26-CI-00441

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II

CIVIL ACTION No. 26-CI-441

ANDY BESHEAR, in his official capacity as Governor of the Commonwealth of Kentucky, et al. **PLAINTIFFS**

vs.

RUSSELL COLEMAN, in his official capacity as Attorney General of the Commonwealth of Kentucky, et al. **DEFENDANTS**

ORDER

This matter is before the Court upon Plaintiffs' Governor Andy Beshear, *et al.*'s *Motion for Summary Judgment;* and Defendants, Attorney General Russell Coleman and Treasurer Mark H. Metcalf's *Motion for Judgment on the Pleadings*. Upon review of the parties' briefs and papers, and after being sufficiently advised, this Court hereby **GRANTS**, in part, and **DENIES,** in part, Plaintiffs' *Motion for Summary Judgment*, and **GRANTS,** in part, and **DENIES**, in part, Defendants' *Motion for Judgment on the Pleadings*.

STATEMENT OF FACTS

On April 1, 2026, the General Assembly passed HB 10: "AN ACT relating to executive branch operations and declaring an emergency." On April 13, 2026, Governor Andy Beshear vetoed HB 10 in its entirety, stating various constitutional infirmities. The following day, April 14, 2026, the General Assembly voted to override the Governor's veto.

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000001 of 000018

OG : 000001 of 000018

In Section 1, HB 10 prohibits any entity of the executive branch from settling any litigation in which the settlement amount exceeds one million dollars within one hundred eighty (180) days of a gubernatorial election without the approval of the Attorney General. This prohibition includes the Governor as well as any public agency under the direction of the Governor.

Section 3 of HB 10 amends KRS 12.255 to require that all the Governor's Executive Branch Cabinet Secretaries receive senate confirmation. Sections 4 and 5 of HB 10 amend KRS 18A.111 and KRS 18A.115 to require any person who held an unclassified position in state employment, regardless of whether the individual previously accrued statutory rights to return to classified service, who is appointed to a classified position within 18 months of a gubernatorial inauguration, to serve a 24-month probationary period, and to prohibit any preference in their hiring or reemployment. Section 6 requires the Governor to submit his travel expense requests to the State Treasurer for approval during the last six months of his term of office. Section 7 prohibits the Governor from executing or renewing a contract by a noncompetitive negotiation within 180 days preceding a gubernatorial inauguration without the secretary of the Finance and Administration Cabinet and the State Treasurer both certifying that the contract is necessary because of the existence of an emergency condition. Section 17 subjects the Department of Aviation, headed by a commissioner appointed by the Governor, to be confirmed by the Senate in accordance with KRS 11.160. Section 19 requires the Commissioner of Housing, Buildings and Construction to receive Senate confirmation.

HB 10 contains an emergency clause which states: "Whereas the appointment and confirmation of commissioners, board members, and other executive branch officials are

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000002 of 000018

OG : 000002 of 000018

paramount to continuity and efficient implementation of government services, an emergency is declared to exist and Sections 3, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, and 20 of this Act take effect on April 16, 2026."

Plaintiffs now come before the Court, asserting that HB 10 violates the constitutional principles and stare decisis that the Kentucky Supreme Court has previously upheld with regard to 2021, 2022, and 2023 legislative acts. Plaintiffs assert that the bill infringes on the constitutional rights of dedicated public servants by erasing their earned classified employee status and its protections, arbitrarily targets protected contractual rights of more than 400 currently unclassified employees, minimizes the power of the executive branch, and strips the Governor of many of his constitutionally-granted abilities.

STANDARD OF REVIEW

Summary judgment is appropriate when the Court concludes that no genuine issue of material fact for which the law provides relief exists. CR 56.03. Summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, stipulations, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." CR 56.01.

