



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

APR 11 REC'D 2014
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STEVEN L. BESHEAR
GOVERNOR

VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 235 OF THE
2014 REGULAR SESSION

1. Funds Recovered Through Litigation – Attorney General

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

- Page 17, line 25, after “may”, delete “only”.
- Page 17, line 26, after “restitution.”, delete the rest of the line.
- Page 17, line 27, in its entirety.
- Page 18, line 1, in its entirety.

I am vetoing this part because it would limit the ability of Kentucky’s Attorney General to participate in multi-state settlement litigation and agreements. It also violates the separation of powers outlined in the Kentucky Constitution. The Attorney General historically participates with other States in multi-state litigation, that when settled, includes requirements by the Court to direct the use of the settlement proceeds in particular ways. One recent example is the Ocwen Financial Corporation settlement. The Attorney General settled with Ocwen Financial Corporation of Atlanta Georgia, as part of a \$2.1 billion joint state-federal settlement with 48 additional states, the District of Columbia, and the Consumer Financial Protection Bureau (CFPB). The settlement terms address servicing misconduct by Ocwen that resulted in premature and unauthorized foreclosures, violations of homeowners’ rights and protections, and the use of false and deceptive documents and affidavits, including “robo-signing.” The settlement was the result of a massive joint state-federal civil law enforcement investigation. Through a court order, the settlement holds Ocwen accountable for past mortgage servicing and foreclosure abuses, provides relief to homeowners, and protects consumers by preventing future fraud and abuse. As a result of the settlement, Ocwen will provide troubled Kentucky borrowers with an estimated \$7.8 million in first lien principal reductions, and 1,499 loans will be eligible to receive a cash payment. The requirements in HB235 would have prevented Kentucky’s participation. This provision, in effect, would deter the Kentucky Attorney General from participating in such litigation which would be detrimental to the interests of the taxpayers of the Commonwealth.



2. Unexpended Funds

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 35, line 7, after “KRS 157.430.”, delete the rest of the line.

Page 35, lines 8 through 9, in their entirety.

I am vetoing this part because the General Assembly has already placed various obligations on unexpended General Fund appropriations in this budget. It has done this by appropriating mandated spending without providing its specific financing in the biennial budget bill. These required expenditures are generally known as necessary government expenses. These necessary government expenditures have ranged from \$30 to \$50 million each of the last five years. Among the important services they fund are: forest fire suppression, matching funds for federal FEMA disaster grants, legal representation of minors with no guardian, county courthouse security provided by Sheriffs, security and assistance provided by the Kentucky National Guard during emergencies, natural disasters and major events, the incarceration of convicted felons when the population is greater than budgeted, and court judgments against the Commonwealth. Because the monies for these functions are not specifically provided by the General Assembly, they can only come from three sources: (1) unexpended appropriations, (2) revenues in excess of the official estimate, and (3) the Budget Reserve Trust Fund. This provision would diminish one of the potential sources to pay for these necessary government expenses that the General Assembly has already authorized.

3. Department of Education – Learning and Results Services Programs

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 45, line 24, after “biennium”, delete the rest of the line.

Page 45, line 25, delete “administrative purposes”.

I am vetoing this part because this provision is in conflict with the program amounts listed in this section of the bill. The necessary administrative costs are embedded in many of the amounts listed. These programs cannot be implemented without the requisite administrative costs of executing them.

4. Evaluation of Indigent Care

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following parts:

Page 74, line 8, delete “and the University of Louisville”, and after “shall”, delete “collaborate to”.

Page 74, line 10, after “Services”, delete the rest of the line.

Page 74, line 11, delete “University of Louisville”.

Page 102, line 2, delete “and the University of Louisville”, and after “shall”, delete “collaborate to”.

Page 102, line 4, after “Services”, delete the rest of the line.

Page 102, line 5, delete “University of Louisville”.

I am vetoing these parts because they mandate that the University of Louisville conduct a study of its affiliate rather than insuring that the study is conducted by an unrelated, objective, third-party entity. The Cabinet for Health and Family Services will conduct the study and will consider information and data supplied by the University of Louisville.

5. Use of Identified Savings

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 87, lines 25 through 26, in their entirety.

I am vetoing this part because the first required use of any such savings must be to finance any unbudgeted costs of the prison or probation and parole population. By statute, any unexpended General Fund appropriations lapse to the surplus account of the General Fund. Elsewhere in the biennial budget bill, the General Fund Surplus Plan allocates all of the undesignated General Fund balance to either the Budget Reserve Trust Fund or to finance appropriated but unbudgeted necessary government expense appropriations.

6. Health Care Cost Savings

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 92, line 8, after “projects”, delete the rest of the line.

Page 92, lines 9 through 15, in their entirety.

Page 92, line 18, after “support”, delete “two”.

Page 92, line 21, after “capture”, delete “an”, and after “savings”, delete the rest of the line.

Page 92, line 22, delete “ten percent”, and after “and”, delete “an”.

Page 92, line 23, delete “of up to five percent”, and after “Program”, delete the rest of the line.

Page 92, lines 24 through 27, in their entirety.

Page 93, lines 1 through 10, in their entirety.

Page 93, line 13, after “Services”, delete the rest of the line.

Page 93, lines 14 through 16, in their entirety.

Page 93, line 17, delete “scale.”.

Page 93, line 18, after “process”, delete the rest of the line.

Page 93, line 19, after “and”, delete the rest of the line.

Page 93, line 20, delete “percent”, and after “Program.”, delete the rest of the line.

Page 93, lines 21 through 22, in their entirety.

