



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR



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GOVERNOR

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VETO MESSAGES FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 192 OF THE
2021 REGULAR SESSION

Commission on Women

I, Andy 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 7, lines 17 through 20, in their entirety.

I am vetoing this part because this provision states that no General Fund is appropriated for the Commission on Women because that funding is provided to other programs. The General Assembly has proposed to add nearly \$743 million to the Budget Reserve Trust Fund. It also passed several tax benefits. There was certainly enough funding for the Commission on Women.

Expert Witness

I, Andy 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 13, line 23, delete "up to \$275,000".

I am vetoing this part because the dollar limit placed on the ability of the Attorney General to engage expert witnesses to advocate for the citizens of the Commonwealth, especially in utility rate cases, is too low to adequately meet his Office's needs in these complex areas.

Civil Action Representation

I, Andy 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 15, lines 11 through 21, in their entirety.

I am vetoing this part because this provision permits the Attorney General to bypass the state's model procurement code to hire private lawyers for a single case. This unprecedented authorization would allow quid pro quo situations and provides no guardrails on how much the

rate of payments will be, provides for no competition among qualified law firms, and does not ensure accountability with taxpayer dollars. This provision conflicts with the following statutory purposes and policies of the model procurement code in KRS 45A.010: to provide for increased public confidence in the procedures followed in public procurement; to insure the fair and equitable treatment of all persons who deal with the procurement system of the Commonwealth; to provide increased economy in state procurement activities by fostering effective competition; and to provide safeguards for the maintenance of a procurement system of quality and integrity. At the very least, the Attorney General should go through the process for noncompetitive negotiation that the General Assembly established in KRS Chapter 45A.

Payment of Judgments and Carry Forward of Appropriation Balance

I, Andy 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 29, line 10, after “Balance:” delete “Notwithstanding KRS 45A.275,”, and after “judgments” delete the rest of the line.

Page 29, line 11, delete “exceed the above appropriation,”.

Page 29, line 12, after “Board” delete the rest of the line.

Page 29, line 13, delete “Chapter 45 and”, and after “shall” delete “not”, and after “expense.” delete the rest of the line.

Page 29, lines 14 through 17, in their entirety.

I am vetoing this part because it may cause the Commonwealth to violate federal and state court orders; therefore, also violating the separation of powers in the Kentucky constitution. The Commonwealth is in the discovery phase of a case in federal court which is expected to result in significant judgment. With that prospect, access to available funds is necessary should the appropriation be insufficient.

Kentucky School for the Blind and Kentucky School for the Deaf

I, Andy 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 41, line 23, after “Deaf.” Delete the rest of the line.

Page 41, line 24, in its entirety.

Page 41, line 25, delete “expended prior to General Fund.”

I am vetoing this part because the federal funds received related to COVID-19, including the American Rescue Plan Act, all include a condition that the state must maintain a level of effort through state fund spending on elementary, secondary and higher education that prevent the use of the federal funds to supplant state funds. This provision would risk violation of the maintenance of effort requirements and may not be an eligible use of other American Rescue Plan Act funds.

Area Technology Center Authority

I, Andy 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 44, lines 6 through 27, in their entirety.

Page 45, lines 1 through 5, in their entirety.

I am vetoing this part as it conflicts with Senate Bill 101 from the 2021 Regular Session of the General Assembly that was passed and signed by the Governor.

Mine Safety Specialist Vacancies

I, Andy 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 52, lines 2 through 3, in their entirety.

I am vetoing this part because our miners deserve to be safe as they work some of the most dangerous jobs in our Commonwealth. It could result in the Commonwealth being in violation of federal and state requirements relating to mine rescues. Mine Safety Specialists conduct mine safety inspections required by Kentucky statutes. If the Division of Mine Safety does not conduct the inspections it will lose the ability to remove hazardous conditions from the workplace that lead to serious accidents and fatalities. Kentucky experienced a 67% reduction in fatalities last year, which was in part a direct result of the inspections by the Division. Inspections are a proactive measure in preventing mine disasters that would require a mine rescue team to respond. Most mines in Kentucky do not have the staff, equipment, or funds necessary for rescue teams. If the state does not provide the rescue teams, then most Kentucky mines would not be able to meet the federal requirements and would be shut down pursuant to federal law.

State Motor Vehicle Fleet

I, Andy 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 53, line 26, after “this report.”, delete the rest of the line.

Page 54, line 27, in its entirety.

