal regulation) (section of Code of Federal Regulations in which it will be codified)."

b. When the federal regulation is codified, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.

3. a. If the statutory authority is a federal regulation that has been amended, and the amendment is not reflected in the current issue date of the volume of the Code of Federal Regulations in which the federal regulation is codified, the citation shall be to the Federal Register as follows: "(federal regulation that has been amended), (volume number) Fed. Reg. (page number) (effective date of the amendment)."

b. When the amendment is codified in the appropriate volume of the Code of Federal Regulations, the citation shall be amended to read as provided by subparagraph 1. of this paragraph;~~[.]~~

(p) Citations of items in the "RELATES TO" paragraph of an administrative regulation shall comply with paragraphs (m), (n), and (o) of this subsection; ***and***~~[.]~~

(q) An administrative regulation may cite the popular name of a federal or state law if the ***first usage of the*** popular name ***in that administrative regulation*** is accompanied by the citation required by this ***subsection***~~[paragraph]~~.

➔Section 17. KRS 13A.224 is amended to read as follows:

No material shall be incorporated by reference unless:

(1) The material incorporated by reference relates only to the specific subject matter governed by an administrative regulation;

(2) The material has been reviewed in detail by the administrative body;

(3) No ***state*** statute~~[, state]~~ or federal ***law***~~[regulation]~~ prescribes the same or similar procedure, or sets forth a comprehensive scheme of regulation of the subject matter; and

(4) Its incorporation is necessary in order to:

(a) Implement, interpret, or prescribe law or policy authorized or required by statute; ***or***

(b) Establish or describe the organization, procedure, or practice requirements authorized or required by statute.

➔Section 18. KRS 13A.2251 is amended to read as follows:

(1) An administrative body shall incorporate material by reference in the last section of an administrative regulation. This section shall include:

(a) The title of the material incorporated by reference placed in quotation marks, followed by the edition date of the material;

(b) Information on how the material may be obtained; and

(c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional, or branch offices of the administrative body, and the address and office hours of each. Following the required statement, the administrative body may include optional information that states the administrative body's Web site address or telephone number or that provides contact information for other sources that may have the material available to the public.

(2) The section incorporating material by reference shall be titled "Incorporation by Reference".

(a) If only one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "(name and edition date of material incorporated) is incorporated by reference."

(b) If more than one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "The following material is incorporated by reference: (a) (name and edition date of first item incorporated); and (b) (name and edition date of second item incorporated)."

(c) The second subsection of the section incorporating material by reference shall

include the following statement: "This material may be inspected, copied, or obtained, subject to applicable copyright law, at (name of administrative body, full address), Monday through Friday, ***(state the regular office hours)***~~[8:00 a.m. to 4:30 p.m]~~."

(3) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:

(a) Relevant programs, statutes, funds, rights, duties, and procedures affected by the material and the manner in which they are affected;

(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and

(c) The total number of pages incorporated by reference.

(4) (a) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed.

(b) Material incorporated by reference shall be placed in a binder, attached to the back of the administrative regulation, or filed on a CD-ROM or DVD.

1. If the material is placed in a binder, the administrative body shall indicate, on the front binder cover and on the first page of the material incorporated by reference, the:

a. Number of the administrative regulation to which the material incorporated by reference pertains;

b. Date on which it is filed; and

c. Citation of each item that is included in the binder.

2. The material incorporated by reference may be attached to the back of the administrative regulation if it is:

a. No more than four (4) pages in length; and

b. Typewritten on white paper, size eight and one-half (8 1/2) by eleven (11) inches, and single-sided.

3. The material incorporated by reference may be filed on a CD-ROM or DVD disc if the material is saved in Adobe Portable Document Format (PDF). The administrative body shall indicate on the disc and the disc's storage case the:

a. Number of the administrative regulation to which the material incorporated by reference pertains;

b. Date on which it is filed; and

c. Citation of each item that is included on the disc.

(c) If the same material is incorporated by reference in more than one (1) administrative regulation, an administrative body may file one (1) copy of the material in a binder or on a CD-ROM or DVD disc. The numbers of the administrative regulations in which the material is incorporated by reference shall be indicated with the other information as required by paragraph (b) of this subsection.

