



Under the Microscope

KY House Bill 50 - Kentucky's Regulation Sunset Bill Compared to Other States

By Scott R. Smith

The Kentucky Legislature has enacted their version of a Bill that sunsets the states regulations. Sunset review provisions are clauses embedded in legislation that cause a piece of legislation, a regulatory board or regulation to expire on a certain date unless specific requirements contained in the regulation are met.

Sunset provisions force government to review and reconsider whether specific agencies, laws and regulations are still necessary. Sunset reviews serve as an effective tool for the legislature to limit the executive branch's influence over a wide variety of issues.

HB 50 requires the Legislative Research Commission to appoint an Administrative Regulations Complier to maintain a list of all administrative regulation numbers and the corresponding last effective date, based on the information included in the history line of each regulation.

This legislation requires that ordinary administrative regulations with a last effective date on or after July 1, 2012 will expire seven years after its last effective date. An ordinary administrative regulation with a last effective date before July 1, 2012 shall expire on July 1, 2019. "Ordinary administrative regulations" are those which are promulgated in the ordinary course and are not immediately effective (refer to KRS 13A.180).

The Administrative Regulations Compiler will be responsible for deleting expiring administration regulations from the Kentucky Administrative Regulations Service and adding them to the list of ineffective administrative regulations. Beginning on January 1, 2020 and at least once every six months thereafter, the Compiler will publish a list of administrative regulations that have expired since the most recent previous list was published.

The Compiler will also publish a list of existing administrative regulations and their corresponding last effective dates. The first list will be published within three months of the effective date of this statute, and at least once every six months after that.

Regulations do not have to expire but the associated agency must take proactive steps to keep them in force. To maintain a regulation, the agency must file a certification letter with the Complier stating that the administrative regulation will be amended or will remain in effect without amendment. If the certification letter states that the administrative regulation will be amended, the amendment to the administrative regulation must be filed within eighteen months of the date of the certification letter was filed.

Lexington

1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville

1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



Under the Microscope
April 2017

This is a good first step for those interested in keeping Kentucky's regulatory programs current and eliminating regulations that are no longer relevant. Some other states have expanded their sunset provisions to cover agencies, programs and regulations, while a few states have abandoned the idea of sunseting.

Texas has taken the sunset process to a higher level. Texans have a Texas Sunset Advisory Commission. Created in 1977, the agency is a key legislative oversight tool, providing an objective, nonpartisan public forum for evaluating the need for, effectiveness, efficiency and responsiveness of state agencies and promoting a culture of continuous improvement within state government.

The impact of the Texas agency has been profound. According to the Texas Commission, since 1977, they have abolished 37 agencies/programs outright and 46 agencies/programs have been consolidated. They have documented \$980 M in savings and increased revenues and returned about \$23 for every \$1 spent on Sunset. The Agency has conducted nearly 500 reviews of state agencies/program. About 80 percent of the Sunset Commission's recommendations typically become law.

Ohio's Sunset Review Committee is tasked with holding hearings and receiving testimony from various state agencies to evaluate their usefulness, performance and effectiveness. The Committee was created to function during each odd numbered general assembly. Final Committee recommendations are proposed in the form of legislation and are voted on by the full House and Senate. Ohio's Sunset Review Law automatically terminates most state boards, commissions, committees and councils four years after they are established unless they are continued by new legislation. The Dayton Daily News reported in December 2014 that, "85 agencies were abolished in the last review and \$6.7 million is estimated savings came from the last round of cuts."

Tennessee's sunset statute, the Tennessee Governmental Entity Review Law, is found at Title 4, Chapter 29 of the Tennessee Statutes. The legislation requires a performance audit to be carried out by the Tennessee Comptroller's Office. The audit reports assist the General Assembly and state executive management by assessing the extent to which state agencies have fulfilled their statutory mandate and the efficiency and effectiveness of management's organization and use of resources. The law requires that each agency, board, commission and other entity be reviewed at least once every eight years by the Legislative Joint Government Operations Committee to determine whether that entity should be abolished, restructured, or continued. The Legislature publishes a list of terminated entities annually.

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



Under the Microscope
April 2017

Kentucky's program appears to be a step in the right direction, but we will need some time to see how effectively it will work. For example, how will the public be able to keep up with the work of the Administrative Regulations Complier. How easy will it be for the public to access the various lists and certification letters of the Complier? When an administrative agency decides that certain regulations are no longer needed, will that also trigger a review of the corresponding Statute to determine its relevance? It appears that Kentucky's new statute will force state agencies to review their regulatory programs much more closely and frequently than they have in the past which is good but it will require more time and money to accomplish. Hopefully, the Legislature is going to track the cost of the program and compare those to the savings generated. Other states have seen the benefits of similar programs. Hopefully Kentucky can do the same.

Lexington

1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville

1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax

