



**MATTHEW G. BEVIN**  
GOVERNOR

**EXECUTIVE ORDER**

RECEIVED AND FILED  
DATE July 17, 2018  
2:05pm

**Secretary of State**  
Frankfort  
Kentucky

**2018-586**  
**July 17, 2018**

ALISON LINDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY: R. Adler

**RELATING TO THE REORGANIZATION**  
**OF THE LABOR CABINET AND THE EDUCATION &**  
**WORKFORCE DEVELOPMENT CABINET**

**WHEREAS**, the Commonwealth of Kentucky, its officers, and appointees must always promote the good and valuable management of state government operations; and

**WHEREAS**, it is the duty of state government to provide the citizens of the Commonwealth with a proficient governmental structure that administers effectively and utilizes responsibly the limited resources of the Commonwealth; and

**WHEREAS**, it is the stated public policy of the Commonwealth to foster, encourage, and develop interest and training in manual and industrial arts, and to encourage the entrance into voluntary agreements of apprenticeship and on-the-job training which will equip workers for profitable employment; and

**WHEREAS**, this Administration has determined to elevate registered apprenticeship as an invaluable plank within the overall platform of workforce development in the Commonwealth; and

**WHEREAS**, pursuant to KRS 336.020(1), the Division of Apprenticeship exists within the Department of Workplace Standards of the Labor Cabinet and is vested with the authority to administer Kentucky's registered apprenticeship program in partnership with the U.S. Department of Labor; and

**WHEREAS**, pursuant to KRS 151B.020 and KRS 151B.280, the General Assembly established the Office of Employment and Training within the Education & Workforce Development Cabinet to develop and operate employment development and placement programs, including employability development and training programs; and

**WHEREAS**, on May 29, 2018, the leadership of the Labor Cabinet, the Education & Workforce Development Cabinet, and the Public Protection Cabinet were directed to



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explore efficiencies in the way each provided government services to the citizens of the Commonwealth; and

**WHEREAS**, it has been determined that Kentucky's registered apprenticeship program may be expanded to its fullest potential by removing it from the umbrella of the Department of Workplace Standards within the Labor Cabinet and pairing it with the infrastructure and resources of the Office of Employment and Training within the Education & Workforce Development Cabinet; and

**WHEREAS**, pursuant to KRS 343.020 and Title 29 of the U.S. Code of Federal Regulations, the Apprenticeship and Training Council was created and administratively attached to the Labor Cabinet to assist the Commissioner of the Department of Workplace Standards in formulating policies for the effective administration of Kentucky's registered apprenticeship program; and

**WHEREAS**, it has been determined that transferring the function of administering Kentucky's registered apprenticeship program from the Labor Cabinet to the Education & Workforce Development Cabinet requires the transfer of the Apprenticeship and Training Council from the Labor Cabinet to the Education & Workforce Development Cabinet so that the Apprenticeship and Training Council can continue its role as an advisory group on state apprenticeship policies and practices; and

**WHEREAS**, pursuant to KRS 338.051, the Occupational Safety and Health Standards Board (the "OSH Standards Board") was created to adopt and promulgate occupational safety and health rules, regulations, and standards for the Commonwealth; and



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**WHEREAS**, in recent years, the promulgation of occupational safety and health rules, regulations, and standards has essentially mirrored the actions taken by the U.S. Department of Labor; and

**WHEREAS**, pursuant to KRS 338.051(3) and HB 314, enacted in the 2018 session of the General Assembly, the Secretary of the Labor Cabinet, as the Chairman of the OSH Standards Board, is already empowered to adopt established federal standards and to suspend, delay, or alter the enforcement of an occupational safety and health administrative regulation if the U.S. Department of Labor does so for a comparable federal regulation without the approval of the OSH Standards Board; and

**WHEREAS**, it has been determined that abolishing the OSH Standards Board and transferring completely the power to promulgate occupational safety and health rules, regulations, and standards to the Secretary of the Labor Cabinet not only meets the goal set forth in the May 29, 2018 directive but also the overarching goal of agency reorganization set forth in KRS 12.028; and

**WHEREAS**, proposed legislation is planned for the next regular session of the General Assembly to accomplish the aforementioned goals:

**NOW, THEREFORE**, I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, under the authority vested in me by the Kentucky Constitution, Sections 69 and 81, KRS 12.028, and otherwise, do hereby Order and Direct the following organizational changes within the Labor Cabinet and the Education & Workforce Development Cabinet:

- I. The Education & Workforce Development Cabinet, as established by KRS 151B.020, shall have the following changes in organizational structure:
  - (A) The Department of Workforce Investment, as established by KRS 151B.020(2), shall have the following changes in organizational structure:



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- (1) The Office of Employment & Training, as established by KRS 151B.280, shall have the following changes in organizational structure:
  - (a) The Division of Apprenticeship is hereby created as a division-level organizational unit within the Office of Employment & Training. A director exempted from the classified service pursuant to KRS 18A.115 and appointed by the Secretary of the Education & Workforce Development Cabinet with the approval of the Governor in accordance with KRS 12.050 shall head the division and report to the Executive Director of the Office of Employment & Training. The division shall be composed of such organizational units as the Secretary deems appropriate and sets forth by administrative order.
- (B) The Kentucky Apprenticeship Council (the "council") is hereby created and established as an administrative body of state government charged with providing advice to the Commissioner of the Department of Workforce Investment on matters affecting registered apprenticeship policy. Notwithstanding the provisions of KRS Chapter 343, the council shall have no authority to promulgate, alter, override, or provide consent for any administrative rule, regulation, or standard and shall have no authority to approve or confirm the appointment of the supervisor of apprenticeship and training as defined in KRS Chapter 343. The council shall be attached to the Department of Workforce Investment of the Education & Workforce Development Cabinet for administrative purposes.
- (C) The council shall consist of six (6) members appointed by the Governor as follows:
  - (1) Two (2) members shall represent employees / apprentices for a term of four (4) years.
  - (2) Two (2) members shall represent employers / apprenticeship program sponsors for a term of four (4) years.
  - (3) Two (2) members shall be at-large members for a term of four (4) years.
- (D) The Commissioner of the Department of Workforce Investment of the Education & Workforce Development Cabinet shall serve as the seventh member and Chair of the council.
- (E) The council shall meet at the call of the Commissioner of the Department of Workforce Investment of the Education & Workforce Development Cabinet. A majority of the members of the council, except



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the Commissioner of the Department of Workforce Investment of the Education & Workforce Development Cabinet, shall constitute a quorum for the transaction of business.

- (F) Any member appointed to fill a vacancy occurring for any reason other than by expiration of a term shall be appointed for the remainder of the unexpired term. Any member whose term has expired, however, shall serve until his or her successor is appointed and qualified.
  - (G) Members shall be reimbursed for necessary expenses incurred in fulfillment of their duties on the council in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. No member of the council, however, shall be paid for his or her attendance at any meeting.
- VIII. The Labor Cabinet, as established by KRS 336.015, shall have the following changes in organizational structure:
- (A) The Department of Workplace Standards, as established by KRS 336.015(2), shall have the following changes in organizational structure:
    - (1) The Division of Apprenticeship, as established by KRS 336.020(1), is hereby abolished. Except where expressly provided in this or any other executive order, all duties, responsibilities, personnel, records, files, equipment, budgets, appropriations, allotments, and cash balances previously assigned to the division are hereby transferred and assigned to the newly created Division of Apprenticeship of the Office of Employment & Training of the Department of Workforce Investment of the Education & Workforce Development Cabinet.
  - (B) The Apprenticeship and Training Council, as established by KRS 336.015(3) and KRS 343.020, is hereby abolished. Except where expressly provided in this or any other executive order, all duties, responsibilities, personnel, records, files, equipment, budgets, appropriations, allotments, and cash balances previously assigned to the council are hereby assigned to the newly created Kentucky Apprenticeship Council attached to the Department of Workforce Investment of the Education & Workforce Development Cabinet.
  - (C) The Occupational Safety and Health Standards Board, as established by KRS 336.015(3) and KRS 338.051 is hereby abolished. Except where expressly provided in this or any other executive order, all duties, responsibilities, personnel, records, files, equipment, budgets, appropriations, allotments, and cash balances previously assigned to the



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board are hereby transferred and assigned to the Office of the Secretary of the Labor Cabinet.