The moving party bears the initial burden of showing the non-existence of a genuine issue of material fact, and the burden then shifts to the opposing party to affirmatively show the absence of a genuine issue of material fact. *Jones v. Abner*, 335 S.W.3d 471, 475 (Ky. Ct. App. 2011). The movant will only succeed by showing "with such clarity that there is no room left for controversy." *Steelvest, Inc. v. Scansteel Service Ctr.*, 807 S.W. 2d 476, 482 (Ky. 1991). "The inquiry should be whether, from the evidence

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000003 of 000018

OG : 000003 of 000018

on record, facts exist which would make it possible for the non-moving party to prevail. In the analysis, the focus should be on what is of record rather than what might be presented at trial." *Welch v. Am. Publ'g Co. of Kentucky*, 3 S.W.3d 724, 730 (Ky. 1999). In reviewing Motions for Summary Judgment, the Court views all facts in the light most favorable to the non-moving party and resolves all doubts in its favor. The Court will only grant summary judgment when the facts indicate that the nonmoving party cannot produce evidence at trial that would render a favorable judgment. *Steelvest*, 807 S.W. 2d at 480.

The Court recognizes that the summary judgment is a device that should be used with caution and is not a substitute for trial. "[T]he proper function of summary judgment is to terminate litigation when, as a matter of law, it appears that it would be impossible for the respondent to produce evidence at the trial warranting a judgment in his favor." *Jones v. Abner*, 335 S.W.3d at 480. Thus, this Court finds that summary judgment will be proper when it is shown with clarity from the evidence on record that the adverse party cannot prevail, as a matter of law, under any circumstances.

ANALYSIS

I. 180 Day Settlement Provision

The Court agrees with Defendants insofar as Count IV of Plaintiffs' Complaint is concerned: the settlement provision of HB 10 does not violate the Kentucky Constitution. Section 1(2) of HB 10 provides:

> Within one hundred eighty (180) days before a gubernatorial inauguration, the Attorney General shall, in consultation with the secretary of the Finance and Administration Cabinet, review and approve or disapprove any settlement of pending or threatened litigation involving an entity of the executive branch in which the settlement amount exceeds one million dollars ($1,000,000).

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000004 of 000018

OG : 000004 of 000018

The Governor is subject to the General Assembly's "withholding executive powers from him by assigning them to … constitutional officers who are not amenable to his supervision and control." *Brown v. Barkley*, 628 S.W.2d 616, 622 (Ky. 1982). The Attorney General is a constitutional officer who is "not amenable" to such supervision and control. Thus, the General Assembly does have constitutional authority to subject final executive branch settlements to the Attorney General for approval, "in consultation with the secretary of the Finance and Administration Cabinet" during the 180 day period before a gubernatorial inauguration.

Moreover, the Governor has subjected settlements of certain actions against state employees to the Attorney General for approval under 10 KAR 1:011. 10 KAR 1:011 Section 6(1) states:

> Any counsel assigned by a state agency or the Attorney General may recommend to the Attorney General the settlement of a civil action against a defendant under this administrative regulation. If the Attorney General approves the recommended settlement, he or she shall notify the Secretary of the Finance and Administration Cabinet by written memorandum and if the Secretary concurs in the recommendation the Secretary shall issue a voucher to the State Treasurer for payment of the settlement. A settlement shall not be made or paid without prior approval of the Attorney General.

It would then be contrary to assume Plaintiffs position that the Governor's exercise of executive power cannot be subjected to the approval of the Attorney General. Indeed, this settlement provision does not make the Attorney General superior to the Governor, and the assignment of settlement approval does not unduly interfere with the Governor's ability to fulfill his duties under Sections 69 and 81. This provision is not without merit and good intent: the Commonwealth has an interest in protecting its people and preventing the undervaluing of the Commonwealth's litigation position during the 180 day period prior to the gubernatorial inauguration. Even in ruling that the settlement provision of HB 10 is

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000005 of 000018

OG : 000005 of 000018

Entered 26-CI-00441 11/25/2026 Kathryn Marshall, Franklin Circuit Clerk

constitutional, the Governor is still in the position to take care that the laws be faithfully executed, as required under Section 81 of the Kentucky Constitution. This settlement provision is limited to a narrow timeframe, and does not take away any power of the Governor, nor does it elevate the position of the Attorney General above the Governor.

