

COMMONWEALTH OF KENTUCKY

Claims Commission

Minutes

January 23, 2018

The Kentucky Claims Commission received 48 negligence claims filed against the Commonwealth during the month of December, 2017. Angela reports that as many claims as possible were set up and served on state agencies, but she hasn't been keeping track of the number of claims served since she took over intake duties. She will do so beginning with the 2018 calendar year.

Investigators Angela Robertson and Raymond Shields decided 29 claims under \$2,500.00 in December, 2017. Angela reports that 27 of these claims were denied and two (2) were awarded, for a total amount awarded of \$326.17.

At its meeting on December 19, 2017, the Kentucky Claims Commission dismissed four (4) negligence claims and awarded five (5) negligence claims totaling \$25,436.21. Together with the claims investigated in-house, the Claims Commission dismissed a total of 31 negligence claims and awarded a total of seven (7) negligence claims for a total amount awarded of **\$25,762.38** in December, 2017.

Anthony Cotto, Executive Advisor to the Public Protection Cabinet, spoke to the Commission about the Cabinet's Regulatory Reform and Red Tape Reduction Initiative. He answered several questions from the Commission members regarding the proposed regulatory changes for the Kentucky Claims Commission. A copy of the proposed new regulation for negligence claims, 802 KAR 2:010, is attached hereto.

FOR INSTRUCTIONS FROM THE COMMISSION:

BC-2016-431

Joshua Brown v. Transportation Cabinet, Dept. of Highways
Commission entered an Agreed Order awarding the Claimant \$5,000.00.

BC-2017-149

Norine Childress v. Transportation Cabinet, Dept. of Highways
Commission entered an Agreed Order of Dismissal as requested by the parties.

BC-2017-284

Robey Farms v. Transportation Cabinet, Dept. of Highways
Commission entered an Agreed Order awarding the Claimant \$2,500.00.

BC-2017-307

Ronnie Criswell and the Estate of Lyle Criswell v. Kentucky Dept. of Veterans Affairs
Commission entered an Agreed Order awarding the Claimants \$200,000.00 as agreed by the parties.

FULL COMMISSION REVIEWS:

BC-2017-053

Christopher Hawkins v. Justice & Public Safety Cabinet / Dept. of Corrections
Commission upheld its original dismissal.

BC-2017-095

Ronald Corman v. Justice & Public Safety Cabinet / Dept. of Corrections
Commission upheld its original dismissal.

BC-2017-190

Somer Escoto v. Transportation Cabinet / Dept. of Highways
Commission upheld its original dismissal.

BC-2017-191

Glenn Dempsey v. Transportation Cabinet / Dept. of Highways
Commission upheld its original award of \$186.49.

BC-2017-325

Aren Enderle v. Tourism, Arts & Heritage Cabinet / Dept. of Parks
Commission upheld its original dismissal.

MOTIONS:

BC-2017-467

Oterra Roberts v. University of Kentucky
Commission overruled the Motion to Dismiss and ordered that the claim be held in abeyance pending a ruling in Fayette Circuit Court Case No. 17-CI-3717.

RECOMMENDED ORDERS:

BC-2015-924

Tiffany Wege v. Transportation Cabinet, Dept. of Highways
Commission denied payment of the claim as recommended by the hearing officer.

BC-2016-254

Felicia Pennington v. Transportation Cabinet, Dept. of Highways
Commission denied payment of the claim as recommended by the hearing officer.

BC-2016-344

Jason Hehman v. Transportation Cabinet, Dept. of Highways
Commission dismissed for the Claimant's failure to prosecute this matter, as recommended by the hearing officer.

BC-2016-364

Joseph and Linda Moore v. Transportation Cabinet, Dept. of Highways
Commission held the claim in abeyance and ordered the Claimants to bring this matter before the Owsley Circuit Court for a determination of whether sovereign immunity is applicable, as recommended by the hearing officer.