➔Section 19. KRS 13A.2255 is amended to read as follows:

(1) When an administrative ***body***~~[regulation]~~ amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:

(a) An amendment to the administrative regulation with a new edition date for the material incorporated by reference. The amendment shall be filed in accordance with:

1. Section 14 of this Act to initiate a change in an existing administrative regulation;

2. Section 25 of this Act to amend a proposed administrative regulation as a result of the hearing or written comments received; or

3. Section 31 of this Act to amend a proposed administrative regulation

at a subcommittee meeting;

(b) ~~[(1)]~~ An entire new document in which the amendments have been made but are not reflected in the manner specified in KRS 13A.222(2);

(c) ~~[(2)]~~ A detailed summary of the changes and their effect. This summary shall***:***

1. a. Describe changes that are being made in the material incorporated by reference, in sufficient detail that a person reading the summary will know the differences between the material previously incorporated by reference and the new material; or

b. List each change in the manner required by subsection (2)(c) and (d) of Section 31 of this Act; and

2. Be attached to the ***back of the*** administrative regulation ***or, if part of an amendment pursuant to Section 31 of this Act, to the amendment submitted for the subcommittee meeting***; and

(d) ~~[(3)]~~ The page or pages of any document developed by the promulgating administrative body in which changes have been made, with the changes accomplished in the manner specified in KRS 13A.222(2). Notwithstanding KRS 13A.040(6), the regulations compiler shall not be required to keep these marked copies once the administrative regulation has been adopted or withdrawn.

(2) (a) If the changes to the material incorporated by reference are technical in nature and authorized by subsection (10) of Section 3 of this Act or Section 29 of this Act, the administrative body may submit to the regulations compiler a copy of the revised material incorporated by reference and a detailed letter explaining what changes are made and the reason for the changes.

(b) If the regulations compiler determines that the requested change does not

affect the substance of the material incorporated by reference and that the change is authorized by subsection (10) of Section 3 of this Act or Section 29 of this Act, the edition date stated in the administrative regulation shall be changed to match the edition date on the revised material and the history line of that administrative regulation shall note that a technical amendment was made.

(c) If the requested change affects the substance of the material incorporated by reference or is not authorized by subsection (10) of Section 3 of this Act or Section 29 of this Act, the administrative body shall comply with subsection (1) of this section.

➔Section 20. KRS 13A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of an administrative regulation:

(a) Regulatory impact analysis as required by KRS 13A.240;

(b) Tiering statement as required by KRS 13A.210;

(c) Fiscal note as required by KRS 13A.250;

(d) Federal mandate comparison, if applicable, as required by KRS 13A.245; and

(e) The summaries provided for in KRS 13A.2245, 13A.2251, or 13A.2255, if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

(3) The electronic version of an administrative regulation and the attachments required by subsection (1) of this section shall be sent by e-mail to the regulations compiler in a single document at the same time as, or prior to, filing the paper version in accordance with Section 12, 14, or 25 of this Act in an electronic format approved by the regulations compiler.

➔Section 21. KRS 13A.240 is amended to read as follows:

(1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include the following information:

(a) ***The number of the administrative regulation;***

(b) The name, e-mail address, and telephone number of the contact person of the administrative body identified pursuant to subsection (6)(d) of Section 14 of this Act, and, if applicable, the name, e-mail address, and telephone number of an alternate person to be contacted with specific questions about the regulatory impact analysis;

(c) A brief narrative summary of:

1. What the administrative regulation does;
2. The necessity of the administrative regulation;
3. How the administrative regulation conforms to the content of the authorizing statutes; and
4. How the administrative regulation currently assists or will assist in the effective administration of the statutes;

(d)~~[(b)]~~ If this is an amendment to an existing administrative regulation, a brief narrative summary of:

1. How the amendment will change the existing administrative regulation;
2. The necessity of the amendment to the administrative regulation;
3. How the amendment conforms to the content of the authorizing statutes; and
4. How the amendment to the administrative regulation will assist in the effective administration of the statutes;

(e)~~[(c)]~~ The type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation;

(f) ~~[(d)]~~ An analysis of how the entities referenced in paragraph ***(e)*** ~~[(c)]~~ of this subsection will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation. The analysis shall include but not be limited to:

1. A detailed explanation of the actions the entities referenced in paragraph ***(e)*** ~~[(c)]~~ of this subsection will be required to undertake in order to comply with the proposed administrative regulation;
2. An estimate of the costs imposed on entities referenced in paragraph ***(e)*** ~~[(c)]~~ of this subsection in order to comply with the proposed administrative regulation; and
3. The benefits that may accrue to the entities referenced in paragraph ***(e)*** ~~[(c)]~~ of this subsection as a result of compliance;

(g) ~~[(e)]~~ An estimate of how much it will cost the administrative body to implement this administrative regulation, both initially and on a continuing basis;

(h) ~~[(f)]~~ The source of the funding to be used for the implementation and enforcement of the administrative regulation;

(i) ~~[(g)]~~ An assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation;

(j) ~~[(h)]~~ A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees; and

(k) ~~[(i)]~~ The tiering statement required by KRS 13A.210.

(2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and~~[prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission]~~ may

require any administrative body to submit background data upon which the information required by subsection (1) ***of this section*** is based, and an explanation of how the data was gathered.