II. The Execution or Renewal of Contracts

Section 7(8) of HB 10 provides:

> In the one hundred eighty (180) days preceding a gubernatorial inauguration, an executive branch agency may execute or renew a contract by noncompetitive negotiation only when the secretary of the Finance and Administration Cabinet and the State Treasurer both certify that the contract is necessary because of the existence of an emergency condition.

Under Section 81 the Governor has the positive duty to go forward and take care that the laws be faithfully executed. Executive branch contracts are necessary for the Governor to carry out his constitutional duties in the manner by which he chooses. Nowhere in the Constitution, nor in any controlling precedent, has this necessity and authority been restricted temporally beyond the term of office the Governor is serving. To reinforce this notion, the Supreme Court has held:

> … if the General Assembly should pass a law that requires implementation, and appropriate funds for that purpose but omit specifying the manner in which it is to be carried out, the chief executive would be required to carry it out and have the right to choose the means by which to do it. That would not be so because of any implied or inherent power, however, but because it would be within the scope of authority and duty expressly conferred upon him by CONST. Sec. 81.

Barkley, 628 S.W.2d 616, 623 (Ky. 1982). Essentially, the Governor has the authority to contract from the time he or she is sworn in until the time the next Governor is sworn in.

The ability to contract is a power reserved for the Governor that is necessary and integral to implementing and carrying out the purpose of legislative enactments. *See*

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000006 of 000018

OG : 000006 of 000018

Legislative Research Comm'n By and Through Prather v. Brown, 664 S.W.2d 907, 919 (Ky. 1984) ("*LRC v. Brown*"). Naturally, the authority to enter these contracts enables the Governor to carry out the "constitutionally mandated executive and administrative duties bestowed upon [his] office." *LRC v. Brown*, 664 S.W.2d at 918.

Through the Finance Secretary, appointed by the Governor, the Governor reviews, approves, and enters an extensive number of contracts each year. These contracts are an integral part of operating the executive branch, as various officers work to ensure the procurement statutes, regulations, and policies are followed. The Finance and Administration Cabinet's detailed policies provide vendors who seek state contracts with certainty throughout the procurement process.

The general assembly has recognized the importance of contracting with vendors with expertise in any given field, as evidenced by the adoption of the Model Procurement Code, KRS 45A.010, et seq., which sets forth the purposes of procurement policy, including "[t]o provide for increased public confidence in the procedures followed in public procurement" and "[t]o insure the fair and equitable treatment of all persons who deal with the procurement system of the Commonwealth." KRS 45A.010(2)(d)-(e). The Finance Secretary serves as the "chief purchasing officer" and is responsible for "all procurement of the Commonwealth except as provided by KRS Chapter 150, 175, 175B, 176, 177, and 180." KRS 45A.030(3).

The Finance and Administration Cabinet is the central procurement and contracting agency for the Commonwealth. KRS 45A.045(2) provides: "No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000007 of 000018

OG : 000007 of 000018

the cabinet." The procurement determinations made by the Cabinet and its Secretary are final and conclusive unless proven to be erroneous, arbitrary, capricious, or contrary to law.

A contract may be entered into through noncompetitive negotiation in the following situations: (a) for sole source purchases; (b) when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A; (c) when emergency conditions exist; or (d) for sponsorships, naming rights, or other advertising or similar considerations for which competition is not feasible. KRS 45A.095(2). HB 10 ignores reasons a contract may be made through noncompetitive negotiation, including the one governed by regulations promulgated by the Finance Secretary, 200 KAR 5:309.

By incorporating the Treasurer into final say over Executive Branch contracts, the Governor and the Executive Branch Cabinets under his supervision is inhibited in the ability to enter into contracts. The Commonwealth's chief financial officer and chief procurement officers are under the supervision of the executive branch. The Treasurer, however, does not have any responsibility regarding procurement, and does not employ staff with the expertise or training to review procurement decisions or processes.