REGULATORY REFORM AND RED TAPE REDUCTION INITIATIVE

PROPOSED REGULATION WORKSHEET

- ✓ FEDERAL MANDATE ANALYSIS COMPARISON
- ✓ FISCAL NOTE ON STATE OR LOCAL GOVERNMENT
- ✓ REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 502 KAR 2:0 Compensation for Negligent Acts.

Contact Person: K. Gail Russell

Phone Number: 502-564-7760

Executive Summary:

The Kentucky Claims Commission was created by executive order 2016-576 and subsequently codified by HB 324, passed during the 2017 regular session of the General Assembly. The executive order and HB 324 were codified at KRS 49 et seq., consolidating the programmatic functions of the Board of Claims, the Crime Victims Compensation Board, and the Board of Tax Appeals into the Claims Commission.

This new administrative regulation is promulgated concurrently with the repeal of provisions in Title 108 of the Kentucky Administrative Regulations that set forth rules governing the former Board of Claims. The administrative regulation establishes rules and procedures for filing and adjudicating negligence claims against the Commonwealth of Kentucky and the method of pleading and practice before the Kentucky Claims Commission. It sets forth required content and deadlines for filing and responding to claims, and establishes the procedures for the administration of disputes before the Commission.

I. FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 802 KAR 2:010.

Contact Person: G. Mitchell Mattingly

Phone Number: 502-782-8255

Email: Mitchell.mattingly@ky.gov

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate relevant to this administrative regulation, so this section does not apply.

2. State compliance standards. Not applicable.

3. Minimum or uniform standards contained in the federal mandate. Not applicable.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable.

5. Justification or the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

DATA

II. FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 802 KAR 2:010.
Contact Person: G. Mitchell Mattingly
Phone Number: 502-782-8255
Email: Mitchell.mattingly@ky.gov

1. **What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?** The Kentucky Claims Commission and any state government agency named in a negligence claim filed with the Commission will be impacted by this administrative regulation.
2. **Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.** KRS 49.020(5) authorizes the action proposed in the administrative regulation.
3. **Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**
 - (a) **How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?** This administrative regulation will not generate any revenue for state or local government for the first year.
 - (b) **How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?** This administrative regulation will not generate any revenue for state or local government for subsequent years.
 - (c) **How much will it cost to administer this program for the first year?** There is no additional cost to administer this program for the first year.
 - (d) **How much will it cost to administer this program for subsequent years?** There is no additional cost to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No impact.
Expenditures (+/-): No impact.
Other Explanation: None.

III. REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 802 KAR 2:010.
Contact Person: G. Mitchell Mattingly
Phone Number: 502-782-8255
Email: Mitchell.mattingly@ky.gov

(1) Provide a brief summary of:

- (a) **What this administrative regulation does:** This administrative regulation establishes rules and procedures for adjudicating negligence claims against the Commonwealth of Kentucky and sets forth the method of pleading and practice before the Kentucky Claims Commission. Concurrent with the repeal of 108 KAR 1:010, 108 KAR 1:030, and 108 KAR 1:040, which contained rules and procedures for the Kentucky Board of Claims, this new administrative regulation establishes requirements for content and deadlines for filing claims with the commission, sets forth administrative procedures and policies for the conduct of parties and hearing officers throughout claim adjudication and resolution, and provides a formal framework for commission decision making.
- (b) **The necessity of this administrative regulation:** This administrative regulation is necessary to establish rules and procedures for adjudicating negligence claims before the Kentucky Claims Commission pursuant to KRS Chapter 49.040 to 49.180.
- (c) **How this administrative regulation conforms to the content of the authorizing statutes:** This administrative regulation conforms to KRS Chapter 49.020 and 49.030 by providing procedural rules for processing, litigating, and adjudicating claims of negligence against state government agencies brought before the Kentucky Claims Commission.
- (d) **How this administrative regulation currently assists or will assist in the effective administration of the statute:** This administrative regulation will provide guidance to all parties proceeding before the Commission and assist the Commission's adjudication of matters.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) **How the amendment will change this existing administrative regulation:** This is a new administrative regulation.
- (b) **The necessity of the amendment to this administrative regulation:** This is a new administrative regulation.

