



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

VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 352 OF THE
2020 REGULAR SESSION

PART I
OPERATING BUDGET

1. Coal Severance Tax Collections Calculations and Transfers

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 10, lines 13 through 14, in their entirety.

I am vetoing this part because our coal producing counties should receive 100 percent of coal severance funds after allowing for the state's costs. This provision would divert \$1 million that those counties need.

2. Kentucky Teachers' Retirement System Medical Insurance Fund General Fund Contribution

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 26, lines 5 through 10, in their entirety.

I am vetoing this part because this provision fails to live up to the commitment the Commonwealth has made to meet its obligation of the shared responsibility plan for teachers' retiree health care. Further, this part has the effect of appropriating funds in fiscal year 2021-2022, inconsistent with Part I, (1), of the Act, that reflects that this Act only affects appropriations in fiscal year 2019-2020 and fiscal year 2020-2021.

3. Payment of Judgments

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 27, line 24, after "Balance:" delete "Notwithstanding KRS 45.275," and after "judgments" delete the rest of the line.

Page 27, line 25, delete "exceed the above appropriation,".

Page 27, line 26, after "Board" delete the rest of the line.

Page 27, line 27, delete "Chapter 45 and", and after "shall" delete "not", and after "expense." delete the rest of the line.

Page 28, lines 1 through 4, in their entirety.

I am vetoing this part because it would cause the Commonwealth to violate federal and state court orders and judgments that the Commonwealth has an obligation to pay, and therefore this part also violates the separation of powers in the Kentucky Constitution.

4. Rate Assessments

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 28, lines 10 through 13, in their entirety.

I am vetoing this part because the appropriations for state agencies in the Act that will use the services of the Kentucky Communications Network Authority include the rates that this provision would prohibit as well as the budgeted rates assumed in the appropriation for this budget unit. This limiting provision fails to recognize that the value of the services provided are much greater than currently provided, with internet speeds up to five times faster. This provision would also result in the inability of this budget unit to meet certain contractual arrangements.

5. 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 49, lines 3 through 4, in their entirety.

I am vetoing this part because it could result in the Commonwealth being in violation of federal and state requirements relating to mine rescues.

6. 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 50, line 25, after "this report.", delete the rest of the line.

Page 50, line 26, 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. This action would severely hamper the internal audit function for the entire Executive Branch, the Office of Legal Services responsibilities that deal with statewide litigation related to procurement as well as tax cases for the Commonwealth, the Inspector General who conducts investigations of mismanagement of state affairs and state funds and violations of the Kentucky procurement code, and would greatly inhibit the state chief financial officer role of the Secretary.

7. Service Rates

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, lines 3 through 8, in their entirety.

I am vetoing this part because due to the unprecedented increase in unemployment claims filed, the rates for the mainframe computer services have to be adjusted in accordance with contractual arrangements with the outside vendor, and this part would prevent the Commonwealth from being able to continue to increase its capacity and people in need would not be able to receive the help and benefits they are eligible for because of the novel coronavirus (COVID-19) emergency. This part prevents the Commonwealth Office of Technology from adhering to generally accepted accounting principles with regard to internal service funds when certain past rates require subsequent year adjustments to properly align the costs of a service with the rates charged. Also, the appropriations for state agencies in the Act that use the services of the Commonwealth of Technology include the rate adjustments that this provision would prohibit.

8. Kentucky All Schedule Prescription Electronic Report

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 13 through 21, in their entirety.

I am vetoing this part because this capital project is an enhancement to the Kentucky All Schedule Prescription Electronic Reporting system funded with \$2,000,000, and this part requires the Cabinet for Health and Family Services to issue a request for proposal for a full replacement which the appropriation does not come close to covering.

9. Medicaid Demonstration Waiver

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 parts:

Page 63, line 5, after "Waiver:", delete "Within ninety days after the effective date of this Act,".

Page 77, line 2, delete "Within ninety days after the effective date of this Act,".