The Governor is permitted to enter into contracts by statute as well as the Kentucky Constitution. The General Assembly cannot enact a statutory scheme to prevent the Governor from contracting in situations where both statutory schemes and the Kentucky Constitution permit the Governor to do so, by reallocating that power to the Treasurer. As the Kentucky Supreme Court has held in a recent decision:

> While *Brown* recognizes that executive power may be distributed among constitutional officers, it does not authorize the Legislature to structure that

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000008 of 000018

OG : 000008 of 000018

> distribution in a manner that eliminates unified executive accountability. Legislative power does not extend to reengineering the constitutional structure of the executive branch. Read in light of *LRC*, *Brown* does not authorize the Legislature to dismantle executive supervision or diffuse responsibility so completely that no authority remains with the supreme executive to ensure faithful execution. Diffusion of executive tasks is not equivalent to dissolution of executive accountability.

Beshear v. Coleman, 2024-SC-0228-DG, 2024-SC-0254-DG, 2024-SC-0256-DG, p. 23 (June 25, 2026) (To Be Published) (internal citations omitted). Similarly, giving the Treasurer the power to approve the Governor's Executive Branch contracts and contract renewals agreed upon through noncompetitive negotiations, the authority with the supreme executive is diffused to a degree that violates both Sections 69 and 81 of the Kentucky Constitution.

Moreover, by requiring the Treasurer to certify a contract is necessary because of the existence of an emergency condition, the Treasurer is elevated above the authority of the Governor, thus violating the supremacy cause of Section 69. In 2021, 2022, and 2023, the legislature passed bills to grant the Government Contract Review Committee, an advisory legislative body, and the Treasurer authority over executive branch contracts. All three times, this Court struck down the laws as unconstitutional. *See Johnson, et al. v. Ball*, 21-CI-288, Opinion and Order (Franklin Cir. Ct. June 9, 2022); *Beshear, et al. v. Meredith, et al*., 22-CI-00298, Op. and Order (Franklin Cir. Ct., Nov. 10, 2022); *Beshear v. Meredith*, 23-CI-00298, Op. and Order (Franklin Cir. Ct. May 24, 2023).[1]

Consistent with this Court's previous holdings, this certification limits the types of contracts and the timeline in which certain contracts may be entered into by the Secretary

[1] The Court of Appeals agreed when it reached the merits of the matter regarding the 2023 legislation. *Metcalf v. Beshear*, 2025 WL 1909942, (Ky. App. July 11, 2025) (Not To Be Published), motion for discretionary review pending before the Supreme Court, 2025-SC-0319.

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000009 of 000018

OG : 000009 of 000018

Entered 26-CI-00441 11/25/2026 Kathryn Marshall, Franklin Circuit Clerk

of Finance and violates the Governor and the Executive Branch's contracting abilities as enshrined in the Kentucky Constitution. It attempts to circumvent the Governor's authority to contract and subjects the contracts to the Treasurer, who is not answerable to the Governor nor vested with the constitutional obligation to carry out the laws and select the manner by which to do it. This is contrary to the Kentucky Constitution and therefore void.

III. Approval Power Over The Governor's Travel Expenses

Section 6 of HB 10 amends KRS 41.100 to include the requirement that every state constitutional officer shall submit all travel expense requests to the Treasurer for approval during the last six (6) months of his or her term of office. Similar to Section 7(8) of HB 10, this is an attempt to grant the Treasurer approval authority over the Governor. The exercise of executive power cannot be subjected to the approval of another constitutional officer. *Brown v. Barkley*, 628 S.W.2d at 622 n. 12.

HB 10 therefore unconstitutionally prevents the Governor from exercising meaningful control over travel necessary to fulfill the constitutional duties bestowed upon the Governor. It is the duty of the Governor, and the Governor alone, to take care that the laws of the Commonwealth be faithfully executed. The legislature cannot fragment that accountability and impede the Governor's ability to ensure the laws are faithfully executed. "A constitutional command without corresponding supervisory power would reduce the executive to an observer rather than an officer. Meaningful execution requires meaningful control. Meaningful control relies upon the ability to direct, discipline, or remove those charged with execution, without which the structural design embodied in Sections 69 and 81 is defeated." *Beshear v. Coleman*, 2026 WL 1839841, at *6.