- (c) **How the amendment conforms to the content of the authorizing statutes:** This is a new administrative regulation.
- (d) **How the amendment will assist in the effective administration of the statutes:** This is a new administrative regulation.
- (3) **List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:** This administrative regulation will provide guidance to approximately 900-1000 claimants who file negligence claims with the Kentucky Claims Commission annually and the various state government agencies who defend against those claims, as well as the commission and its hearing officers.
- (4) **Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**
- (a) **List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:** Individuals pursuing claims against Kentucky state agencies and their attorneys will have to comply with filing and procedural requirements set forth in this administrative regulation. Kentucky state agencies seeking to defend against claims, as well as the commission and its hearing officers will have to comply with the practice and procedural requirements in the administrative regulation.
- (b) **In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):** There will be no added cost to claimants or Kentucky state agencies to comply with this administrative regulation.
- (c) **As a result of compliance, what benefits will accrue to the entities identified in question (3):** Claimants, attorneys, agencies, hearing officers, and Commission members will have clear guidance on the submission of claims and subsequent proceedings.
- (5) **Provide an estimate of how much it will cost to implement this administrative regulation:**
- (a) **Initially:** There is no cost associated with implementing this administrative regulation.
- (b) **On a continuing basis:** There is no cost associated with implementing this administrative regulation.
- (6) **What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:** There is no additional source of funding necessary to implement this administrative regulation.
- (7) **Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amend-**

ment: No increases in fees or funding will be necessary to implement this administrative regulation.

- (8) **State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:** No fees are directly or indirectly established or increased by this administrative regulation.
- (9) **TIERING: Is tiering applied? Explain why tiering was or was not used.** Tiering is not applied because this administrative regulation applies equally to all parties.

REF

PUBLIC PROTECTION CABINET

Kentucky Claims Commission

(New Administrative Regulation)

802 KAR 2:010. Negligence Claims before the Kentucky Claims Commission.

RELATES TO: KRS 49.020, 49.040, 49.090, 49.120.

STATUTORY AUTHORITY: KRS 49.020(5).

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to the renumbering and repeal of KRS 346.010 et. seq. and enactment of KRS Chapter 49, the programmatic functions of the former Board of Claims have been absorbed into the Kentucky Claims Commission. KRS 49.020(5) requires the commission to promulgate administrative regulations to carry out the provisions and purposes of the commission. This administrative regulation establishes rules and procedures for filing and adjudicating negligence claims under the jurisdiction of the commission and the method of pleading and practice before the commission.

Section 1. Filing claims.

(1) A claim shall:

(a) Be legibly written, typed, or printed;

(b) Contain:

1. The name, address, telephone number, and e-mail address of the claimant;

2. The amount of the claim; and

3. A statement of the facts that:

(i) Shows that the claimant may be entitled to relief under KRS 49.010 to 49.180; and

*// How adjudicated?
no mention of
process after the
hearing....*

(ii) Enables the respondent agency to investigate the claim and prepare its defense; and
(c) Be filed by mail, electronic mail at negclaims@ky.gov, or delivered in person to the commission's office.

(2) An attorney representing a claimant before the commission shall enter an appearance at the time the complaint is filed or as soon thereafter as possible.

(3) Any orders related to the claim and copies shall be served on the opposing party and the hearing officer presiding over the claim.

(4) An individual who is not an attorney shall not represent any other individual or an entity that is a party to a claim.

Section 2. Response to claims.

(1) The commission shall promptly furnish a copy of each claim to the head of the agency against which the claim is filed.

(2) The agency against which a claim has been filed shall answer the claim or file a responsive motion in writing to the commission and the claimant within thirty (30) days.