I am vetoing this part because several elements of this provision are overly restrictive to achieving its intended outcome, or are too prescriptive. I have retained the parts that pursue health care cost savings through demonstration projects in the Commonwealth’s Medicaid and Kentucky Employees’ Health Plan

programs. This Administration continues to be interested in saving taxpayer dollars in the area of health care and to seek opportunities in achieving them through innovative approaches.

7. Limitations on Budget Reductions of Individual Programs

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following parts:

Page 96, line 2, after “Seminars.”, delete the rest of the line.

Page 96, lines 3 through 4 in their entirety.

Page 96, line 6, after “Program.”, delete the rest of the line.

Page 96, lines 7 through 9, in their entirety.

Page 100, line 9, after “budget.”, delete the rest of the line.

Page 100, line 10, in its entirety.

Page 101, line 6, after “budget.”, delete the rest of the line.

Page 101, line 7, in its entirety.

Page 236, lines 2 through 6, in their entirety.

I am vetoing these parts because they each single out specific items for exemption from any future budget reductions due to revenue shortfalls. The treatment of funding for hundreds of programs in the budget warrant that they all remain under consideration should revenue shortfalls occur.

8. Kentucky Community and Technical College System – Revenues for Agency Bond Projects

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 104, line 23, after “fee”, delete “, on a college-by-college basis.”.

Page 105, lines 1 through 4, in their entirety.

Page 105, line 5, after “fee,”, delete the rest of the line.

Page 105, line 6, delete “established and implemented pursuant to such recommendation.”.

Page 105, line 7, after “projects”, delete “for the college recommending the fee”.

I am vetoing this part because it would preclude nine of the sixteen enacted capital projects from being completed at the authorized scope based on the most current estimate from the Kentucky Community and Technical College System (KCTCS). The nine projects represent \$102,750,000 of the \$145,500,000 in authorized agency bonds. The KCTCS is a system of postsecondary education institutions and is intended to be managed as a system, both financially and from a governance perspective. To achieve the lowest financing costs and enable the projects to be built, the financing plan for the approved projects must rely on a pledge of total revenues of the entire system of institutions. This is consistent with the method of approval and financing for agency fund bond projects on the campuses of the four-year postsecondary institutions. The General Assembly devoted significant effort in choosing which worthy capital projects are to be funded with debt and the ratio of the authorized debt service to the state’s revenues. By imposing this condition, the General Assembly then repudiated a substantial portion of that reasoned

decision process. Other Kentucky public postsecondary education institutions impose similar facility-related fees on their students at satellite campuses which are used for facilities on the main campus. Furthermore, since the establishment of the Commonwealth's community college system in 1962, the statutory role of the individual college boards of directors is primarily to recommend and advise the governing board of Kentucky's two-year college system: the University of Kentucky Board of Trustees then, and now the Kentucky Community and Technical College System Board of Regents. This provision, in a temporary budget bill, permits the college boards of directors to make a binding decision affecting the entire system, thereby usurping the statutory responsibilities of the governing body of KCTCS.

9. Carry Forward and Undesignated General Fund

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 233, lines 14 through 20 in their entirety.

Page 233, line 22, after "purposes", delete the rest of the line.

Page 233, line 23, delete "48.705".

I am vetoing this part because the total amount of General Fund receipts is not known on June 30, 2016. This provision directs the Secretary of the Finance and Administration Cabinet to speculate on the total amount of General Fund receipts two weeks prior to the determination of the total actual receipts, and then to premise significant fiscal decisions and actions upon that speculation.

10. General Fund Revenues in Excess of Enacted Estimate

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 234, line 27, in its entirety.

Page 235, lines 1 through 7, in their entirety.

I am vetoing this part because the General Assembly has already obligated much of any excess General Fund revenues. By statute, General Fund revenues in excess of estimates are deposited into the surplus account of the General Fund. Elsewhere in the biennial budget bill, the General Fund Surplus Expenditure Plan allocates all of the undesignated General Fund balance to finance appropriated but unbudgeted necessary government expenses appropriations, then to the Budget Reserve Trust Fund. The General Assembly appropriated mandated spending without providing its specific financing in the biennial budget bill. This required spending is generally known as necessary government expenses. These necessary government expenditures have ranged from \$30 to \$50 million each of the last five years. Among the important things they provide: forest fire suppression, matching funds for federal FEMA disaster grants, legal representation of minors with no guardian, county courthouse security provided by Sheriffs, security and assistance provided by the Kentucky National Guard, the incarceration of convicted felons when the population is greater than budgeted, and court judgments against the Commonwealth. Because the monies for these functions are not specifically provided by the General Assembly, they can

only come from three sources: (1) unexpended appropriations, (2) revenues in excess of the official estimate, and (3) the Budget Reserve Trust Fund. The first step in implementing the General Fund Surplus Expenditure Plan enacted within this same budget bill is to set aside sufficient funding for necessary government expenses, then the remainder is deposited into the Budget Reserve Trust Fund. This provision is in conflict with the implementation of that enacted General Fund Surplus Expenditure Plan.

11. Executive Branch Budget Recommendation Limitation

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 235, lines 8 through 15, in their entirety.

I am vetoing this part because it limits the Executive budget recommendation for the next biennial budget.

12. General Fund Budget Reduction Plan

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following parts:

Page 248, line 27, in its entirety.

Page 249, lines 1 through 2, in their entirety.

Page 249, lines 7 through 11, in their entirety.

I am vetoing these parts because the Executive branch needs the maximum flexibility to contend with revenue shortfalls should they occur.

This the 11th day of April, 2014



Steven L. Beshear, Governor