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000010 of 000018

OG : 000010 of 000018

Entered 26-CI-00441 11/25/2026 Kathryn Marshall, Franklin Circuit Clerk

Entered 26-CI-00441 11/25/2026 Kathryn Marshall, Franklin Circuit Clerk

The Constitution of our Commonwealth demands that the Governor be the central leader of the Executive Branch as the Chief Magistrate with the supreme executive power. Requiring the Chief Magistrate to submit to the Treasurer, this disrupts the tripartite, co-equal branches of government.

IV. Legislative Approval of Cabinet Secretaries & Department Heads

The Governor's Executive Cabinet consists of the Secretaries of all ten program cabinets: the Justice and Public Safety Cabinet, the Education and Labor Cabinet, the Public Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Cabinet for Health and Family Services, the Finance and Administration Cabinet, the Energy and Environment Cabinet, the Tourism, Arts, and Heritage Cabinet, and Personnel Cabinet. Additionally, the Executive cabinet includes the chief information officer, the state budget director, the Governor's chief of staff, and the Lieutenant Governor. The Governor's Executive Cabinet, under KRS 11.065, is directed to advise and consult with the Governor on all matters affecting the welfare of the state. Pursuant to KRS 12.255, the Governor appoints the Secretary of each program cabinet listed in KRS 12.250, with his power to appoint the Cabinet Secretaries reiterated in other statutes: KRS 18A.015, KRS 18A.025, KRS 174.020, and KRS 12.252(2).

Under HB 10, the General Assembly would be granted the authority to require Senate confirmation of Executive Branch Cabinet Secretaries and commissioners of the Department of Aviation and the Department of Housing, Buildings, and Construction. Each power to appoint the above individuals is an executive function reserved for the Chief Magistrate.

> The framers of Kentucky's four constitutions obviously were cognizant of the need for the separation of powers. Unlike the federal constitution, the

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000011 of 000018

OG : 000011 of 000018

> framers of Kentucky's constitution included an express separation of powers provision. They were undoubtedly familiar with the potential damage to the interests of the citizenry if the powers of government were usurped by one or more branches of that government. Our present constitution contains explicit provisions which, on the one hand, *mandate* separation among the three branches of government, and on the other hand, specifically *prohibit* incursion of one branch of government into the powers and functions of the others.
> ….
> A motivating factor that led to the drafting and eventual adoption of our present constitution was a strong desire on the part of the people to curb the power of the General Assembly.
> ….
> [C]onstitutions are operative until and unless changed by the people.
> … From this it seems clear that the makers of the constitution intended the legislature to discuss and enact laws, and *to do nothing else*."

LRC v. Brown, 664 S.W.2d at 911-912. (citing *Pratt v. Breckenridge*, 65 S.W. 136, 140 (Ky. 1901)). The Kentucky Constitution contains one of the strictest separation of powers provisions of any state constitution in the nation. *See Diemer v. Commonwealth, Ky. Transp. Cabinet, Dep't of Highways*, 786 S.W.3d 861, 864-65 (Ky. 1990) (citing *Sibert v. Garrett*, 246 S.W. 455, 457 (Ky. 1922)).

Kentucky Constitution Section 27 separates the powers of the Commonwealth of Kentucky's government into three distinct departments, with each "confined to a separate body of magistrate, to wit: Those which are legislative, to one; those which are executive, to another, and those which are judicial, to another." Section 28 emphasizes that no person "or collection of persons" can exercise any power belonging to one of the other departments, "except in the instances hereinafter expressly directed or permitted."

In the role of Chief Magistrate, the Governor appoints Executive Branch Cabinet Secretaries and department heads to carry out Executive branch functions as well as advise and consult with the Governor on operations of the Executive branch and all matters affecting the welfare of Kentucky. Through the Governor's appointments, the Governor

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000012 of 000018

OG : 000012 of 000018

Entered 26-CI-00441 11/25/2026 Kathryn Marshall, Franklin Circuit Clerk

fulfills the duty under Section 81 of the Kentucky Constitution to take care that the laws are faithfully executed. Like the statutory scheme *in LRC v. Brown*, appointing heads of Executive Branch Cabinets and departments is an executive function with which the legislative branch cannot interfere. The legislature does not have the power to approve or nullify the individuals that the Governor, with sole discretion, chooses to lead Executive Branch Cabinets. Thus, HB 10 violates the separation of powers in Sections 27 and 28 of the Constitution and prevents the Governor from fulfilling his duties under Sections 69 and 81 of the Kentucky Constitution.

