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**VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 358 OF THE
2019 REGULAR SESSION**

I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, Pursuant to the authority granted under section 88 of the Kentucky State Constitution, do hereby veto the following:

House Bill 358 of the 2019 Regular Session of the General Assembly in its entirety.

*Throughout the course of creating public awareness of the dire condition of our public employee retirement systems, I have stated repeatedly that **we have a moral and legal obligation to protect the benefits earned by our public sector retirees.** While I appreciate the work of our legislators who worked diligently to protect the services provided by many quasi-government entities, **parts of HB 358 violate both the moral and legal obligation we have to these very retirees.***

HB 358 will very likely result in a suspension of pension and health insurance benefits already earned by retired employees of quasi-government agencies. Specifically, a quasi-government agency has the right under HB 358 to opt out of the Kentucky Employers Retirement System (KERS) and to make payments against the full actuarial cost of the benefits accrued by its current and former employees in KERS to KERS through installment payments. In the event a quasi-government agency makes this decision and thereafter defaults in the payment of its required installments due to KERS, HB 358 mandates that KERS suspend benefit payments to the defaulting agency's current and former employees and retirees during the period of default. Under current law, this would include the health care benefits provided to these individuals. These are both unacceptable.

Additionally, there should be an actuarially sound discount rate used to determine the full actuarial cost of the benefits accrued in KERS by the current and former employees of those quasi-government agencies who elect to opt out of KERS. Using an unsound discount rate will cost hundreds of millions of dollars to KERS, which further threatens the solvency of the system.

Furthermore, any entity that opts out of KERS should pay off its unfunded liability within 30 years. However, based upon an analysis performed by KERS's consulting actuary, some 74 quasi-government employers out of a total of 118 quasi-government employers would not be able to pay the full installments owed to KERS within 30 years, assuming that they elected to opt out of KERS. In addition, some of the 74 quasi-government employers would never pay the full amount due to KERS.

Additionally, HB 358 contains several references to “January 1, 2019” in terms of employees hired by the quasi-government agencies on or after that date. These references should instead be references to either “January 1, 2020” or “July 1, 2020”. HB 358 creates uncertainty as to the rights of these employees, and the duties owed to these employees by both the particular quasi-government agency and KERS, during the period from January 1, 2019 through the date a quasi-government agency ceases participation in KERS. There are also other provisions in HB 358 that are internally inconsistent as they pertain to the existing employees of the quasi-government agencies.

Finally, HB358 also creates the anomaly whereby a quasi-government agency can elect to cease participation in KERS while its Tier 1 and Tier 2 employees can elect to continue to participate in KERS. There is no precedent for this. This is uncharted territory and the individuals responsible for administering KERS are unsure of both the legality of this provision or the ability to administer it in compliance with all applicable laws.

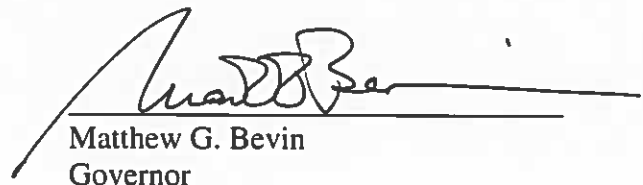
I believe strongly that we must protect our important quasi-government entities, such as our regional universities, rape crisis centers, domestic violence shelters, and local health services agencies, from potential insolvency due to the onset of significantly higher employer pension contributions. These entities provide critical services throughout the Commonwealth. It is paramount that their services remain uninterrupted. By having ignored the true costs of pension obligations for so many years, the risk to service interruptions is now very real.

I truly do appreciate the good intentions of the General Assembly in enacting HB 358. However, it, and we, can do much better. With the confidence that the legislature will make needed corrections in this bill, I must veto HB 358.

Because I am committed to protecting these services, I will call an Extraordinary Session of the Kentucky General Assembly prior to July 1, 2019 to provide the relief necessary to protect the solvency of these entities and their ability to provide services, while at the same time maximizing funding to KERS and protecting the inviolable contract rights of retirees.

Again, for the foregoing reasons, I must veto HB 358.

This the 9th day of April, 2019


Matthew G. Bevin
Governor