➔Section 22. KRS 13A.250 is amended to read as follows:

(1) ***An***~~[Each]~~ administrative body that promulgates an administrative regulation shall consider the cost that the administrative regulation may cause state or local government to incur. The cost analysis shall include the projected cost or cost savings to the Commonwealth of Kentucky and each of its affected agencies, and the projected cost or cost savings to affected local governments, including cities, counties, fire departments, and school districts. Agencies affected by the administrative regulation may submit comments in accordance with KRS 13A.270(1) to the promulgating administrative body or to a subcommittee reviewing the administrative regulation.

(2) Each administrative body that promulgates an administrative regulation shall prepare and submit with the administrative regulation a fiscal note. The fiscal note shall state:

(a) The number of the administrative regulation;

(b) The name***, e-mail address,*** and telephone number of the contact person of the administrative body ***identified pursuant to subsection (6)(d) of Section 14 of this Act, and, if applicable, the name, e-mail address, and telephone number of an alternate person to be contacted with specific questions about the fiscal note***;

(c) The unit, part, or division of state or local government the administrative regulation will affect;

(d) In detail, the aspect or service of state or local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or

authorizes the action taken by the administrative regulation; and

(e) The estimated effect of the administrative regulation on the expenditures and revenues of a state or local government agency for the first full year the administrative regulation will be in effect. If specific dollar estimates cannot be determined, the administrative body shall provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

➔Section 23. KRS 13A.255 is amended to read as follows:

(1) Within five (5) working days of the filing of an ordinary administrative regulation that proposes to establish or increase fees, except those fees exempted by KRS 13A.100(3), an administrative body shall mail or e-mail a notice containing the information required by subsection (2) of this section, to each state association, organization, or other body representing a person or entity affected by the administrative regulation.

(2) The notice shall include the following information:

(a) The name of the administrative body that filed the proposed administrative regulation;

(b) A statement that the administrative body has promulgated an administrative regulation that establishes or increases fees;

(c) A summary of the administrative regulation that includes:

1. The amount of each fee being established;

2. The amount of any increases to any fees previously established; and

3. The necessity for the establishment or increase in the fees;

(d) A statement that a person or entity may contact the administrative body for additional information;

(e) The time, date, and place of the scheduled public hearing;

(f) The deadline for submitting written comments as established in KRS 13A.270(1)(c); and

(g) The name, ***mailing*** address, ***e-mail address,*** and telephone number of the contact person for the administrative body ***identified pursuant to subsection (6)(d) of Section 14 of this Act***.

➔Section 24. KRS 13A.270 is amended to read as follows:

(1) (a) In addition to the public comment period required by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (7) of this section, hold a hearing, open to the public, on the administrative regulation.

(b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.

(c) The administrative body shall accept written comments regarding the administrative regulation during the comment period. The comment period shall begin on the date the administrative regulation is filed with the regulations compiler and shall run until ***11:59 p.m. on the last day***~~[the end]~~ of the calendar month in which the administrative regulation was published in the Administrative Register.~~[If the last day of the calendar month falls on a Saturday, Sunday, or holiday, the administrative body shall consider all written comments received prior to the close of business of the first workday following the Saturday, Sunday, or holiday.]~~

(2) Each administrative regulation shall state:

(a) The place, time, and date of the scheduled public hearing;

(b) The manner in which interested persons shall submit their:

1. Notification of attending the public hearing; and

2. Written comments;

(c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;

(d) The deadline for submitting written comments regarding the administrative regulation in accordance with ***subsection (1)(c)*** ~~[paragraph (c) of subsection (1)]~~ of this section; and

(e) The name, position, ***mailing*** address, ***e-mail address,*** and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.

(3) (a) A person who wishes to be notified that an administrative body has filed an administrative regulation shall:

1. Contact the administrative body by telephone or written letter to request that the administrative body send the information required by paragraph (c) or (d) of this subsection to the person; or

2. Complete an electronic registration form located on a centralized state government Web site developed and maintained by the Commonwealth Office of Technology.

(b) A registration submitted pursuant to paragraph (a) of this subsection shall:

1. Indicate whether the person wishes to receive notification regarding:

a. All administrative regulations promulgated by an administrative body; or

b. Each administrative regulation that relates to a specified subject area. The subject areas shall be provided by the administrative bodies and shall be listed on the centralized state government Web site in alphabetical order;

2. Include a request for the person to provide an e-mail address in order to

receive regulatory information electronically;

3. Be valid for a period of four (4) years from the date the registration is submitted, or until the person submits a written request to be removed from the notification list, whichever occurs first; and

4. Be transmitted to the promulgating administrative body, if the registration was made through the centralized state government Web site. The collected e-mail addresses shall be used solely for the purposes of this subsection and shall not be sold, transferred, or otherwise made available to third parties, other than the promulgating administrative body.