V. Twenty-Four Month Probationary Period

Section 4(7) of HB 10 provides that any person appointed to a classified position during the 18-month period prior to a gubernatorial inauguration, who previously held any position as an unclassified/non-merit employee, must serve a 24-month initial probation, regardless of prior status as a classified employee, and forfeit previously accrued hiring and reemployment preferences.

HB 10 establishes two classes of state employees: persons with prior unclassified service and persons without prior unclassified service. Defendants assert that HB 10 ensures appointments are based on merit and not "used as a political tool to insulate lame-duck officials and their non-merit employees from review," however, the prior version of KRS 18A.111(7) accomplishes this goal. The prior version identifies Governor-appointed non-merit employees that re-enter classified service, while appropriately balancing any statutory rights those employees may have accrued. HB 10 impacts every person who may have held an unclassified position described in the 31 separate sections of KRS 18A.1115(1).

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000013 of 000018

OG : 000013 of 000018

Entered 26-CI-00441 11/25/2026 Kathryn Marshall, Franklin Circuit Clerk

The 24-month probationary period, regardless of prior status as a classified employee, is an unreasonably lengthy probationary period that penalizes affected employees by barring them from any promotion, reclassification, or salary increase for 24 months. Conversely, these same employees could have been eligible for these opportunities or increases at the end of the regular six-month probationary period. 31 categories of positions with state service are unclassified, and HB 10 does not distinguish these sufficiently, with an extensive range of individuals being subject to this probationary period. For example, a nurse hired into a classified state position with prior employment with the University of Louisville Jewish Hospital will not be subject to the 24-month probationary period under HB 10, but a nurse with prior experience with the University of Kentucky health system will. *See* Affidavit of Jamie Caldwell, Exhibit A to Plaintiffs' Response. This highlights the broad impact of HB 10, namely on employees who have never previously served as any official or non-merit employee of any administration, and therefore does not reach Defendants' stated goal of "ensuring appointments are based on merit and not used as a political tool."

Moreover, HB 10 strips career state government employees of already accrued statutory benefits of their employee contracts with the state. This creates a chilling effect on public service, as it opens individuals who reenter the classified service up to potential political discrimination. Upon successful of the KRS 18A.111(1) probationary period of 6 months, classified employees accrue statutory rights and protections to prevent their removal without cause and/or other arbitrary employment actions. HB 10 creates potentially harmful outcomes for employees that had previously accrued statutory protections under KRS Chapter 18A.

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000014 of 000018

OG : 000014 of 000018

Moreover, "[i]t is a violation of equal protection to treat similarly situated individuals differently without any justification." *Roberts v. Mooneyhan*, 902 S.W.2d 842, 843 (Ky. App. 1995) (citing *Booher v. United States Postal Service*, 843 F.2d 943, 944 (6th Cir.1988)). House Bill 10 cannot survive constitutional scrutiny unless there exists a rational basis for subjecting employees with prior unclassified experience to a probationary period *four times longer* than an employee with no state service experience that would further a governmental purpose. For example, interim employees like park lifeguards, are unclassified under KRS 18A.115(1)(p), and if an employee that held the interim position were to be appointed to a classified/merit position at any time within 18 months of a gubernatorial inauguration, that employee would then be subject to the 24-month probationary period rather than the 6-month probationary period otherwise proscribed by KRS 18A.111(1). Another example: state troopers are unclassified under KRS 18A.115(1)(r). If a retired state trooper was appointed to a classified/merit position at any time within 18 months of a gubernatorial inauguration, that retired state trooper would be subject to a 24-month probationary period rather than the 6-month probationary period. Naturally, being subjected to this 24-month probationary period could deter individuals from pursuing a job or position they would otherwise be eager to acquire. Prospective employees could be discouraged from taking interim employment, serving on boards, or even running for elected office given that they will now be subject to a 24-month probationary period if hired 18 months prior to a gubernatorial inauguration.

