



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE GOVERNOR

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Received of  
Senate Clerk's Office  
Date: 3/22/21

2:22 PM

On HPL 3

**VETO MESSAGE FROM THE**  
**GOVERNOR OF THE COMMONWEALTH OF KENTUCKY**  
**REGARDING SENATE BILL 228 OF THE**  
**2021 REGULAR SESSION**

*I, Andy Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky Constitution, do hereby veto the following:*

Senate Bill 228 of the 2021 Regular Session of the General Assembly in its entirety.

*I am vetoing Senate Bill 228 because it improperly and unconstitutionally restricts the Governor's power to fill vacancies in the United States Senate. The purpose of the Seventeenth Amendment to the United States Constitution was to remove the power to select United States Senators from political party bosses. Senate Bill 228 violates the very purpose of this Amendment by returning that power to political parties in the case of a vacancy.*

*For over one hundred years, Kentucky law has provided that the Governor shall fill any vacancy in the United States Senate by temporary appointment. That law is consistent with the Seventeenth Amendment to the United States Constitution, which provides that "the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct."*

*Senate Bill 228 improperly limits that power by requiring the Governor to select the appointee from a list of three names supplied by the executive committee of the political party of the Senator who held the vacant seat. The bill therefore upends a century of precedent by delegating the power to select the representative of all Kentuckians to an unelected, unaccountable committee of an organization that represents only a fraction of Kentuckians.*

*In doing so, Senate Bill 228 is contrary to the United States Constitution. The Seventeenth Amendment does not authorize legislatures to direct how the Governor makes an appointment to fill vacancies, and the legislature may not impose an additional qualification on who the Governor may appoint beyond the qualifications for a United States Senator set forth in the Constitution.*

*Further, I note that if there is a United States Senate vacancy as a result of the death or resignation of one of our current Senators, some members of the General Assembly would gain the ability to select the three names submitted to the Governor for appointment by virtue of their*

*status as members of a party executive committee, rendering them conflicted within the meaning of KRS 6.731. Passage of this bill under such circumstance is contrary to the public interest.*

*The bill also is unconstitutional under the Kentucky Constitution. Section 152 of the state constitution provides that the Governor "shall" fill by appointment vacancies in offices for the State at large. No conditions, qualifications, or limits are placed on that appointment power.*

*Finally, I am vetoing Senate Bill 228 because it will increase the expense of filling the vacancies by requiring runoff elections whenever a candidate does not achieve a majority of the votes cast.*

This the 22<sup>nd</sup> day of March, 2021.



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Andy Beshear  
Governor