(c) A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be e-mailed:

1. To every person who has:

a. Registered pursuant to paragraph (a) of this subsection; and

b. Provided an e-mail address as part of the registration request;

2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and

3. With a request from the administrative body that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.

(d) Within five (5) working days after the date the administrative regulation is filed with the Commission, the administrative body shall mail the following information to every person who has registered pursuant to paragraph (a) of this subsection but did not provide an e-mail address:

1. A cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation;

2. A copy of the regulatory impact analysis required by KRS 13A.240 completed in detail sufficient to put the individual on notice as to the specific contents of the administrative regulation, including all proposed amendments to the administrative regulation; and

3. A statement that a copy of the administrative regulation may be obtained from the Commission's Web site, which can be accessed on-line through public libraries or any computer with Internet access. The Commission's Web site address shall be included in the statement.

(e) An administrative body shall not be required to send a copy of an administrative regulation that was amended after comments in accordance with KRS 13A.280 to persons who have registered pursuant to paragraph (a) of this subsection, unless the person requested a copy pursuant to KRS 13A.280***(8)*** ~~[(7)]~~.

(4) (a) If small business may be impacted by an administrative regulation, the administrative body shall e-mail a copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), to the chief executive officer of the Commission on Small Business Advocacy within one (1) working day after the date the administrative regulation is filed with the Commission.

(b) The e-mail shall include a request from the administrative body that the Commission on Small Business Advocacy review the administrative regulation in accordance with KRS 11.202(1)(e) and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report shall be filed with the regulations compiler.

(c) An administrative body shall not be required to send a copy of an administrative regulation that was amended after comments in accordance with KRS 13A.280 to the Commission on Small Business Advocacy, unless

its chief executive officer requested a copy pursuant to KRS 13A.280***(8)*** ~~[(7)]~~.

(5) (a) If a ***local*** government may be impacted by an administrative regulation, the administrative body shall send, by e-mail if the ***local*** government has an e-mail address, a copy of the administrative regulation as filed and all attachments required by KRS 13A.230(1) to each ***local*** government in the state within one (1) working day after the date the administrative regulation is filed with the Commission. If the ***local*** government does not have an e-mail address, the material shall not be sent.

(b) The e-mail shall include a request from the administrative body that the ***local*** government review the administrative regulation in the same manner as would the Commission on Small Business Advocacy under KRS 11.202(1)(e), and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report or comments shall be filed with the regulations compiler.

(c) An administrative body shall not be required to send a copy of an administrative regulation that was amended after comments in accordance with KRS 13A.280 to a ***local*** government, unless its contact person requested a copy pursuant to KRS 13A.280***(8)*** ~~[(7)]~~.

(6) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.

(7) The administrative body shall immediately notify the regulations compiler~~[by telephone and]~~ by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; and

(b) No written comments have been received by the close of the last day of the

public comment period.

(8) (a) 1. Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler~~[by telephone and]~~ by letter that the public hearing shall be held.

2. If the public hearing is held but no comments are received during the hearing, the administrative body shall notify the regulations compiler~~[by telephone and]~~ by letter that the public hearing was held and that no comments were received.

(b) Upon receipt of written comments, the administrative body shall notify the regulations compiler~~[by telephone and]~~ by letter that written comments have been received.

(9) If the notifications required by subsections (7) and (8) of this section are not received by the regulations compiler by close of business on the second workday of the calendar month, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(10) The notifications required by subsections (7) and (8) of this section shall be made~~[by telephone and]~~ by letter. The letter may be sent by e-mail if the administrative body uses an electronic signature and letterhead for the e-mailed document.

(11) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (6) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(12) Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

➔Section 25. KRS 13A.280 is amended to read as follows:

(1) Following the last day of the comment period, the administrative body shall give consideration to all comments received at the public hearing and all written comments received during the comment period, including any report filed by the Commission on Small Business Advocacy in accordance with KRS 11.202(1)(e) and 13A.270(4), or by a ***local*** government in accordance with KRS 11.202(1)(e) and 13A.270(5).

(2) (a) Except as provided in paragraph (b) of this subsection, the administrative body shall file with the commission on or before 12 noon, eastern time, on the fifteenth day of the calendar month following the month of publication the statement of consideration relating to the administrative regulation ***and, if applicable, the amended after comments version***.

(b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration ***and, if applicable, the amended after comments version*** by notifying the regulations compiler in writing on or before 12 noon, eastern time, on the fifteenth day of the calendar month following the month of publication. The administrative body shall file the statement of consideration ***and, if applicable, the amended after comments version,*** with the Commission on or before 12 noon, eastern time, no later than the fifteenth day of the second calendar month following the month of publication.

(3) (a) If the administrative regulation is amended as a result of the hearing or written comments received, the administrative body shall forward the items specified

in ***this*** paragraph~~[(b) of this subsection]~~ to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of this section:~~[~~.

~~(b)]~~ 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from comments received at the public hearing and during the comment period;

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(b) The original and four (4) copies of the amended after comments version, the statement of consideration, and the attachments required by paragraph (a)3. of this subsection shall be stapled in the top left corner. The fifth copy shall not be stapled.

