

# State Legislative/Regulatory Profile

**STATE:**           **Kentucky**

**CAPITOL CITY:**           Frankfort

**GOVERNOR:**               Matt Bevin – elected 11/2015

**GENERAL ELECTIONS:**   First Tuesday in November

**LEGISLATURE CONVENES:**

The Kentucky Legislature convenes in Regular Session for 60 days on the first Tuesday in January of even numbered years, and for 30 days on the first Tuesday in January in odd-numbered years. It convenes in Special Sessions at the call of the Governor.

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**SENATE:**

**TERM:**                       4 years

**PRESIDING OFFICER(S):**   Robert Stivers (R), President  
David Givens (R), President Pro Tem  
Damon Thayer (R), Majority Floor Leader  
Dan Seum (R), Majority Caucus Chair  
Jimmy Higdon (R), Majority Whip  
Ray Jones (D), Minority Floor Leader  
Gerald Neal (D), Minority Caucus Chair  
Julian Carroll (D), Minority Whip – (former Governor)

**MAJOR UTILITY COMMITTEE:**   Natural Resources & Energy

**CURRENT ISSUES:** CPP Compliance Plans & Cost Recovery  
Energy Efficiency/Distributed Generation Limits/Cost  
Allocation  
Environment/Coal Combustion Residuals  
Renewable Energy Standards  
Municipal Joint Action  
Relief for Energy Intensive Industries in KY

**HOUSE:**

**TERM:** 2 years

**PRESIDING OFFICER(S):** Greg Stumbo (D), Speaker of the House  
Jody Richards (D), Speaker Pro Tem (former Speaker)  
Rocky Adkins (D), Majority Floor Leader  
Sanny Overly (D), Majority Caucus Chair (2015 Lt. Gov.  
cand.)  
Johnny Bell (D), Majority Whip (retiring)  
Jeff Hoover (R), Minority Floor Leader  
Stan Lee (R), Minority Caucus Chair  
Jim DeCesare (R), Minority Whip

**MAJOR UTILITY COMMITTEE:** Tourism Development and Energy  
Natural Resources and Environment

**CURRENT ISSUES:** CPP Compliance Plans & Cost Recovery  
Energy Efficiency/Distributed Generation Limits/Cost  
Allocation  
Environment/Coal Combustion Residuals  
Renewable Energy Standards  
Municipal Joint Action  
Relief for Energy Intensive Industries in KY

## **REGULATORY BODY: Kentucky Public Service Commission**

**MEMBERS:** Michael Schmitt (appt 6/16), Chairman (Term expires June 30, 2020)  
Joseph Cicero (appt 4/16), Vice Chairman (Term expires June 30, 2019)  
Dan Logsdon (appt 2/15), Commissioner (Term expires June 30, 2017)

### **METHOD OF APPOINTMENT/ELECTION:**

The Public Service Commission consists of three members appointed by the Governor to 4-year staggered terms, with one commissioner appointed to act as Chairman and another as Vice Chairman. The Commission appoints an Executive Director who is responsible for the daily operation of the Commission.

**CURRENT ISSUES:** Environmental Cost Recovery Mechanism – EPA Mandates  
Energy Efficiency/Demand Side Management  
Retirement of old Coal Units/Replacement with Gas  
Consideration of Utility Scale Solar  
Franchise Fees/Transparency  
Transmission Siting  
Net Metering Standards  
Renewable Energy Standards  
Relief for Energy Intensive Industries in KY  
Cyber Security  
Federal v State Authority over Transmission Grid  
State Energy Policy

## 2016 Kentucky Political Update

### Kentucky General Assembly

The 2016 session of the Kentucky General Assembly began with more uncertainty and political intrigue in Frankfort than had been seen in many decades. Everyone was watching to see what type of approach newly elected Governor Matt Bevin (R) would take to crafting a budget and working with the House and Senate, while also following the legislature's partisan struggles to keep/gain control of a majority in the House of Representatives. Despite all of the uncertainty, the Legislature adjourned Sine Die one minute before midnight on April 15<sup>th</sup>, the last possible day, having not only passed a biennial budget, but also several other significant pieces of legislation. However, waiting until the last minute to reach an agreement allowed first-term Governor Matt Bevin 10 days to veto line items in the budget bill, along with other legislation passed on the final day, with no means for the General Assembly to override him.

### Notable Bills that Passed (or Didn't) in the 2016 Legislative Session

In total, the Senate filed 345 bills and binding resolutions. The House logged 705 bills and binding resolutions. Among those 1,050 pieces of legislation, only 160 made it to the governor's desk, of which:

- 132 were signed by the governor
- 14 became law without his signature
- Nine were vetoed
- Five were line-item vetoed

Lawmakers forfeited their right to override the vetoes by waiting until April 15, the final day they legally could convene for the 2016 session, to approve the budget and other legislation. All legislation passed without an emergency clause or delayed effective date becomes law 90 days after the conclusion of the session, which will be mid-July. The state's fiscal year begins July 1.