I am vetoing this part because the Finance and Administration Cabinet will comply with the report required in this section, but the penalty of eliminating the full amount of the General Fund appropriation for not reporting is disproportionate and extreme.

Renovation Assessment

I, Andy 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 55, lines 6 through 9, in their entirety.

I am vetoing this part because House Bill 194, the legislative branch appropriations bill, replaces this provision in a more appropriate manner and this veto will ensure there are not two competing requirements which would double the financial burden on the legislative branch.

The House Bill 192 provision requires a transfer of funds to a restricted fund account of the Department of Facilities and Support Services of the Finance and Administration Cabinet to support debt service for the \$5,000,000 bond funded project to renovate the fourth floor of the Capitol building for legislative use. This would result in debt service being supported from restricted funds instead of the General Fund, possibly causing a higher cost of borrowing.

House Bill 194, appropriates funds from the General Fund to support debt service for the \$5,000,000 bond funded project to renovate the fourth floor of the Capitol building for legislative use.

Children’s Services Contractors

I, Andy 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 75, lines 6 through 12, in their entirety.

I am vetoing this part because it would permit the discrimination and persecution of children who are in need of out-of-home care because of their disability, gender identity, sexual orientation, religious beliefs, or many other conditions at a most critical time. This provision

conflicts with federal and current state law. It may result in a decrease in available foster placements resulting in the placement of children further away from their home county or in facilities with a level of care that is not appropriate for the child.

State Medical Examiner Offices

I, Andy 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 77, lines 24 through 25, in their entirety.

I am vetoing this part because the \$593,700 included to reestablish the Northern Kentucky Regional Medical Examiner's Office is substantially less than the amount needed to open the office. The one time and recurring costs of proper staffing, physical facilities and equipment will require over \$3 million to reestablish the office. I am supportive of increasing the capacity of the Commonwealth's medical examiner function and would be willing to sign a bill that appropriates adequate financing for this effort. The amount budgeted in this provision will not meet the policy expectation intended.

Capitol Campus Security Personnel

I, Andy 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 80, line 22 after "2020-2022", delete the rest of the line.

Page 80, line 23, delete "designated specifically for the Capitol campus".

I am vetoing this part because it removes the flexibility and authority of the Kentucky State Police Commissioner to determine the best manner to provide security based on his professional judgment. The appropriation remains, which will require additional security to be hired, but with more flexibility.

School Building Plans and Inspections

I, Andy 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 105, lines 25 through 27, in their entirety.

Page 106, line 1, in its entirety.

I am vetoing this part because this provision undercuts current law, where a local government must petition the Department for Housing, Buildings and Construction for additional responsibilities in plan review and inspections for any buildings, including school buildings.

Expenditure of Restricted Funds

I, Andy 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 162, lines 12 through 14, in their entirety.

I am vetoing this part because this provision prohibits any increases in restricted fund appropriations for the Executive branch until the General Assembly reconvenes and passes appropriation action. It will cause substantial operational and fiscal problems. It suspends a 39-year old statute that recognizes that the business of state government does not stop when the General Assembly adjourns. This provision would result in halting the work of some state agencies to provide services to Kentucky citizens and businesses, and preventing their ability to adjust to changing circumstances. As evidence of the impact, this provision does not apply public postsecondary education institutions or the legislative branch. Kentucky state government operates a number of enterprises where the amount of business can exceed budgetary estimates, as with the State Fair Board, state Parks, the Kentucky Horse Parks, the logistical operations center at Bluegrass Station. If the demand for their services is greater than the budget assumes, this provision would halt these important services and functions. The Kentucky State Police receives asset forfeiture funds from the U.S. Department of Justice as restricted funds, but cannot predict the exact amount. This provision would delay the deployment of these resources to assist the supplying of critical equipment. When one of Kentucky's state facilities suffers damage from a fire or a flood, the state's fire and tornado fund provides financing as restricted funds to recover and bring those damaged facilities and equipment back to operation. These circumstances cannot be predicted and this provision would halt the recovery from that damage. There are many dedicated funds that are budgeted as restricted funds such as breeder development funds, Heritage Land Conservation funds, equipment loan funds, local records funds. The recipients of statutorily dedicated uses may be unable to receive funding that the statutes require. The statutory process outlined in KRS 48.630 and its predecessor laws has worked well since the Commonwealth had a budget. It is used judiciously, and has been the subject of legislative oversight in every instance. Few objections have been stated or documented by the Interim Committee on Appropriations and Revenue. The Executive branch conducts business and provides services continuously. Across the country, states with a part-time General Assembly provide for a process that permits adjustments in appropriations for unanticipated needs from these types of funds.

