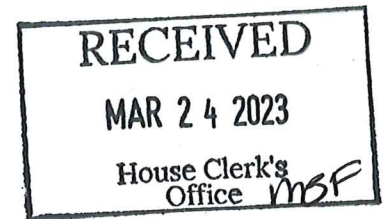




COMMONWEALTH OF KENTUCKY
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VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 329 OF THE
2023 REGULAR SESSION

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:

House Bill 329 of the 2023 Regular Session of the General Assembly in its entirety.

I am vetoing House Bill 329 because it violates the Kentucky Constitution. House Bill 329 is the third attempt in as many years by the General Assembly to strip the Governor of his authority over executive branch contracts. A court struck down each of the prior two bills as unconstitutional.

House Bill 329 violates Kentucky's strict separation of powers set forth in Sections 27 and 28 of the Kentucky Constitution. House Bill 329 conveys to the Government Contract Review Committee (GCRC) – a legislative body – final say over personal service contracts, tax incentive agreements, and memoranda of agreement entered into by the executive branch. While current law provides that the GCRC's votes are nonbinding, House Bill 329 gives GCRC recommendations against executive contracts final and binding legal effect by requiring that they be automatically sent to the Kentucky State Treasurer for final review and decision making. As the Kentucky Supreme Court has made clear, the General Assembly "ceases to exist at the moment of its adjournment," and "may not bestow upon its agent, the LRC, ... the power to legislate." Legislative Research Comm'n By & Through Prather v. Brown, 664 S.W.2d 907, 915-16 (Ky. 1984). Like the power to veto regulations that the Supreme Court struck down in Brown, House Bill 329 is unconstitutional under Sections 27 and 28 of the Kentucky Constitution.

Like the prior two unconstitutional bills, House Bill 329 violates section 81 of the Kentucky Constitution by preventing the Governor from fulfilling his duty to take care that the laws be faithfully executed. The General Assembly passes many laws that must be carried out by contractual agreements, and the Governor executes his constitutional duty by exercising his administrative power to contract through his appointed Secretary of the Finance and Administration Cabinet. House Bill 329 unconstitutionally places the power of the Governor and his designees to enter into such contracts under the control of the GCRC and the Treasurer. House Bill 329 elevates the Treasurer above the Governor, which the Kentucky Constitution

prohibits. Moreover, the Treasurer, as opposed to the Governor, is not bound by the Constitution to take care that the laws are faithfully executed

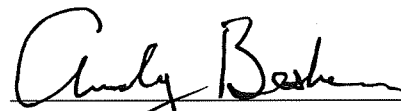
House Bill 329 is even more unconstitutional than the version the legislature passed last year that a court found unconstitutional by taking away any ability of the Finance Secretary – the Commonwealth’s chief financial officer – to challenge or reverse a recommendation of the GCRC.

In addition, House Bill 329 is invalid because it attempts to amend a bill the General Assembly passed last year and that a court held is unconstitutional and permanently enjoined. See Beshear v. Meredith, Civil Action No. 22-CI-00298 (Franklin Cir. Ct. Nov. 10, 2022). Rather than repeal and reenact the statutory provision like the General Assembly did last year with House Bill 388 (R.S. 2022), House Bill 329 amends the version of the statute that is permanently enjoined as unconstitutional and is therefore unenforceable.

House Bill 329 also reflects poor fiscal policy. Under KRS 42.012, the Finance Secretary is the Commonwealth’s chief financial officer who must at all times protect the financial interests of the state. Taking ultimate authority over these contracts away from the Secretary prevents the Secretary from fulfilling her statutory duties, which have not been repealed. In addition, the Finance and Administration Cabinet has the expertise and the staff to perform contractual functions on a daily basis. The State Treasurer’s office has never performed these functions and has no specific staff or expertise to carry out such duties. Accordingly, House Bill 329 is inappropriate under Kentucky law.

For these reasons, I am vetoing House Bill 329.

This, the 24th day of March, 2023.



Andy Beshear
Governor