I am vetoing these parts because they instruct the Cabinet for Health and Family Services' Department for Medicaid Services to develop and submit a waiver in a very short period of time. The Department's first priority at this time is to respond to the novel coronavirus (COVID-19) emergency as well as the substantial increase in enrollment in the Medicaid program for those unemployed because of the virus, and while I will instruct the Cabinet to develop a waiver as soon as possible, the resources of the Cabinet are being and will continue to be taken by work in response to the virus.

10. Administrative Reimbursement

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 73, lines 1 through 10, in their entirety.

I am vetoing this part because this amount could restrict the Department of Criminal Justice Training's ability to meet mandated training requirements in the event that the demand for law enforcement training exceeds the amount assumed in the appropriation. Due to the novel coronavirus (COVID-19) emergency, the training function has ceased. The increased demand that will result when the training function again begins may result in the need for a greater amount of training expenses than anticipated in the budget. Moreover, the Commonwealth has experienced a high level of retirements from local law enforcement agencies in recent years, increasing the number of new officers that must have this mandatory training. The Department of Criminal Justice Training must be able to adapt to these changes to meet their training obligations.

11. Substance Abuse Treatment and Job Training Pilot

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 76, line 18, delete "No later than September 1, 2020,".

I am vetoing this part of this well-intentioned program because the schedule date for the action does not allow sufficient time to put together a comprehensive set of requirements.

12. County Jail Incentive Program

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 81, line 15, delete "No later than July 1, 2020,".

I am vetoing this part because the schedule for issuing guidance for this well-intentioned program is unreasonable to develop sufficiently thorough guidance for a broad series of inmate programming services within county jails across the Commonwealth, especially considering the Department is using resources in responding to the novel coronavirus (COVID-19) emergency.

13. School Building Plan Reviews 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 96, lines 5 through 8, in their 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.

PART III GENERAL PROVISIONS

14. Prohibition on Restricted Funds appropriation increases

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 148, lines 20 through 22, in their entirety.

I am vetoing this part because this provision would result in halting the work of some state agencies to provide services to Kentucky citizens and businesses, and prevent their ability to adjust to changing circumstances. Some of the Families First Coronavirus Act funds will require federal funds to be paid to other state agencies that provide direct services and those funds are expended as Restricted funds and will require an appropriation increase. Our Department of Military Affairs operates a logistical operations center at Bluegrass Station that stores and distributes uniforms and equipment parts to America's war fighters around the world. If the demand for their services is greater than the budget assumes, this provision would halt this critical function. 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 body armor, weapons and other 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. The ability of the Executive Branch to raise appropriations for Restricted funds during a fiscal year has been in place for many decades. That process has worked well, used judiciously, and has been the subject of legislative oversight in every instance. That oversight process already incorporates a scheduled quarterly timeline for approving increases, with an emergency clause for tighter required timelines. Few objections have been documented in the minutes of 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. It will cause substantial operational and fiscal problems. This provision also conflicts conflict with Part III, section 20 of this Act.

15. 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 150, lines 2 through 5, in their entirety.

I am vetoing this part because it violates the separation of powers in the Kentucky Constitution. For the first time in the thirty-eight (38) years of this statute, 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.

16. Debt Restructuring

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 155, lines 8 through 10, in their entirety.

I am vetoing this part because the Commonwealth is facing unprecedented economic times associated with the novel coronavirus (COVID-19) emergency and needs to reserve all available actions to contend with expected revenue shortfalls.

17. 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 156, lines 10 through 19, 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 state laws. 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.

PART VI GENERAL FUND REDUCTION PLAN

18. General Fund Budget Reduction 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 167, lines 18 through 23, in their entirety.

Page 168, lines 1 through 7, in their entirety.

I am vetoing this part because this provision fails to live up to the commitment the Commonwealth has made to meet its obligation of the shared responsibility plan for teachers' retiree health care. Its implementation would also result in the General Assembly not fully funding the actuarially determined contributions for the teachers' retirement pension plan. These are unprecedented times, which may require significant budget cuts, and the Executive Branch needs the maximum flexibility to contend with expected revenue shortfalls.

This the 13th day of April, 2020.



Andy Beshear
Governor