(c) At the same time as, or prior to, filing the paper version, the administrative body shall file an electronic version of the amended after comments version, the statement of consideration, and the required attachments saved as a single document for each amended after comments administrative regulation in an electronic format approved by the regulations compiler.

(4) (a) If the administrative regulation is not amended as a result of the public hearing, or written comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in

subsection (2) of this section. ***The original and four (4) copies of the statement of consideration shall be stapled in the top left corner. The fifth copy of each statement of consideration shall not be stapled.***

(b) If the statement of consideration covers multiple administrative regulations, as authorized by subsection (6)(g) of this section, the administrative body shall file with the regulations compiler:

1. The original and five (5) copies of the statement of consideration as required by paragraph (a) of this subsection; and

2. Two (2) additional unstapled copies of the statement of consideration for each additional administrative regulation included in the group of administrative regulations.

(c) At the same time as, or prior to, filing the paper version, the administrative body shall file an electronic version of the statement of consideration saved as a single document for each statement of consideration in an electronic format approved by the regulations compiler.

(5) ~~[(b)]~~ If comments are received either at the public hearing or during the public comment period, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee following the month in which the statement of consideration is due.

(6) ~~[(5)]~~ The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) The first page of the statement of consideration shall have a two (2) inch top margin;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the

administrative regulation that was the subject of the public hearing and comment period and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After Comments" or "Amended After Comments," whichever is applicable;

(d) If a hearing has been held or written comments received, the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing, if the hearing was held;

2. A list of those persons who attended the hearing or who submitted comments and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) Following the general information, the promulgating administrative body shall summarize the comments received at the public hearing and during the comment period and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(f) Following the summary and comments, the promulgating administrative body shall:

1. Summarize the statement and the action taken by the administrative body as a result of comments received at the public hearing and during

the comment period; and

2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by KRS 13A.320(2)(c) and (d); and

(g) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(7)~~[(6)]~~ If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The changes made to the administrative regulation shall be typed in bold and made in the format prescribed by KRS 13A.222(2). The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(8)~~[(7)]~~ If requested, copies of the statement of consideration and, if applicable, the ***amended after comments***~~[amended after comments]~~ version of the administrative regulation shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments or who specifically request a copy from the administrative body.

➔Section 26. KRS 13A.290 is amended to read as follows:

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

(b) The agenda shall:

1.~~[(a)]~~ Include each administrative regulation that was published in the

prior month's Administrative Register not including the administrative regulations published in the "As Amended" section;

2.~~[(b)]~~ Include each administrative regulation for which a statement of consideration was received on or before 12 noon, eastern time, on the fifteenth day of the prior calendar month;

3.~~[(c)]~~ Include each administrative regulation that was deferred from the prior month's meeting of the subcommittee; and

4.~~[(d)]~~ Not include an administrative regulation that is deferred, withdrawn, expired, or automatically taken off the agenda under the provisions of this chapter.

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

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

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

(4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems

appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed.~~[One (1) copy thereof shall be sent to the promulgating administrative body.]~~ The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, ***on the first Wednesday of the following month, or if the first Wednesday is a legal holiday, the next workday of the month***~~[at its next regularly scheduled meeting]~~, assign the administrative regulation to:

1. ***An interim joint committee***~~[A subcommittee]~~ of appropriate jurisdiction over the subject matter of the administrative regulation; or
2. During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter of the administrative regulation.

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

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

(7) Within thirty (30) days of the assignment, the subcommittee may hold a public meeting during which the administrative regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and

place of the meeting shall be placed in the legislative calendar.

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

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

(b) In order to amend an administrative regulation pursuant to Section 31 of this Act or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3), the motion to amend or find deficient shall be approved by a majority of the entire membership of the subcommittee. Additionally, during a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:

1. ~~[(a)]~~ Meeting separately; or

2. ~~[(b)]~~ Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting***, as well as the majority vote of the entire membership of the standing committees meeting jointly,*** in order to take action on the administrative regulation.

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

(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing.~~[One (1) copy thereof shall be sent to the promulgating administrative body.]~~ The subcommittee's findings shall be published in the Administrative Register.

➔Section 27. KRS 13A.300 is amended to read as follows:

(1) The administrative body ***that***~~[which has]~~ promulgated an administrative regulation may request that consideration of the administrative regulation be deferred by the subcommittee.

