

CHAPTER 2**(SB 23)**

AN ACT relating to administrative regulations and declaring an emergency.

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 an administrative regulation that has completed the legislative committee 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 requires or permits any administrative body to engage in regulatory activities that 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) ***"Full review" means that a filed administrative regulation is on an agenda for:***
 - (a) ***The subcommittee as the last step required by this chapter prior to assignment in accordance with subsection (6) of Section 5 of this Act;***
 - (b) ***A legislative committee as the last step required by this chapter for an ordinary administrative regulation before becoming effective upon adjournment in accordance with KRS 13A.331(1) and (2);***
or

- (c) *A legislative committee as an emergency administrative regulation being reviewed after assignment in accordance with subsections (6) and (7) of Section 5 of this Act;*
- (11) "Last effective date" means the latter of:
- (a) The most recent date an ordinary administrative regulation became effective, without including the date a technical amendment was made pursuant to KRS 13A.040(10), 13A.2255(2), or 13A.312; or
 - (b) The date a certification letter was filed with the regulations compiler for that administrative regulation pursuant to KRS 13A.3104(4), if the letter stated that the administrative regulation shall remain in effect without amendment;
- ~~(12)(11)~~ "Legislative committee" means an interim joint committee, a House or Senate standing committee, a statutory committee, or a subcommittee of the Legislative Research Commission;
- ~~(13)(12)~~ "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;
- ~~(14)(13)~~ "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies;
- ~~(15)(14)~~ "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;
- ~~(16)(15)~~ "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;
- ~~(17)(16)~~ "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);
- ~~(18)(17)~~ "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;
- ~~(19)(18)~~ "Subcommittee" means the Administrative Regulation Review Subcommittee of the Legislative Research Commission;
- ~~(20)(19)~~ "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities; and
- ~~(21)(20)~~ "Written comments" means comments submitted to the administrative body's contact person identified pursuant to KRS 13A.220(6)(d) via hand delivery, United States mail, ~~email~~~~to 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.030 is amended to read as follows:

- (1) The Administrative Regulation Review Subcommittee shall:
- (a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including~~g~~ but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;
 - (b) Except as provided by KRS 158.6471 and 158.6472, review and comment upon effective administrative regulations pursuant to subsections (2), (3), and (4) of this section or administrative regulations filed with the Commission;
 - (c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and

- (d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.
- (2) The subcommittee may make a determination:
- (a) That an effective administrative regulation or an administrative regulation filed with the Commission is deficient because it:
1. Is wrongfully promulgated;
 2. Appears to be in conflict with an existing statute;
 3. Appears to have no statutory authority for its promulgation;
 4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;
 5. Fails to use tiering when tiering is applicable;
 6. Is in excess of the administrative body's authority;
 7. Appears to impose an unreasonable burden on government or small business, or both;
 8. Is filed as an emergency administrative regulation without adequate justification of the emergency nature of the situation as described in KRS 13A.190(1);
 9. Has not been noticed in conformance with the requirements of KRS 13A.270(3);
 10. Does not provide an adequate cost analysis pursuant to KRS 13A.250;~~or~~
 11. *Was the subject of the subcommittee's instruction to an administrative body to appear under subsection (4) of this section and the administrative body failed to:*
 - a. *Appear;*
 - b. *Make a good-faith effort to answer subcommittee questions; or*
 - c. *Provide any information or data required by the subcommittee; or*
 12. Appears to be deficient in any other manner;
- (b) That an administrative regulation is needed to implement an existing statute; or
- (c) That an administrative regulation should be amended or repealed.
- (3) The subcommittee may *conduct an informational* review of an effective administrative regulation *or an administrative regulation filed with the Commission* if requested by a member of the subcommittee.
- (4) (a) The subcommittee may require any administrative body to *appear before it to answer questions or* submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to:
1. *Appear before the subcommittee;*
 2. *Make a good-faith effort to answer subcommittee questions;*
 3. Provide ~~any~~ information or data required *by the subcommittee; or*
 4. *Perform any combination of subparagraphs 1., 2., and 3. of this paragraph required by the subcommittee.*
- (b) *Either co-chair of the subcommittee may require action by an administrative body under paragraph (a) of this subsection on behalf of the subcommittee.*
- (5) *At least five (5) calendar days before an informational review of an ordinary administrative regulation, the subcommittee shall notify the affected administrative body.*
- ➔Section 3. 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 for an:
1. Ordinary administrative regulation shall not be held before the twenty-first day or after the last workday of the month following the month in which the administrative regulation is published in the Administrative Register; or
 2. Emergency administrative regulation shall not be held before the twenty-first day or after the last workday of the month in which the administrative regulation is published in the Administrative Register.