- IX. The Labor Cabinet, the Education & Workforce Development Cabinet, the Office of State Budget Director, the Personnel Cabinet, the Finance and Administration Cabinet, and all other necessary personnel within the Executive Branch shall take all necessary steps to effectuate this order.

This order shall be effective July 16, 2018.

  
MATTHEW G. BEVIN, Governor  
Commonwealth of Kentucky

  
ALISON LUNDERGAN GRIMES  
Secretary of State



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**REORGANIZATION PLAN**

**INTRODUCTION**

Executive Order 2016-855 reorganized the Labor Cabinet, in part, to advance the concept of registered apprenticeship, an economic tool that encourages individuals to receive hands-on training and certification for long-term employment in lieu of the traditional four- or five-year post-secondary classroom experience. This Executive Order constitutes the next phase in this effort by proposing to transfer the apprenticeship-based organizational units within the Labor Cabinet to the Education & Workforce Development Cabinet, where those units can harness the latter's statewide resources and infrastructure and improve the administration of this important and increasingly robust program.

Additionally, this Executive Order proposes to streamline the process of promulgating occupational safety and health standards, rules, and regulations in Kentucky by abolishing the Occupational Safety and Health ("OSH") Standards Board and, like most other Executive Branch agencies, granting that power to the Office of the Secretary of the Labor Cabinet. In total, this effort will result in the improved administration of services and more efficient rulemaking processes affecting employers and employees throughout the Commonwealth.

**SUMMARY**

**Kentucky Labor Cabinet**

**Department of Workplace Standards**

**Division of Apprenticeship**

Presently, the Division of Apprenticeship, in partnership with the U.S. Department of Labor, works with employers, or "program sponsors," across the Commonwealth to expand registered apprenticeship as a mechanism for encouraging in-house training and hands-on experience for individuals who wish ultimately to become employed in both traditional skills (*e.g.*, carpentry, electrical, and masonry) and more contemporary occupations (*e.g.*, information technology and medicine). At its core, the Division of Apprenticeship is a one-stop location for both apprenticeship marketing and customer service, but its reach—and its potential—are somewhat constrained by its current structure and placement within the Labor Cabinet. This reorganization proposes to abolish the Division of Apprenticeship and transfer its functions, personnel, and funding to a newly created Division of Apprenticeship within the Office of Employment & Training, Department of Workforce Investment of the Education & Workforce Development Cabinet, where it can synergize with that cabinet's existing statewide workforce development structure and personnel and become an even greater force in the broader effort to expand Kentucky's economic footprint.



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**Apprenticeship and Training Council**

Essential for recognition of a “state apprenticeship agency” by the U.S. Department of Labor (*See* 29 C.F.R. § 29.13(a)(2) (2017)), states must establish and use a “state apprenticeship council,” the purpose of which is to provide regulatory or advisory support to the relevant agency in the area of apprenticeship policy. Consistent with that admonition, Kentucky created the Apprenticeship and Training Council, a governmental body attached to the Labor Cabinet for administrative purposes, the mission of which is to aid the Commissioner of the Department of Workplace Standards in formulating policies for the effective administration of Kentucky’s apprenticeship law, KRS Chapter 343, and its related regulations. As this proposed reorganization transfers the apprenticeship program and organizational structure from the Labor Cabinet to the Education & Workforce Development Cabinet, it logically flows that the Apprenticeship and Training Council attached to the Labor Cabinet should be abolished, re-created as the new Kentucky Apprenticeship Council, and attached to the Department of Workforce Investment in the Education & Workforce Development Cabinet.

Additionally, this reorganization proposes to clarify the role of the Kentucky Apprenticeship Council, ensuring that it remains advisory in scope only. And this reorganization proposes to circumscribe the Kentucky Apprenticeship Council’s ability to reject the Commissioner of Workforce Investment’s appointment, and this Office’s approval, of a Supervisor of Apprenticeship, a position which is empowered under Kentucky law to approve new registered apprenticeship programs or to decertify existing programs. This recalibration will align this program with the majority of the Executive Branch and make more efficient the process of approving and overseeing apprenticeship programs.