(2) The deferral of an administrative regulation scheduled for review by the Administrative Regulation Review Subcommittee shall be governed by the following:

(a) A request for deferral shall be automatically granted if:

1. The administrative body submits a written letter to the regulations compiler; and

2. The letter is received prior to the subcommittee meeting;~~[.]~~

(b) A request for deferral may be granted at the discretion of the subcommittee if the request is made by the administrative body orally at a meeting of the subcommittee;~~[.]~~

(c) The~~[(2) A]~~ subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation;~~[.]~~

(d)~~[(3)]~~ Except as provided in ***paragraph (e) of this*** subsection~~[(4) of this section]~~, an administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee~~[that is reviewing the administrative regulation]~~. The subcommittee shall consider the

administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in those cases*; and*~~[.]~~

(e)~~[(4)]~~ An administrative regulation shall not be deferred under this *subsection*~~[section]~~ more than twelve (12) *times*~~[consecutive months]~~.

(3) The deferral of an administrative regulation referred to a second committee pursuant to subsection (6)(a) of Section 26 of this Act shall be governed by the following:

(a) Except as provided in paragraphs (c), (d), and (e) of this subsection:

1. A request for deferral shall be automatically granted if:

a. The administrative body submits a written letter to the regulations compiler; and

b. The letter is received prior to the committee meeting;

2. A request for deferral may be granted at the discretion of the second committee if the request is made by the administrative body orally at a meeting of the committee; and

3. The committee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation;

(b) An administrative regulation that is deferred shall be placed on the agenda of the next scheduled meeting of the committee. If the committee does not have a meeting scheduled during the following calendar month, the deferred administrative regulation shall take effect on the last workday of the calendar month following the month in which the administrative regulation is deferred;

(c) An administrative regulation shall not be deferred from the final scheduled meeting of an interim joint committee to which the administrative

regulation was referred pursuant to subsection (6)(b)1. of Section 26 of this Act;

(d) An administrative regulation shall not be deferred from the final scheduled meeting of a standing committee to which the administrative regulation was referred pursuant to subsection (6)(b)2. of Section 26 of this Act; and

(e) An administrative regulation shall not be deferred from an interim joint committee to House and Senate standing committees or from House and Senate standing committees to an interim joint committee.

➔Section 28. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:

1. Is titled "Repeal of (state number of administrative regulation to be repealed)";
2. Contains the reasons for repeal in the "NECESSITY, FUNCTION, AND CONFORMITY" paragraph;
3. Includes in the body of the administrative regulation, a citation to the number and title of the administrative regulation or regulations being repealed; and
4. Meets the filing and formatting requirements of KRS 13A.220.

(b) ***1. Except as provided in subparagraph 2. of this paragraph,*** on the effective date of an administrative regulation that repeals an administrative regulation, ***determined in accordance with KRS 13A.330 or 13A.331,*** the regulations compiler shall delete the repealed

administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

2. If the repealing administrative regulation specifies an effective date that is after the administrative regulation would become effective pursuant to KRS 13A.330 or 13A.331, the specified effective date shall be considered the effective date of the repealing administrative regulation. On the specified effective date, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

(c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.

(4) (a) An ordinary administrative regulation may be withdrawn by the promulgating administrative body at any time prior to its adoption.

(b) An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating administrative body at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to KRS 13A.330 or 13A.331 or may be withdrawn by the Governor.

(c) If an ordinary administrative regulation is withdrawn, the administrative body or the Governor shall inform the regulations compiler of the reasons for withdrawal in writing.

(5) Once an ordinary administrative regulation is withdrawn, it shall not be reinstated, except by repromulgation as a totally new matter.

➔Section 29. KRS 13A.312 is amended to read as follows:

(1) If authority over a subject matter is transferred to another administrative body or if the name of an administrative body is changed by statute or by executive order during the interim between regular sessions of the General Assembly, the administrative regulations of that administrative body in effect on the effective date of the statutory change or the executive order shall remain in effect as they exist until the administrative body that has been granted authority over the subject matter amends or repeals the administrative regulations pursuant to KRS Chapter 13A.

(2) ***After receipt of a written request, submitted pursuant to subsection (3) of this section, to make changes to an administrative regulation*** pursuant to the statutory change or executive order, the regulations compiler shall alter the administrative regulations referenced in subsection (1) of this section to:

(a) Change the name of the administrative body pursuant to the provisions of the statute or executive order; and

(b) Make any other technical changes necessary to carry out the provisions of the statute or executive order.

(3) The administrative body that has been granted statutory authority over the subject matter shall provide to the regulations compiler in writing:

(a) A listing of the administrative regulations that require any changes; and

(b) The specific names, terms, or other information to be changed with those changes properly referenced.

(4) The administrative body that has been granted statutory authority over the subject matter shall submit new forms to replace forms previously incorporated by reference in an administrative regulation if the only changes on the form are the name and mailing address of the administrative body. If there are additional changes to a form incorporated by reference, the administrative body shall promulgate an amendment to the existing administrative regulation and make the changes to the material incorporated by reference in accordance with KRS 13A.2255.