Nothing in this paragraph shall preclude the administrative body from holding additional public hearings in addition to the hearing mandated in subparagraph 1. or 2. of this paragraph.

- (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:
1. For an ordinary administrative regulation, shall run until 11:59 p.m. on the last day of the calendar month following the month in which the administrative regulation was published in the Administrative Register; or
 2. For an emergency administrative regulation, shall run until 11:59 p.m. on the last day of the calendar month in which the administrative regulation is published in the Administrative Register.

(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) of this section; and
- (e) The name, position, mailing address, ~~email[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 ~~website[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 ~~website[Web site]~~ in alphabetical order;
 2. Include a request for the person to provide an ~~email[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 ~~website~~^[Web site]. The collected ~~email~~^[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 ~~mailed~~^[e-mailed]:
1. To every person who has:
 - a. Registered pursuant to paragraph (a) of this subsection; and
 - b. Provided an ~~email~~^[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 ~~email~~^[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 ~~website~~^[Web site], which can be accessed on-line through public libraries or any computer with internet access. The Commission's ~~website~~^[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).
- (4) (a) If small business may be impacted by an administrative regulation, the administrative body shall ~~email~~^[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 Innovation and Advocacy within one (1) working day after the date the administrative regulation is filed with the Commission.
- (b) The ~~email~~^[e-mail] shall include a request from the administrative body that the Commission on Small Business Innovation and 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 Innovation and Advocacy, unless its chief executive officer requested a copy pursuant to KRS 13A.280(8).
- (5) (a) If a local government may be impacted by an administrative regulation, the administrative body shall send, by ~~email~~^[e-mail] if the local government has an ~~email~~^[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 ~~email~~ address, the material shall not be sent.
- (b) The ~~email~~ 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 Innovation and 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).
- (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 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 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 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 letter that written comments have been received.
- (9) (a) 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 following the end of the public comment period, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (b) *A filed administrative regulation that is deferred under this subsection due to failure to timely notify the regulations compiler may still be placed on the subcommittee's agenda for informational review pursuant to subsection (3) or (4) of Section 2 of this Act.*
- (c) *If a filed administrative regulation is placed on the agenda pursuant to paragraph (b) of this subsection, the full review of the filed administrative regulation shall still be deferred in accordance with this subsection.*
- (10) The notifications required by subsections (7) and (8) of this section shall be made by letter. The letter may be sent by ~~email~~ if the administrative body uses an electronic signature and letterhead for the ~~emailed~~ 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 4. 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:

- (a) Any report filed by the Commission on Small Business Innovation and 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); and
 - (b) Any comments regarding the administrative regulation's major economic impact, as defined in KRS 13A.010, as submitted by agencies, local governments, or regulated entities.
- (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 end of the public comment period 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:
- 1. It may extend the time for filing the statement of consideration for an ordinary administrative regulation 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 end of the public comment period; and
 - 2. The administrative body shall file the statement of consideration for an ordinary administrative regulation 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 end of the public comment period.
- (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 to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of this section:
- 1. The original and five (5) copies of the administrative regulation indicating any amendments resulting from comments received at the public hearing and during the comment period. The amendments shall be indicated in:
 - a. The original wording for an ordinary administrative regulation; or
 - b. The wording of an emergency administrative regulation as amended, for an emergency administrative regulation that was amended at a legislative committee meeting pursuant to KRS 13A.190(3);
 - 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)1. 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) (a) 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.
- (b) *A filed administrative regulation that is deferred under this subsection due to receipt of public comments may still be placed on the subcommittee's agenda for informational review pursuant to subsection (3) or (4) of Section 2 of this Act.*
- (c) *If a filed administrative regulation is placed on the agenda pursuant to paragraph (a) of this subsection, the full review of the filed administrative regulation shall still be deferred in accordance with this subsection.*
- (6) 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," "Emergency Not Amended After Comments," "Amended After Comments," or "Emergency 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)
 1. 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.
 2. Emergency administrative regulations shall be in a separate statement of consideration from ordinary administrative regulations.