**Occupational Safety and Health Standards Board**

Pursuant to the Occupational Safety and Health Act (“OSHA”), the U.S. Department of Labor currently initiates nearly all new occupational safety and health (“OSH”) regulations, rules, and standards, as well as any changes to existing OSH standards, across the country. As an OSH “State Plan” state, Kentucky has an obligation to affix its OSH regulatory scheme to be “as effective as” its federal counterpart, which, in simple terms, means Kentucky generally adopts federal standards as its own. What is more, to be in compliance with federal mandates, Kentucky must promulgate its commensurate OSH regulations within six (6) months of a federal OSH rule becoming final.

Under current Kentucky law, the Secretary of the Labor Cabinet has the power to promulgate or change OSH regulations, rules, or standards to meet federal timeline requirements. Thus, as a practical matter, the six-month duty to comply with federal mandates that has become the standard for the OSH community has obviated the need for the Occupational Safety and Health Standards Board, which is the organizational unit charged with promulgating or altering OSH regulations, rules, or standards under normal conditions. This proposed reorganization, therefore, ensures a more efficient means of altering OSH standards in the Commonwealth by codifying what the Secretary of the Labor Cabinet exercises in practice; namely the authority to effect change to the OSH regulatory scheme to meet timely requirements without the need to call on the OSH Standards Board.





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**PERSONNEL IMPACT**

At the outset, this reorganization does not propose to lay off any state employees. In general, and pursuant to KRS 12.028(3)(d), the abolishment of the Division of Apprenticeship outlined above will re-align six (6) total budgeted positions, of which five (5) are filled, from the Labor Cabinet to the newly created Division of Apprenticeship within the Office of Employment & Training of the Department of Workforce Investment of the Education & Workforce Development Cabinet.

No personnel will be affected by the abolishment of the Apprenticeship and Training Council attached to the Labor Cabinet or the creation of the new Kentucky Apprenticeship Council attached to the Department of Workforce Investment in the Education & Workforce Development Cabinet.

Further, no personnel will be affected by the abolishment of the OSH Standards Board.

**FISCAL IMPACT**

Though the proposed reorganization will not realize significant fiscal savings overall, it will have an impact on the budgets of both the Labor Cabinet and the Education & Workforce Development Cabinet. Specifically, the proposed reorganization could result in the following:

**Kentucky Labor Cabinet**

**Department of Workplace Standards**

Division of Apprenticeship

Based on the most recent numbers available, the Division of Apprenticeship's total Fiscal Year 2019 operating budget is approximately **\$1,391,100**. This includes **\$609,300** in personnel costs and **\$98,600** in traditional operating costs (*i.e.*, utilities, equipment, security). Of this total operating budget, the Division of Apprenticeship receives **\$424,800** through a General Fund appropriation and **\$966,300** by way of Federal Funds.

Under this proposed reorganization, all of this funding will transfer from the Labor Cabinet to the Education & Workforce Development Cabinet.

**Occupational Safety and Health Standards Board**

Unlike the Division of Apprenticeship, the OSH Standards Board does not have a defined budget for operating or personnel expenses. That said, this proposed reorganization and abolishment of the OSH Standards Board will result in some savings to the Commonwealth as evidenced by the last four (4) years of accounting data, which shows that the Labor Cabinet incurred the following expenses on behalf of the OSH Standards Board:



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2015: **\$4,379.87** (for member training, travel, and supplies)  
2016: **\$592.95** (for member travel)  
2017: **\$0** for expenses  
2018: **\$3,750.53** (for member travel, reporting of minutes, and meeting advertisements)

The remainder of this proposed reorganization will have little to no impact on the budget allocations for either the Labor Cabinet or the Education & Workforce Development Cabinet.

**NET EFFECT**

Though it will have little impact on the overall finances of the Executive Branch, the impact of this reorganization will be felt through the improved administration of a vital government initiative—registered apprenticeship—and the increased efficiency of promulgating OSH regulations, rules, and standards. Overall, this proposed reorganization will better position Kentucky as a hub of innovation and workforce development in the United States, while simultaneously reinforcing this Administration's commitment to workplace health and safety for Kentucky workers.