



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE GOVERNOR

Andy Beshear  
GOVERNOR

Capitol Building, Suite 100  
700 Capitol Avenue  
Frankfort, KY 40601  
(502) 564-2611  
Fax: (502) 564-2517

Received of  
Senate Clerk's Office  
Date: 4/14/2024 12:29  
Mindy Combs Esq. pm

VETO MESSAGE FROM THE  
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY  
REGARDING SENATE BILL 198 OF THE 2024 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 198 of the 2024 Regular Session of the General Assembly in its entirety.

*Senate Bill 198 attempts to establish the Kentucky Nuclear Energy Development Authority. I support an all-of-the-above energy policy that includes nuclear energy. However, the Authority created by Senate Bill 198, which is designated as a state agency within the executive branch, is governed by a board primarily "appointed" by the private sector or industry, and not the Governor or any constitutional officer. Specifically, there are 22 voting members and 8 nonvoting members. None of the 15 at-large voting members are appointed by the Governor; instead, they are representatives of the private sector designated by the Governor. Likewise, the eight nonvoting members are not appointed by the Governor, with two being members of the Kentucky Senate as designated by the Senate President and two being members of the House of Representatives as designated by the Speaker of the House. Despite no executive branch appointments, the Authority is then granted executive branch governing authority.*

*Sections 69 and 81 of the Kentucky Constitution require that the Governor play a significant role in the appointment and, if needed, removal of board members that carry out the duties assigned to the executive branch. Senate Bill 198 deprives the citizens of the Commonwealth of any meaningful oversight within the executive branch. As noted above, while this Administration believes in an all-of-the-above energy approach, the General Assembly must pass legislation that complies with the Kentucky Constitution. The governance and structure of the Authority is not only bad policy, but it is also unconstitutional by giving the Governor or other constitutional officers no authority to appoint or remove voting members, and by giving the legislature the power to appoint members to an executive branch agency. The Kentucky Supreme Court held such legislation unconstitutional in Legislative Research Comm'n By and Through Prather v. Brown, 664 S.W.2d 907 (Ky. 1984), as recently upheld in the Jefferson Circuit Court and the Kentucky Court of Appeals.*

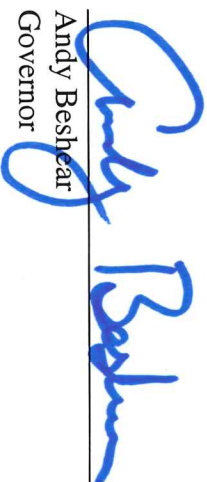
*Further, Senate Bill 198 does not include an appropriation for its mandate that the Cabinet and Economic Development create and implement a financial assistance program for the development and location of nuclear energy-related projects to support the entire nuclear energy ecosystem in the Commonwealth. An agency is under no obligation to carry out an unfunded*

*mandate. In the absence of an appropriation, these unfunded statutes may not be implemented.  
See Fletcher v. Commonwealth, 163 S.W.3d 852, 865 (Ky. 2005).*

*Again, I support developing the nuclear energy industry in Kentucky. But it must be done legally.*

*For these reasons, I am vetoing Senate Bill 198.*

This, the 4<sup>th</sup> day of April, 2024.

  
\_\_\_\_\_  
Andy Beshear  
Governor