- (7) 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) If requested, copies of the statement of consideration and, if applicable, the 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 5. 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. Include each administrative regulation that completed the public comment process;
 2. 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. Include each effective administrative regulation *or administrative regulation filed with the Commission* that the subcommittee has decided to review *pursuant to subsection (3) of Section 2 of this Act*;
 4. *Include each administrative regulation required to be on the agenda pursuant to subsection (4) of Section 2 of this Act*;
 5. Include each administrative regulation that was deferred from the prior month's meeting of the subcommittee; and
 6. ~~5.~~ Not include an administrative regulation that is deferred, withdrawn, expired, or automatically taken off the agenda under the provisions of this chapter, *unless it is being reviewed pursuant to subsection (3) or (4) of Section 2 of this Act*.
- (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) A representative of the administrative body for an administrative regulation *on the agenda* ~~under consideration~~ shall be present to explain the administrative regulation and to answer questions thereon.
- (b) If a representative of ~~an~~ *the* administrative body with authority to amend, *defer, and answer questions about* a filed administrative regulation *that is on the agenda for full review fails to appear before* ~~is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of~~ the subcommittee, *the subcommittee may*:
1. *Defer the administrative regulation to the next regularly scheduled meeting of the subcommittee; and*
 2. *Make a determination pursuant to subsections (2), (3), and (4) of Section 2 of this Act or KRS 13A.190(3).*
- (c) If a representative of an administrative body *with authority to defer and answer questions about an* ~~for an effective~~ administrative regulation *that was placed on the agenda for informational review pursuant to subsection (3) or (4) of Section 2 of this Act* fails to appear before the subcommittee, the subcommittee may:

1. Defer the *informational review of the* administrative regulation to the next regularly scheduled meeting of the subcommittee; ~~and~~
 2. Make a determination pursuant to KRS 13A.030(2), (3), and (4), or KRS 13A.190(3).
- (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 effective administrative regulation it has reviewed.~~ 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:
1. Assign a filed administrative regulation to a legislative committee with subject matter jurisdiction *if the administrative regulation was on the agenda for full review pursuant to subsection (1)(b)1., 2., or 5. of this section; and*
 2. *Not assign a filed administrative regulation to a legislative committee with subject matter jurisdiction if the administrative regulation was solely on the agenda for informational review pursuant to subsection (3) or (4) of Section 2 of this Act.*
- (b) Upon notification of the assignment by the Commission, the legislative committee 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) (a) Within ninety (90) days of the assignment, the legislative committee may hold a public meeting during which the administrative regulation shall be reviewed.
- (b) If the ninetieth 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.
- (c) 1. If the administrative regulation is assigned to an interim joint committee and a session of the General Assembly begins during the review period, the assignment shall transfer to the Senate and House standing committees with subject matter jurisdiction.
2. If the administrative regulation is assigned to Senate and House standing committees and a session of the General Assembly adjourns sine die during the review period, the assignment shall transfer to the interim joint committee with subject matter jurisdiction.
3. An administrative regulation may be transferred more than one (1) time under this paragraph. A transfer shall not extend the review period established by this subsection.
- (d) 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 legislative committee shall be empowered to make the same determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee, *including all powers and restrictions relating to informational reviews conducted under subsection (3) or (4) of Section 2 of this Act.*
- (9) (a) This subsection shall apply to administrative regulations filed with the Commission *and reviewed pursuant to subsection (7) of this section.*
- (b) A majority of the entire membership of the legislative committee shall constitute a quorum for purposes of reviewing administrative regulations.
- (c) In order to amend an administrative regulation pursuant to KRS 13A.320, defer an administrative regulation pursuant to KRS 13A.300, or find an administrative regulation deficient pursuant to KRS 13A.030(2), (3), or (4) or 13A.190(3), the motion to amend, defer, or find deficient shall be approved by a majority of the entire membership of the legislative committee. 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, defer an administrative regulation, or find an administrative regulation deficient by:

1. Meeting separately; or
 2. 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) The quorum requirements of subsection (9)(b) of this section shall apply to an effective *or filed* administrative regulation *that is* under *informational* review by a legislative committee *pursuant to subsection (3) or (4) of Section 2 of this Act and subsection (8) of this section*.
- (b) A motion to *defer the informational review of an*~~find an effective~~ administrative regulation *or find the administrative regulation* deficient shall be approved by:
1. A majority of the entire membership of the Administrative Regulation Review Subcommittee; or
 2. A legislative committee in accordance with subsection (9)(c) of this section.
- (11) (a) Upon adjournment of the meeting at which a legislative committee has considered an administrative regulation pursuant to subsection (7) or (10) of this section, the legislative committee 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 legislative committee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The legislative committee's findings shall be published in the Administrative Register.

➔Section 6. KRS 13A.300 is amended to read as follows:

- (1) The administrative body that promulgated an administrative regulation may request that consideration of the administrative regulation be deferred by a legislative committee.
- (2) The deferral of an administrative regulation scheduled for *full* review by the Administrative Regulation Review Subcommittee *pursuant to subsection (1)(b)1., 2., or 5. of Section 5 of this Act* shall be governed by KRS 13A.020(4) and the following:
 - (a) A request for deferral of an ordinary administrative regulation filed with the Commission shall be automatically granted if:
 1. The administrative body submits a written letter to the regulations compiler; and
 2. The letter is received *by 12 noon, eastern time, at least five (5) calendar days* prior to the subcommittee meeting;
 - (b) A request for deferral of an ~~effective administrative regulation or an~~ emergency administrative regulation may be granted if:
 1. The administrative body submits a written letter to the regulations compiler;
 2. The letter is received prior to the subcommittee meeting; and
 3. Approved by the co-chairs of the Administrative Regulation Review Subcommittee;
 - (c) 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;
 - (d) The 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;
 - (e) Except as provided in paragraph ~~(g)~~~~(f)~~ of this subsection, an administrative regulation that has been deferred *for full review* shall be placed on the agenda of the next scheduled meeting of the subcommittee. ~~¶ If it is an administrative regulation filed with the Commission, ¶~~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~~