Thus, the effect of HB 10 arbitrarily subjects a wide range of employees to an unreasonably long probationary period regardless of that employee's prior length of service or accrued employment protections under KRS Chapter 18A. In contrast, a new employee

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000015 of 000018

OG : 000015 of 000018

with *no* prior state service who is appointed to a classified position within that same 18-month gubernatorial inauguration timeframe will only be subjected to a 6-month probationary period.

A legislative classification must have a reasonably articulable, natural, and distinctive relationship to the statute's purposes. When determining whether a statute is impermissible special legislation, Kentucky courts look to "whether there is any articulable natural and distinctive reason for the class distinctions drawn by the legislature." *Coleman v. Jefferson Cnty. Bd. of Educ*., 733 S.W.3d 302, 310 (Ky. 2024), reh'g denied (Apr. 23, 2026). In Section 59 challenges, where one can "perceive that a statutorily drawn classification reasonably furthers the underlying statutory purposes and objectives, the statute does not violate Sections 59 or 60." *Id*. Defendants have not presented a persuasive argument that there is an articulable, natural, and distinctive difference between unclassified state employees and new employees entering the classified service. This violates the merit principles of government employment as codified in KRS Chapter 18A and therefore violates Sections 59 and 60 of the Kentucky Constitution.

Section 4 of HB 10 amends KRS 18A.111(7) to create a special period of time in which only a certain group of employees will be deprived of employment protections and statutory process protections provided by KRS Chapter 18A's merit system of executive branch employment. Section 4 of HB 10 allows for discrimination of employees and lacks rational bases to further any governmental purpose and therefore violates Sections 59 and 60 of the Kentucky Constitution.

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000016 of 000018

OG : 000016 of 000018

Entered 26-CI-00441 11/25/2026 Kathryn Marshall, Franklin Circuit Clerk

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000017 of 000018

VI. HB 10's Severability

Under KRS 446.090, Kentucky law provides a presumption of severability, and the presumption of severability does not only apply when a bill has a severability clause. While it is true that some instances, some bills are so essentially and separably connected that they cannot be severed, HB 10 does not fall under this umbrella. The Court agrees with Plaintiffs in that many of the challenged provisions of HB 10 are unconstitutional, but HB 10 does not only apply to the Governor and his powers as Chief Magistrate.

Certain provisions of HB 10 regulate distinct areas that are not irretrievably interconnected. Where certain sections of legislation may be found invalid, "the likely remedy may be severability." *Cameron v. Beshear*, 628 S.W.3d 61, 78 (Ky. 2021). Therefore, HB 10 is afforded a presumption of severability.

CONCLUSION

Upon review of HB 10, the Court finds that Section 1 of HB 10 is constitutional, and is not so vital to the purposes behind enactment of HB 10 as a whole that the *entirety* of HB 10 should be struck by this Court. Therefore, the Court is compelled to leave Section 1 of HB 10 in effect, while severing the remainder of HB 10 that Plaintiffs contend, and the Court agrees, is unconstitutional.

WHEREFORE, the Plaintiff's *Motion for Summary Judgment* is **GRANTED**, in part, and **DENIED**, in part; and Defendants' *Motion for Judgment* is **GRANTED**, in part, and **DENIED**, in part.

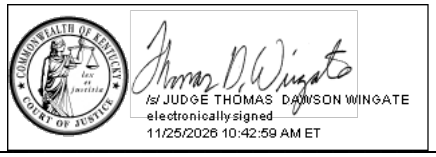
All provisions of House Bill 10, except Section 1, are hereby **PERMANENTLY ENJOINED**. Section 1 of House Bill 10 shall remain in full force and effect.

OG : 000017 of 000018

Entered 26-CI-00441 11/25/2026 Kathryn Marshall, Franklin Circuit Clerk

This order is final and appealable and there is no just cause for delay.

SO ORDERED, this ___ day of November, 2026.



THOMAS D. WINGATE
Judge, Franklin Circuit Court

4E650568-A4DC-4EA7-81BC-CC64AC5A8ECC : 000018 of 000018

OG : 000018 of 000018