(5) If an administrative body is abolished by statute or executive order and the authority over its subject matter is not transferred to another administrative body, the Governor, or the secretary of the cabinet to which the administrative body was attached, shall promulgate an administrative regulation to repeal the existing administrative regulations that were promulgated by the abolished administrative body. The repeal shall be accomplished as provided by KRS 13A.310.

➔Section 30. KRS 13A.315 is amended to read as follows:

(1) An administrative regulation shall expire and shall not be reviewed by a legislative subcommittee if:

(a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;

(b) ***The statement of consideration and, if applicable, the amended after comments version***~~[An item]~~ is not filed on or before a deadline specified by this chapter;

(c) The administrative body has failed to comply with the provisions of this chapter governing the filing of administrative regulations, the public hearing and public comment period, or the statement of consideration; or

(d) The administrative regulation is deferred pursuant to KRS 13A.300***(2)*** more than twelve (12) ***times***~~[consecutive months]~~.

(2) (a) An administrative regulation that has been found deficient by a subcommittee shall be withdrawn immediately if, pursuant to KRS 13A.330 or 13A.331, the Governor has determined that it shall be withdrawn.

(b) The Governor shall notify the regulations compiler in writing and by telephone that he or she has determined that the administrative regulation found deficient shall be withdrawn.

(c) The written withdrawal of an administrative regulation governed by the provisions of this subsection shall be made in a letter to the regulations

compiler in the following format: "Pursuant to KRS ***(***13A.330(2)(b) or 13A.331(2)(b)***, whichever is applicable)***, I have determined that (administrative regulation number and title) shall be (withdrawn, or withdrawn and amended to conform to the finding of deficiency, as applicable). The administrative regulation, (administrative regulation number and title), is hereby withdrawn."

(d) An administrative regulation governed by the provisions of this subsection shall be considered withdrawn upon receipt by the regulations compiler of the written withdrawal.

➔Section 31. KRS 13A.320 is amended to read as follows:

(1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

(b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:

1. Considered at the public hearing;
2. Raised pursuant to a comment received by the administrative body at the public hearing or during the public comment period pursuant to KRS 13A.280(1); or
3. Raised during the subcommittee meeting.

(c) Nothing in this chapter shall be construed to require ***the administrative regulation's***~~[its]~~ resubmission or refiling or other action. The administrative regulation may be adopted as amended.

(d) ***Following approval of an amendment to an administrative regulation at a***

subcommittee meeting~~[Subsequent to its adoption]~~, the administrative regulation ***as amended*** shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at ***the***~~[a]~~ meeting of ***the***~~[a]~~ subcommittee:

1. Relate only to the ***formatting***~~[format]~~ and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and (l); and
2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.

(e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the ***exception*** requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the ***formatting***~~[format]~~ and drafting requirements of this chapter.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:

(a) Amendments offered by the administrative body prior to a subcommittee meeting shall be approved by the head of the administrative body.

(b) Amendments shall be contained in a letter to the subcommittee. The letter shall:

1. Identify the administrative body;
2. State the number and title of the administrative regulation;
3. Be dated;
4. Be filed with the regulations compiler at least three (3) workdays prior to the meeting of the subcommittee if the amendments are initiated by the administrative body; and
5. Comply with the format requirements in paragraphs (c) and (d) of this

subsection if the amendments are initiated by the administrative body.

(c) On separate lines, the amendment shall be identified by the number of the:

1. Page;

2. Section, subsection, paragraph, subparagraph, clause, or subclause, as appropriate; and

3. Line.

(d) 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.

2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.

3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.

4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.

(3) If an amendment is drafted by subcommittee staff on behalf of a subcommittee, the amendment shall be made:

(a) In the format required by subsection (2)(c) and (d) of this section; or

(b) By substituting the complete text of the administrative regulation, with the proposed changes made to the administrative regulation typed in bold,

italicized, and in the format prescribed by KRS 13A.222(2).

(4) An amendment to an administrative regulation may be made orally at a subcommittee meeting if the requirements of subsection (1)(a) of this section are met.

(5) ***Except for an amendment made orally pursuant to subsection (4) of this section:***

(a) For a meeting of the Administrative Regulation Review Subcommittee, an administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the Administrative Regulation Review Subcommittee meeting at which the amendment will be considered ***and, if applicable, in accordance with the deadline established in subsection (2)(b)4. of this section; or***

(b) For a meeting of a subcommittee other than the Administrative Regulation Review Subcommittee, an administrative body shall contact the regulations compiler prior to the subcommittee meeting at which the amendment will be considered to find out the number of copies needed for that specific subcommittee. The original amendment and the specified number of copies shall be submitted to the regulations compiler prior to the subcommittee meeting at which the amendment will be considered and, if applicable, in accordance with the deadline established in subsection (2)(b)4. of this section.