- (f) **1. A filed administrative regulation deferred under this subsection may still be placed on the agenda pursuant to subsection (3) or (4) of Section 2 of this Act for informational review.**
- 2. If a filed administrative regulation is placed on the agenda pursuant to subparagraph 1. of this paragraph, the full review of the filed administrative regulation shall still be deferred in accordance with this subsection; and**
- (g) An administrative regulation shall not be deferred under this subsection more than twelve (12) times.
- (3)~~(a)~~ The deferral of *an informational review for an* ~~a filed ordinary~~ administrative regulation *scheduled by the Administrative Regulation Review Subcommittee pursuant to subsection (1)(b)3. or 4. of Section 5 of this Act* ~~referred to a second legislative committee or committees pursuant to KRS 13A.290(6) and (7)~~ shall be governed by *KRS 13A.020(4) and the following*~~; this subsection and the voting requirements of KRS 13A.290(9).~~
- (a)~~(b)1.~~ A request *to defer an informational review for an administrative regulation that was placed on the subcommittee's agenda may be* ~~for deferral shall be automatically~~ granted if:
- 1.**~~a.~~ The administrative body submits a written letter to the regulations compiler;~~and~~
- 2.**~~b.~~ The letter is received prior to the *subcommittee* ~~legislative committee~~ meeting; *and*
- 3. Approved by the co-chairs of the Administrative Regulation Review Subcommittee;**
- (b)~~2.~~ A request for deferral may be granted at the discretion of the *subcommittee* ~~second legislative committee~~ if the request is made by the administrative body orally at a meeting of the *subcommittee* ~~legislative committee~~; and
- ~~3. The legislative 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.~~
- (c)~~1.~~ An *informational review for an* administrative regulation that is deferred may be placed on *the* ~~a subsequent~~ agenda of the *next scheduled meeting of the subcommittee* ~~legislative committee or committees within the review period.~~
- ~~2. If a filed ordinary administrative regulation that has been deferred is not placed on a subsequent agenda within the review period, the administrative regulation shall take effect at the expiration of the review period.~~
- (4) (a) The deferral of *a filed ordinary or emergency* ~~an effective~~ administrative regulation *assigned to a second* ~~for an emergency administrative regulation under review by a~~ legislative committee *or committees for full review pursuant to subsections (6) and (7) of Section 5 of this Act* shall be governed by this subsection and the voting requirements of KRS 13A.290(9).
- (b) A request for deferral may be granted if:
1. The administrative body submits a written letter to the regulations compiler;
2. The letter is received:
- a. Prior to the legislative committee meeting *for an emergency administrative regulation;***
or
- b. *By 12 noon, eastern time, at least five (5) calendar days prior to the legislative committee meeting for an ordinary administrative regulation;*** and
3. Approved by the presiding chair or chairs.
- (c) A request for deferral may be granted at the discretion of the *second* legislative committee if the request is made by the administrative body orally at a meeting of the legislative committee.
- (d) **1. At a meeting of a legislative committee,** the legislative committee may request that consideration of an administrative regulation be deferred by the administrative body. Upon receipt of the request, the administrative body may agree to defer consideration of the administrative regulation.

2. ~~(e)~~ An administrative regulation that is deferred *for full review* may be placed on a subsequent agenda of the legislative committee *or committees within the review period*.
3. *If a filed ordinary administrative regulation that has been deferred for full review is not placed on a subsequent agenda within the review period, the administrative regulation shall take effect at the expiration of the review period.*
- (e) 1. *A filed administrative regulation deferred under this subsection may still be placed on the agenda for informational review pursuant to subsection (3) or (4) of Section 2 of this Act and subsection (8) of Section 5 of this Act; and*
2. *If a filed administrative regulation is placed on the agenda pursuant to subparagraph 1. of this paragraph, the full review of the filed administrative regulation may be scheduled by the legislative committee at a subsequent meeting during the ninety (90) day review period.*
- (5) *The deferral of an informational review for an administrative regulation scheduled by a legislative committee pursuant to subsection (3) or (4) of Section 2 of this Act and subsection (8) of Section 5 of this Act shall be governed by this subsection and the voting requirements of subsection (9) of Section 5 of this Act.*
- (a) *A request to defer an informational review for an administrative regulation that was placed on the legislative committee's agenda may be granted if:*
1. *The administrative body submits a written letter to the regulations compiler;*
2. *The letter is received prior to the legislative committee meeting; and*
3. *Approved by the presiding chair or chairs.*
- (b) *A request for deferral of an informational review for an administrative regulation may be granted at the discretion of the legislative committee if the request is made by the administrative body orally at a meeting of the legislative committee.*
- (c) *An informational review for an administrative regulation that is deferred may be placed on a subsequent agenda of the legislative committee.*
- (6) Except as provided by KRS 13A.290(4), if a representative of an administrative body *with authority to amend, defer, and answer questions about a filed* ~~whose~~ administrative regulation *that is on the agenda* ~~is scheduled~~ ~~for full review~~ fails to appear before a legislative committee, the legislative committee in conformance with KRS 13A.290(9) may:
- (a) Defer the administrative regulation to *a subsequent* ~~the next regularly scheduled~~ meeting of the legislative committee; ~~and~~ ~~or~~
- (b) Make a determination pursuant to KRS 13A.030(2), (3), *and (4)* or 13A.190(3).
- (7) *If a representative of an administrative body with authority to defer and answer questions about an administrative regulation that was placed on the agenda for informational review pursuant to subsection (3) or (4) of Section 2 of this Act and subsection (8) of Section 5 of this Act fails to appear before the legislative committee, the legislative committee in conformance with subsection (9) of Section 5 of this Act may:*
- (a) *Defer the informational review for the administrative regulation to a subsequent meeting of the legislative committee; and*
- (b) *Make a determination pursuant to subsection (2), (3), and (4) of Section 2 of this Act or KRS 13A.190(3).*
- ➔Section 7. KRS 13A.335 is amended to read as follows:
- (1) (a) A filed administrative regulation found deficient by a legislative committee shall not be considered deficient if:
1. A subsequent amendment of that administrative regulation is filed with the Commission by the administrative body;
2. The legislative committee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects the deficiency; and

