



COMMONWEALTH OF KENTUCKY  
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**VETO MESSAGE FROM THE**  
**GOVERNOR OF THE COMMONWEALTH OF KENTUCKY**  
**REGARDING SENATE BILL 241 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:*

Senate Bill 241 of the 2023 Regular Session of the General Assembly in its entirety.

*Senate Bill 241 gives sole power to acquire perpetual conservation easements over approximately 54,000 acres of real property to the Department of Fish and Wildlife Resources. The bill not only fails to provide for any oversight of the Department's use of over \$3.8 million to acquire these easements, but specifically deprives the Finance and Administration Cabinet from exercising any of its discretion over state contracts to ensure appropriate stewardship of the funds and real property.*

*Just last year, the General Assembly provided sole procurement power to the commissioner of the Department, again with no oversight. The current commissioner of the Department was a member of the commission when it received the worst audit ever seen in state government, and he remained a member of the commission and participated in the search until he selected himself to be the commissioner. Unsurprisingly, the sportsmen and sportswomen have expressed a lack of confidence in this commissioner and the Department.*

*A brief review of the Department's recent procurement abuses explains why oversight is necessary, and why sportsmen and sportswomen lack faith in the Department's ability to be good stewards of state funds.*

*In December of 2018, the Kentucky Auditor of Public Accounts called for "a change in culture" at the Department of Fish and Wildlife Resources after releasing a report that found the department had not complied with state and federal law in how it used public funds, including deliberately circumventing procurement laws. In his report, the auditor noted that all department funds are public funds that require the highest level of accountability and transparency, despite the Commissioner's and the department's claims that the department does not receive general fund tax dollars. The Auditor found that the department circumvented procurement policy by splitting purchases to remain under their delegated authority and avoid additional procurement conditions. For example, the department bought four used shipping containers between July and September of 2017, but did so as four separate purchases that kept each one below the department's fiscal year delegated authority. The Auditor found the identical purchases should*

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have occurred through the Finance and Administration Cabinet as one combined purchase, and that the evidence showed the department was intentionally splitting purchases in order to circumvent procurement requirements. As another example, the department entered into two separate contracts with identical descriptions for work at a wildlife management area performed by the same vendor a few months apart. The Auditor found that it appeared the department intentionally split the contracts to circumvent procurement requirements, which in turn limited competition by requiring only one quote. In addition, the department contracted with a vendor to repair flooring at a wildlife management area in an amount exceeding its small purchase authority without the approval of the Finance and Administration Cabinet, which the Auditor concluded violated the Kentucky Model Procurement Code and procurement policies and procedures. The report also noted that department contract descriptions did not always match the services provided.

The Auditor also found that the department had violated state and federal laws multiple times when spending taxpayer dollars, and that the department failed to properly monitor contracts to determine if public funds were spent efficiently and effectively. As an example, according to the report, from 2008 to 2017 the department paid a conservation group a total of \$550,000 to study a breeding ground for ducks in Canada, but data from the conservation group found only 10 percent of the ducks that migrate to Kentucky come from Canada. The Auditor found that the department used public funds to cater an annual awards banquet with no apparent benefit to the Commonwealth. In addition, the report found that the department used the Kentucky Fish and Wildlife Foundation, a charitable organization that promotes wildlife education and wetlands preservation, to bypass state laws. The report noted that the agency previously violated state law by transferring \$1 million from the state wetland and stream mitigation fund to the fish and game fund. The Auditor questioned funds spent on alcohol, meals, pre-paid debit cards, and outside contracts that were poorly monitored.

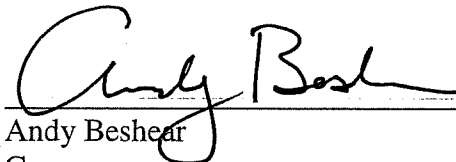
Before the Auditor's report, the former commissioner admitted to multiple ethics violations. Those violations included receiving free passes to the Kentucky Derby, having department employees do chores and run errands for him on state time, and employing department resources for his personal use. As examples, the former commissioner admitted to having department employees pump out the flooded basement or crawl space of his home, pick up building materials from Lexington and store them at the department's woodshop until delivering them to his home, repair holes in his personal canoe, and inspect a home he planned to buy. The former commissioner also admitted to using his position to acquire, for free, 15 pieces of artwork that were created by a department employee to be sold for fundraising purposes; to buy a gallon of the controlled chemical rotenone that the department originally bought through a department contract; and to use the department's FedEx account to have personal items shipped, like the skin of an alligator he had killed in Florida that he had delivered to a taxidermist in Georgia.

The month after the Auditor's report, following a nationwide search for a new commissioner from outside of the department, the then-Chair of the Commission, who had led the search, recommended that the Commission hire him as commissioner. Despite Kentucky Sportspersons objecting to the hiring of an insider, the Commission hired him.

*Now, after giving the commissioner unfettered procurement power, it is giving him the power to spend over \$3.8 million to maintain conservation easements over approximately 54,000 acres of real property. The people of Kentucky, and especially the sportsmen and sportswomen who the Department is supposed to serve, should be able to trust their government to exercise care in the expenditure of public funds. Senate Bill 241 undermines that trust.*

*For these reasons, I am vetoing Senate Bill 241.*

This, the 24<sup>th</sup> day of March, 2023.

  
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Andy Beshear  
Governor