(3) The commission shall consider the claim at its next regular or special meeting if:

(a) The response filed by the affected agency admits liability; or

(b) The respondent agency fails to respond to the commission concerning its investigation within thirty (30) days.

(4) If the agency denies negligence in a claim requiring a hearing pursuant to KRS 49.090(3), a hearing officer shall be assigned and the commission shall notify the claimant and the head of the affected agency of the assignment.

(5) The commission may grant an extension of time to file the answer or response to the claim upon:

- (a) Agreement of the parties; or
- (b) A showing of good cause.

Section 3. Prehearing or status conference and hearing schedule.

(1) The hearing officer shall schedule a telephonic prehearing or status conference:

- (a) Within thirty (30) days of the assignment of the claim; and
- (b) Upon reasonable notice to all parties.

(2) The hearing officer may convene the telephonic prehearing or status conference or order the affected state agency to convene the conference.

(3) A prehearing or status conference may be used to discuss jurisdictional matters, settlement possibilities, discovery, preparation of stipulations, clarification of issues, rulings on witnesses, taking of evidence, issuance of subpoenas, mediation, and other matters that will promote the orderly and prompt conduct of the hearing.

(4) The hearing officer and the parties shall set an agreed date for the hearing at the prehearing or status conference. If the hearing officer and parties cannot agree upon a hearing date, the hearing officer shall set the matter for hearing no later than six (6) months from the date of the conference, unless the parties have otherwise agreed.

(5) Upon conclusion of the prehearing or status conference, the hearing officer shall issue an order incorporating all matters determined at the prehearing or status conference.

(6) The hearing officer shall notify the commission of the date and time for the hearing.

The executive director, or his or her designee, shall:

- (a) Reserve a place within the proper venue to conduct the hearing;
- (b) Select a court reporter to be present at the hearing to record the proceedings; and
- (c) Notify the parties and the court reporter of the date, time, and place of the hearing.

Section 4. Conduct of Hearing. Except as otherwise stated in KRS Chapter 49 or this administrative regulation, the conduct of hearings shall be governed by the procedures set forth in KRS Chapter 13B.

Marcus Carey, Chair
Kentucky Claims Commission

Date

David A. Dickerson, Secretary
Public Protection Cabinet

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on February 26, 2018 at 10:00 a.m. at the Kentucky Claims Commission, 130 Brighton Park Blvd., Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments regarding this proposed administrative regulation will be accepted if received on or before 11:59 p.m. on February 28, 2018. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: G, Mitchell Mattingly, Kentucky Claims Commission Attorney, 130 Brighton Park Blvd, Frankfort, Kentucky 40601, phone (502) 782-8255, fax (502) 573-4817, email: mitchell.mattingly@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 802 KAR 2:010.
Contact Person: G. Mitchell Mattingly
Phone Number: 502-782-8255
Email: Mitchell.mattingly@ky.gov

(1) Provide a brief summary of:

- (a) What this administrative regulation does:** This administrative regulation establishes rules and procedures for adjudicating negligence claims against the Commonwealth of Kentucky and sets forth the method of pleading and practice before the Kentucky Claims Commission. Concurrent with the repeal of 108 KAR 1:010, 108 KAR 1:030, and 108 KAR 1:040, which contained rules and procedures for the Kentucky Board of Claims, this new administrative regulation establishes requirements for content and deadlines for filing claims with the commission, sets forth administrative procedures and policies for the conduct of parties and hearing officers throughout claim adjudication and resolution, and provides a formal framework for commission decision making.
- (b) The necessity of this administrative regulation:** This administrative regulation is necessary to establish rules and procedures for adjudicating negligence claims before the Kentucky Claims Commission pursuant to KRS Chapter 49.040 to 49.180.
- (c) How this administrative regulation conforms to the content of the authorizing statutes:** This administrative regulation conforms to KRS Chapter 49.020 and 49.030 by providing procedural rules for processing, litigating, and adjudicating claims of negligence against state government agencies brought before the Kentucky Claims Commission.
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- (a) How the amendment will change this existing administrative regulation:** This is a new administrative regulation.
- (b) The necessity of the amendment to this administrative regulation:** This is a new administrative regulation.
- (c) How the amendment conforms to the content of the authorizing statutes:** This is a new administrative regulation.
- (d) How the amendment will assist in the effective administration of the statutes:** This is a

new administrative regulation.

- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:** This administrative regulation will provide guidance to approximately 900-1000 claimants who file negligence claims with the Kentucky Claims Commission annually and the various state government agencies who defend against those claims, as well as the commission and its hearing officers.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

 - (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:** Individuals pursuing claims against Kentucky state agencies and their attorneys will have to comply with filing and procedural requirements set forth in this administrative regulation. Kentucky state agencies seeking to defend against claims, as well as the commission and its hearing officers, will have to comply with the practice and procedural requirements in this administrative regulation.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):** There will be no added cost to claimants or Kentucky state agencies to comply with this administrative regulation.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3):** Claimants, attorneys, agencies, hearing officers, and commission members will have clear guidance on the submission of claims and subsequent proceedings.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:**

 - (a) Initially:** There is no initial cost associated with implementing this administrative regulation.
 - (b) On a continuing basis:** There is no continuing basis cost associated with implementing this administrative regulation.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:** No additional source of funding is necessary to implement this administrative regulation.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment:** No increases in fees or funding will be necessary to implement this administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:** No fees are directly or indirectly established or increased by

this administrative regulation.

- (9) **TIERING: Is tiering applied? Explain why tiering was or was not used.** Tiering is not applied because this administrative regulation applies equally to all parties.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 802 KAR 2:010.

Contact Person: G. Mitchell Mattingly

Phone Number: 502-782-8255

Email: Mitchell.mattingly@ky.gov

1. **What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**
The Kentucky Claims Commission and any state government agency named in a negligence claim filed with the commission will be impacted by this administrative regulation.
2. **Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.** KRS 49.020(5) authorizes the action proposed in the administrative regulation.
3. **Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**
 - (a) **How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?** This administrative regulation will not generate any revenue for state or local government for the first year.
 - (b) **How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?** This administrative regulation will not generate any revenue for state or local government for subsequent years.
 - (c) **How much will it cost to administer this program for the first year?** There is no additional cost to administer this program for the first year.
 - (d) **How much will it cost to administer this program for subsequent years?** There is no additional cost to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No impact.

Expenditures (+/-): No impact.

Other Explanation: None.

1 PUBLIC PROTECTION CABINET

2 Kentucky Claims Commission

3 (Repealer)

4 108 KAR 1:011. Repeal of 108 KAR 1:010, 108 KAR 1:030, and 108 KAR 1:040.

5 RELATES TO: KRS 49.030, 49.040, 49.080, 49.100, 49.120, 49.130, 49.140, 49.150, 49.160.

6 STATUTORY AUTHORITY: KRS 49.010, 49.020.

7 NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation repeals 108
8 KAR 1:010, 108 KAR 1:030, and 108 KAR 1:040. Pursuant to the renumbering and repeal of
9 KRS 346.010 et. seq. and enactment of KRS Chapter 49, the programmatic functions of the former
10 Board of Claims have been absorbed into the Kentucky Claims Commission. The subject matter
11 of this administrative regulation is being concurrently updated and repromulgated as part of Title
12 802 of the Kentucky Administrative Regulations.

13 Section 1. The following administrative regulations are hereby repealed:

14 (1) 108 KAR 1:010. Board operation and claim procedure;

15 (2) 108 KAR 1:030. Filing of claims, original signature of claimant required; and

16 (3) 108 KAR 1:040. Payment of awards, proof of payment required.