3. ***The administrative regulation is not found deficient by*** any ***other*** legislative committee that reviews the administrative regulation under the provisions of KRS Chapter 13A ~~finds that the administrative regulation is not deficient~~.
- (b) A filed administrative regulation found deficient by the Administrative Regulation Review Subcommittee shall not be considered deficient if:
 1. The administrative regulation is amended to correct the deficiency at a meeting of the legislative committee to which it was assigned by the Commission;
 2. That legislative committee does not determine that the administrative regulation is deficient for any other reason; and
 3. The Administrative Regulation Review Subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not be considered deficient.
 - (c) A filed administrative regulation found deficient by a legislative committee ~~with subject matter jurisdiction~~ shall not be considered deficient if the legislative committee:
 1. Reconsiders the administrative regulation and its finding of deficiency; and
 2. Approves a motion that the administrative regulation is not deficient.
 - (d) If an amendment to an effective administrative regulation is going through the KRS Chapter 13A promulgation process and is found deficient by a legislative committee, the administrative regulation shall not be considered deficient if the:
 1. Administrative regulation was found deficient due to the amendment;
 2. Promulgating administrative body has withdrawn the proposed amendment of the existing administrative regulation; and
 3. Regulations compiler has not received the Governor's determination pursuant to KRS 13A.330.
- (2) If an effective administrative regulation is found deficient by a legislative committee, the administrative regulation shall not be considered deficient if the legislative committee:
 - (a) Reconsiders the administrative regulation and its finding of deficiency; and
 - (b) Approves a motion that the administrative regulation is not deficient.
 - (3) (a) If an administrative regulation has been found deficient by a legislative committee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation was found deficient by the [name of legislative committee] on [date]." This notice shall be the last section of the administrative regulation.
 - (b) If an administrative regulation has been found deficient by a legislative committee, subsequent amendments of that administrative regulation filed with the Commission shall contain the notice provided in paragraph (a) of this subsection.
 - (c) If an administrative regulation that has been found deficient by a legislative committee has subsequently been determined not to be deficient under the provisions of this section, the regulations compiler shall delete the notice required by paragraph (a) of this subsection.
- ➔Section 8. KRS 67.767 is amended to read as follows:
- (1) (a) The Secretary of State shall prescribe a standard form or forms, through promulgation of an administrative regulation, which shall be accepted by all tax districts and shall allow for returns of net profits and gross receipts occupational license taxes by all business entities unless the tax district opts out from acceptance in accordance with subsection (2) of this section or is exempted under subsection (3) of this section. The Secretary shall also develop and update as necessary instructions or a set of instructions for business entities on the completion of the standard form or forms so that business entities have the current information necessary to ensure the proper payment of the tax to each tax district.
 - (b) The Secretary shall seek advice and comments on the development, amendment, and maintenance of the form or forms and instructions from an advisory committee chaired by the Secretary, or his or her designee, that is composed of a representative from the Kentucky Association of Counties, the Kentucky League of Cities, the Kentucky Occupational License Association, the Kentucky School

Boards Association, the Kentucky Society of Certified Public Accountants, urban-county governments, and consolidated local governments, and a representative of business entities appointed by the Secretary.