Interpretation of Appropriations

I, Andy 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 163, lines 21 through 24, in their entirety.

I am vetoing this part because it violates the Kentucky Constitution's separation of powers. Under the Constitution, the Judicial Branch is the final interpreter of all laws, including budget bills. This is a purely partisan action, as for the last 39 years of KRS 48.500, the General Assembly did not provide this authority to the Attorney General. This appropriations Act suspends a statute that has worked well, has been used sparingly, and appropriately assigns this authority with the Commonwealth's chief financial officer.

COVID-19 Federal Funds

I, Andy 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 170, lines 10 through 19, in their entirety.

I am vetoing this part because it prevents the exigent provision of relief and investment intended by various federal acts and violate the Supremacy Clause of the United States Constitution. As federal laws, their terms will determine the circumstances of how they can be implemented. These provisions also slow and hinder the provision of assistance to the many Kentuckians that are unemployed or underemployed, to affected Kentucky businesses and nonprofit organizations. The sooner we deploy the federal resources, in combination with our vaccination program, the sooner the economy will recover and create jobs so that people can return to work.

Approval of State Aircraft Travel

I, Andy 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 170, lines 20 through 27, in their entirety.

Page 171, lines 1 through 2, in their entirety.

I am vetoing this part because it ignores existing state laws and provides the authority to the State Treasurer to approve the use of state aircraft by Cabinet Secretaries for out-of-state travel. This responsibility bears no relationship to the important duties of the State Treasurer and is more capably handled by the existing laws. The State Treasurer does not have regular contact with Cabinet Secretaries or regularly knows their requirements and duties. Moreover, this

Administration has pledged to implement the most transparent documentation of the use of state aircraft that goes above and beyond the statutory requirements.

Executive Orders

I, Andy 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 174, lines 1 through 27, in their entirety.

Page 175, line 1, in its entirety.

I am vetoing this part because it violates the separation of powers under Kentucky Constitution. It also directly violates a temporary injunction entered by the Franklin Circuit Court against the General Assembly itself, which could subject the body to a contempt of court citation. Under this part, the Legislative Branch attempts to stop Executive Branch employees from working on executive orders related to a declared state of emergency. It would prohibit such employees, including the Commissioner for Public Health, from working on such matters to protect the lives and safety of Kentuckians. Aside from the constitutional infirmity, this part would create a chaotic, haphazard public health response to the COVID-19 pandemic resulting in a public health catastrophe. Preventing enforcement of the Governor's COVID-related orders would create confusion among the public as to what public health measures were in place and ultimately lead to increased spread of the disease and delay the Commonwealth's ability to put an end to the COVID-19 state of emergency.

American Rescue Plan

I, Andy 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 175, lines 2 through 6, in their entirety.

I am vetoing this part because it prevents the exigent provision of relief and investment intended by the federal American Rescue Plan Act and violates the Supremacy Clause of the United States Constitution. As a federal law, the American Rescue Plan Act will determine the circumstances of how it can be implemented. This provision also slows and hinders the provision of assistance to the many Kentuckians that are unemployed or underemployed, to affected Kentucky businesses and nonprofit organizations. It is the intent of the American Rescue Plan Act to cycle these funds into the state economy to bridge the economic gap that the pandemic has caused. The sooner we deploy the resources from the American Rescue Plan Act, in combination with our

vaccination program, the sooner the economy will recover and create jobs so that people can return to work.

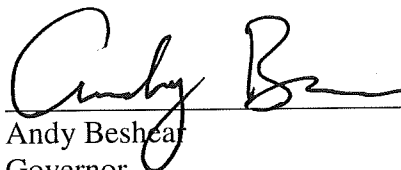
Pandemic Relief Funds

I, Andy 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 175, lines 7 through 18, in their entirety.

I am vetoing this part because it prevents the exigent provision of relief and investment intended by various federal acts and violate the Supremacy Clause of the United States Constitution. As federal laws, their terms will determine the circumstances of how they can be implemented. These provisions also slow and hinder the provision of assistance to the many Kentuckians that are unemployed or underemployed, to affected Kentucky businesses and nonprofit organizations. The sooner we deploy the federal resources, in combination with our vaccination program, the sooner the economy will recover and create jobs so that people can return to work.

This the 26th day of March, 2021.



Andy Beshear
Governor