➔Section 32. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Department of Revenue:

(1) The department may promulgate administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state. To assist taxpayers in understanding and interpreting the tax laws, the department may, through incorporation by reference, include examples as part of any administrative

regulation. The examples may include demonstrative, nonexclusive lists of items if the department determines ***the***~~[such]~~ lists would be helpful to taxpayers in understanding the application of the tax laws.

(2) The department, by representatives it appoints in writing, may take testimony or depositions, and may examine hard copy or electronic records, any person's documents, files, and equipment if those records, documents, or equipment will furnish knowledge concerning any taxpayer's tax liability, when it deems this reasonably necessary to the performance of its functions. The department may enforce this right by application to the Circuit Court in the county ***where***~~[wherein]~~ the person is domiciled or has his or her principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the department.

(3) The department shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law~~[by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference]~~.

(4) The department shall advise on all questions respecting the construction of state revenue laws and ***its***~~[the]~~ application~~[thereof]~~ to various classes of taxpayers and property.

(5) Attorneys employed by the Finance and Administration Cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Finance and Administration Cabinet attorney undertakes any of the actions prescribed in this subsection, that attorney shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including the authority to sign, file,

and present any complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the Finance and Administration Cabinet or at the request of the secretary of the Finance and Administration Cabinet, the Attorney General or his or her designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he or she shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The department may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the department for administration.

(8) The department may research the fields of taxation, finance, and local government administration, and publish its findings, as the commissioner may deem wise.

(9) The department may ***promulgate***~~[make]~~ administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require the taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to ***the***~~[such]~~ administrative regulations.

(10) The department may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of

sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.

(11) The department may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the department shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

(b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.

(12) The department may refuse to accept a personal check in payment of taxes due or collected from any person who has ever tendered a check to the state which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

➔Section 33. KRS 141.050 is amended to read as follows:

(1) Except to the extent required by differences between this chapter and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and deductions therefrom, accounting methods, and accounting procedures, for purposes of this chapter shall be as nearly as practicable identical with those required for

federal income tax purposes. Changes to federal income tax law made after the Internal Revenue Code reference date contained in KRS 141.010(3) shall not apply for purposes of this chapter unless adopted by the General Assembly.

(2) Every person subject to the provisions of this chapter shall keep~~[such]~~ records, render under oath~~[such]~~ statements, make~~[such]~~ returns, and comply with ***the***~~[such]~~ rules and ***administrative*** regulations as the department from time to time may ***promulgate***~~[prescribe]~~. Whenever the department judges it necessary, it may require ***a***~~[such]~~ person, by notice served upon him ***or her***, to make a return, render under oath~~[such]~~ statements, or keep~~[such]~~ records, as the department deems sufficient to show whether or not ***the***~~[such]~~ person is liable for tax, and the extent of ***the***~~[such]~~ liability.

(3) The commissioner or his ***or her*** authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any taxpayers, may require the attendance of the taxpayer or of any other person having knowledge in the premises.

(4) The department shall~~[prescribe the forms and reports necessary to the proper administration of any and all provisions of this chapter, and shall]~~ promulgate~~[such]~~ rules and regulations necessary to effectively carry out the provisions of this chapter.

➔Section 34. KRS 141.068 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;

(b) "Investor" has the same meaning as set forth in KRS 154.20-254;

(c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;

(d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-254; and

(e) "Tax credit" means the credits provided for in KRS 154.20-258.

(2) (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under KRS 154.20-258 against the tax due computed as provided by KRS 141.020 or 141.040, respectively, and against the tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.

(b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-258.

(3) (a) In the case of an investor that is a pass-through entity not subject to the tax imposed by KRS 141.040, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be taken by the pass-through entity against the limited liability entity tax imposed by KRS 141.0401, and shall also be apportioned among the partners, members, or shareholders at the same ratio as the partners', members', or shareholders' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.

(b) The amount of the tax credit apportioned to each partner, member, or shareholder that may be claimed in any tax year of the partner, member, or shareholder shall be determined in accordance with the provisions of KRS 154.20-258.

(4) (a) In the case of an investor that is a trust not subject to the tax imposed by KRS 141.040, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.

(b) The amount of tax credit apportioned to each trust or beneficiary that may be

claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.20-258.

(5) The Department of Revenue shall promulgate administrative regulations under KRS Chapter 13A ***to adopt***~~[adopting forms and]~~ procedures for the~~[reporting and]~~ administration of ***the*** credits authorized by KRS 154.20-258.

➔SECTION 35. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

Notwithstanding Section 7 of this Act, the Department of Revenue shall publish tax forms and instructions to those forms without promulgation of an administrative regulation.

➔Section 36. The following KRS sections are repealed:

13A.075 Legislative Research Commission may promulgate regulations.

13A.140 Administrative regulations presumed valid -- Promulgating administrative body to bear burden of proof in court challenge.

President of Senate

Speaker-House of Representatives

Attest: _____
Chief Clerk of Senate

Approved _____
Governor

Date 9 APRIL 2016