- (c) During the development of the proposed initial form or forms, the Secretary of State shall report in writing to the Interim Joint Committee on Local Government on the progress of the development process. When the proposed administrative regulation is filed with the Legislative Research Commission pursuant to KRS Chapter 13A, the Secretary of State shall also submit a copy thereof, via regular or electronic mail, to the members of the Interim Joint Committee on Local Government or, if during a session of the General Assembly, to the members of the House Standing Committee on Local Government and the Senate Standing Committee on State and Local Government. The submission to the members shall include a note from the Secretary of State stating that the members may submit any comments regarding the proposed administrative regulation in accordance with the deadline established in KRS 13A.270(1)(c).
 - (d) Notwithstanding KRS 13A.290(6)(a), after *full* review by the Administrative Regulation Review Subcommittee, the Legislative Research Commission shall assign the administrative regulation to the Interim Joint Committee on Local Government for consideration or, if during a session of the General Assembly, to the House Standing Committee on Local Government and the Senate Standing Committee on State and Local Government.
 - (e) Once the standard form or forms are adopted or amended, the Secretary of State shall include the form or forms, instructions, and any updates on the one-stop business portal or another public ~~website~~~~Web site~~ maintained by that office along with information submitted to the Secretary of State pursuant to subsection (2) or (3) of this section. The form or forms and instructions shall be updated and maintained by the Secretary of State at no cost to the tax districts. No fee shall be levied against the public or businesses for accessing and downloading forms, instructions, or other information maintained by the Secretary of State under this section.
- (2) After the form or forms are adopted under subsection (1) of this section but prior to July 1, 2017, a tax district may adopt the standard form or forms as its exclusive return form or forms, may accept the standard form or forms in addition to the tax district's own return form or forms, or may elect to opt out of accepting the standard form or forms through adoption of a written order by the tax district's governing body. If a tax district elects not to accept the standard form or forms, it shall forward the following information to the Secretary of State for inclusion on the one-stop business portal or another public ~~website~~~~Web site~~ maintained by that office:
- (a) A copy of the written order specifying that the tax district will not accept the standard form or forms within thirty (30) days of its adoption; and
 - (b) A copy of occupational license tax forms that the tax district accepts, any accompanying instructions, and any future amendments to those forms and instructions within thirty (30) days of any change.
- (3) After July 1, 2017, a tax district shall either adopt the standard form or forms as its exclusive return form or forms or accept the standard form or forms in addition to the tax district's own return form or forms, unless:
- (a) The tax district submits a written request approved by the tax district's governing body to the Secretary of State for an exemption based on documented information that acceptance of the form will impose an undue financial hardship on the tax district; and
 - (b) The Secretary of State approves the request for an exemption and obtains the return form or forms that will be accepted by the tax district and any applicable instructions for inclusion on the one-stop business portal or another public ~~website~~~~Web site~~ maintained by that office. In exercising his or her discretion to grant an exemption under this subsection, the Secretary of State may impose any reasonable terms and limitations upon the exemption.
- (4) Upon receipt of an order pursuant to subsection (2) of this section or upon the issuance of an exemption under subsection (3) of this section, the Secretary of State shall provide notice to the Kentucky Society of Certified Public Accountants of the tax districts that have submitted a written order to opt out under subsection (2) of this section or that are granted an exemption under subsection (3) of this section.
- (5) The Secretary of State shall, only upon the request of a tax district, include electronic links for the electronic filing of forms with the local tax district by no later than July 1, 2017.

- (6) Nothing in this section or KRS 67.766 shall be interpreted to alter or preempt the requirements imposed by a tax district regarding deadlines, reporting, rates, or other legally imposed procedures regarding the imposition, administration, and collection of local occupational license taxes by a tax district. Nor shall the adoption or use of a standard form or forms developed under this section release the taxpayer from any liability or responsibility to the tax district for the correct payment of taxes, penalties, and any other obligations imposed by the tax district. This section and KRS 67.766 shall not be interpreted to authorize the collection of local tax revenues by the state government or any other agency of the state.

➔Section 9. Whereas it is essential that the public and the General Assembly promptly receive the necessary information to make informed decisions about administrative regulations, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor February 25, 2025.