Marcus Carey, Chairman
Kentucky Claims Commission

Date

David A. Dickerson, Secretary
Public Protection Cabinet

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on February 26, 2018 at 10:00 a.m. at the Kentucky Claims Commission, 130 Brighton Park Blvd., Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments regarding this proposed administrative regulation will be accepted if received on or before 11:59 PM on February 28, 2018. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: G. Mitchell Mattingly, Kentucky Claims Commission Attorney,
130 Brighton Park Blvd, Frankfort, Kentucky 40601, phone (502) 782-8255, fax (502) 573-4817
email: mitchell.mattingly@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 108 KAR 1:011. Repeal of 108 KAR 1:010, 108 KAR 1:030, 108 KAR 1:040

Contact Person: G. Mitchell Mattingly

Phone Number: 502-782-8255

Email: Mitchell.mattingly@ky.gov

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation repeals 108 KAR 1:010, 108 KAR 1:030, and 108 KAR 1:040. Pursuant to the renumbering and repeal of KRS 346.010 et. seq. and enactment of KRS Chapter 49, the programmatic functions of the former Board of Claims have been absorbed into the Kentucky Claims Commission. The subject matter of these administrative regulations is being concurrently updated and repromulgated as part of Title 802 of the Kentucky Administrative Regulations.
- (b) The necessity of this administrative regulation: This regulation is necessary to repeal 108 KAR 1:010, 108 KAR 1:030, and 108 KAR 1:040, whose authorizing statutes were renumbered and repealed during the 2017 Session of the General Assembly.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation repealer is promulgated consistent with KRS 49.020(5), which authorizes the commission to promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of the commission's statutory authority.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation repealer will assist in the effective administration of the statutes by repealing 108 KAR 1:010, 108 KAR 1:030, and 108 KAR 1:040 consistent with the renumbering and repeal of their authorizing statutes during the 2017 session of the General Assembly.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation: This administrative regulation is a repealer.
- (b) The necessity of the amendment to this administrative regulation: This administrative regulation is a repealer.
- (c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation is a repealer.
- (d) How the amendment will assist in the effective administration of the statutes: This

administrative regulation is a repealer.

- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects those seeking to bring negligence claims against state agencies and the agencies defending against such claims.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
 - (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional actions are required by the entities identified in question (3) to comply with this repealer.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Complying with this repealer will have no cost for the entities identified in question (3).
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities identified in question (3) will benefit from this administrative regulation repealer by the concurrent promulgation of Title 802 of the Kentucky Administrative Regulations with updated, streamlined, and simplified processes and procedures for filing and defending claims with the Commission.
- (5) Provide an estimate¹ of how much it will cost the administrative body to implement this administrative regulation:
 - (a) Initially: There are no initial costs to implement this administrative regulation repealer.
 - (b) On a continuing basis: There are no continuing basis costs to implement this repealer.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement this repealer.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee or funding increase is necessary to implement this repealer.
- (8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This repealer does not establish or increase any fees.
- (9) TIERING: Is tiering applied? Tiering is not applied. This is a repeal of administrative regulations.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 108 KAR 1:011. Repeal of 108 KAR 1:010, 108 KAR 1:030, and 108 KAR 1:040

Contact Person: G. Mitchell Mattingly

Phone Number: 502-782-8255

Email: Mitchell.mattingly@ky.gov

- (1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Kentucky Claims Commission and any state agency defending negligence claims before the Commission.
- (2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.310(3)(a), KRS 49.020(5).
- (3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation repealer will not generate revenue for state or local government for the first year.
 - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation repealer will not generate revenue for state or local government for subsequent years.
 - (c) How much will it cost to administer this program for the first year? This administrative regulation repealer will cost nothing to administer for the first year.
 - (d) How much will it cost to administer this program for subsequent years? This administrative regulation repealer will cost nothing to administer for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No impact.

Expenditures (+/-): No impact.

Other Explanation: None.