



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR



MATTHEW G. BEVIN
GOVERNOR

700 CAPITOL AVENUE
SUITE 100
FRANKFORT, KY 40601
(502) 564-2611
FAX: (502) 564-2517

VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 4 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 4 of the 2019 Regular Session of the General Assembly in its entirety.

House Bill 4 serves as a solution for a problem that does not exist. Kentucky's current regulatory process functions well, and this legislation would unnecessarily extend the timeline for implementation up to an additional 60 days. **Extending the regulatory process for an additional 60 days could put Executive Branch agencies at risk for losing federal funds.** Furthermore, House Bill 4 will stymie the progress of the Commonwealth's successful Red Tape Reduction initiative, which has repeatedly proven to reduce regulatory burdens that have kept businesses from locating or expanding in Kentucky. House Bill 4 threatens to slow down Kentucky's recent surge in economic development while needlessly putting federal funds at risk.

Kentucky's separation of powers provisions have been recognized as the strongest, or one of the strongest, such provisions of all state constitutions in the United States. *LRC v. Brown*, 664 S.W.2d 907 (1984). House Bill 4 can reasonably be interpreted as violating the strong separation of power established by Sections 27 and 28 of the Kentucky Constitution and will serve to usurp the traditional constitutional power and authority of the executive branch.

There are multiple other concerns with HB 4. Of particular concern is that it will create a way that the legislature, by failing to take timely action with a second committee, can vastly extend the timeline for an administrative regulation to become effective. Currently, an administrative regulation receives a 30-45 day comment period, and then appears before an administrative regulation subcommittee and a committee of jurisdiction before it becomes effective. A committee of jurisdiction, however, could utilize the new powers given to it by HB 4 to fail to meet on an administrative regulation. Simply failing to meet on an administrative regulation would extend the time that an administrative regulation is not effective due to legislative review by an additional two months over the current process. Overall, the changes from House Bill 4 take a process that currently lasts 4 to 7 months and increases that timeframe to 5 to 10 months. **Agencies will be unable to plan for implementation with expediency and certainty, as the last three months of the process are totally dependent on whether the legislative committee decides to review the administrative regulation.**



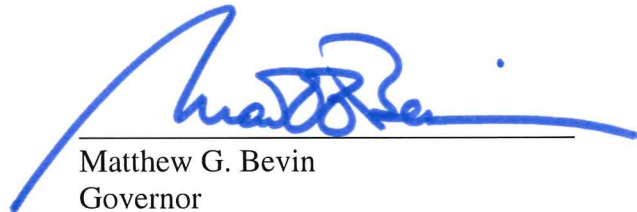
It should be noted that, historically, only 30 percent of administrative regulations are ever reviewed by a second committee. Oftentimes, that review consists of listing the regulation numbers on the committee's agenda and the chair simply asking for approval, or if there are any questions about the bulk of administrative regulations. According to the records on the Legislative Research Commission's website and published in the Administrative Register, there were only 2 out of 908 regulations (0.0022), amended by a second committee since 2017.

As noted in *LRC v. Brown*, "The adoption and use of administrative regulations are important tools in the operation of modern government, at all levels. The purpose is to enable the Governor to successfully carry out the constitutionally mandated executive and administrative duties bestowed upon that office" Much of HB 4 will seriously restrict the ability of the Governor to carry out the office's sworn duties by making ordinary administrative regulations impossible to implement in a timely fashion. As such, HB 4 will restrict the flexibility of state government to act without promulgating emergency administrative regulations.

The delay in implementation of regulations, the real possibility of losing federal funds and the overall disruption of government due to the addition of unnecessary red tape, are not offset by any actual benefits to anyone if this bill were to become law.

For the foregoing reasons, I must veto HB 4.

This the 26th day of March, 2019



Matthew G. Bevin
Governor