### Passed:

**HB 303 the Budget** immediately received high praise from Governor Bevin, specifically the more than \$1 billion committed to pensions that will help put the state on more solid footing, and the creation of a \$125 million "permanent fund," a new reserve account dedicated solely to funding pension issues following a system audit. However, multiple specific funding directives for programs in the budget were line-item vetoed through cabinets across state government. Although, the money for these programs is kept in the cabinets' base funding; the vetoes strike language mandating how to spend money for these programs, leaving the cabinet total discretion on how to spend the money.

Primary and secondary education was mostly unharmed by the substantial cuts, although universities did receive 4.5 percent cuts. Current-year university cuts were not addressed by the General Assembly.

The budget sets new parameters on the distribution of coal severance tax funds. The legislature has criticized the use of dollars for programs that do not contribute to the economic viability of the extraction region. This biennial budget intends to provide more operational cash for coal counties, and requires agreement among the legislature and local elected officials on county economic development projects. The state's general fund will shoulder a larger burden of the recurring line-itemed projects than in past budget cycles.

Gov. Bevin vetoed **HB 626**, which would have set up the guidance and framework for new “Work Ready” scholarships, performance-based higher education funding and the \$100 million Workforce Development Fund bonds. Although HB 626 received a veto, Bevin didn’t kill the programs outright. The veto delays the scholarship funding for one year, leaving intact \$15.9 million for the program in the second year of the budget, and his administration will set up the parameters of the program. The same is true for the workforce development bond fund. It is funded in the budget, and the governor now has programmatic discretion.

**HB 10** was passed to fix some overlooked aspects of the budget. Highlights include \$12 million in emergency funding for state parks, \$1 million to relocate a boat dock at Rough River Lake, and \$10 million in each fiscal year for general aviation airports. Some of its provisions were line-item vetoed.

**HB 80** became the new “**Revenue**” **Bill**, replacing a measure vetoed by the Governor during the Veto Recess (HB 423). HB 80 updated minor provisions of Kentucky tax law, increased the capital project threshold at which universities must get state approval to \$1 million (up from \$600,000), opens schools for polling places on election days, and offers emergency funding to bring some schools up to code while no longer guaranteeing matching funds when districts levee a school construction tax. The bill also includes a quadrupling of the executive agency lobbying fee to \$500 from \$125.

**HB 129 & HJR 160 Road Fund Package** passed on the last day. HB 129 is the first two-years of the six-year road plan, and HJR 160 makes up the last four years of that plan. The road fund enacted by the legislature was essentially a “kitchen sink” approach, which listed numerous priority projects. With few dollars remaining in the road fund, however, it will be up to the Transportation Cabinet to prioritize projects until revenues from gasoline taxes and federal dollars replenish the fund. The governor notably vetoed the \$250 million state resurfacing plan from the Transportation Cabinet’s budget.

**SB 11 “Omnibus” Alcohol Bill** expands bourbon tastings and sales at distilleries, and will transform the economic and tourism impact of the signature bourbon industry and the Kentucky Bourbon Trail, as well as the growing craft beer industry and local, small farm wineries.

**SB 134 “Biosimilar” Drug Bill** creates Kentucky’s first pathway toward the substitution of upcoming, FDA-approved “biosimilar” drugs. Similar, but not identical, to their innovator equivalents, these large molecule pharmaceuticals are expected to cost 20-40 percent less than their brand name counterparts.

**HB 55 (HB 441) Lexington Convention Center Expansion** authorizing language for a 2.5% increase in the transient room tax (hotels) in Lexington. Combined with a \$60 million line item in the budget, the local tax will help finance a \$250 million expansion. In a new twist on public financing, .5% of the tax will pay back the State’s contribution over time.

**HB 309 Public/Private Partnerships (P3)** will allow government and private entities to enter into partnerships to fund Kentucky’s major infrastructure needs. The bill specifically prohibits P3s on bridges leading to Ohio, since Northern Kentucky legislators do not want tolling on the Brent Spence Bridge.

**HB 40 Felony Expungement** creates a new process for some class D felonies to be vacated and expunged, creating opportunities for people who have paid their dues to reenter the workforce.

### Died:

**HB 2 Local Investments for Transformation (LIFT)**, the local-option sales tax effort, failed to get a Senate vote after passing the House. Its demise was fueled, in part, by a preference to address it as part of a comprehensive tax-reform package. No such reform effort was put forth in 2016, and it might not ever occur until one party controls both legislative chambers and the governor's mansion.

**HB 104 "No CO2 Regulation in Kentucky"** would have prohibited Kentucky from regulating CO2 emissions unless approved by the legislature and declared Kentucky a carbon regulation-free "sanctuary state." While perhaps good in principle, it would have put industries in Kentucky regulated by US EPA in an untenable position.

**HB 339/SB 190 Renewable Energy Portfolio Standards** would have required a certain percentage of electricity sold in Kentucky to come from renewable energy sources, increasing costs for utilities and raising customer rates.

**HB 240/HB 551 Pipeline Safety Fund** would have imposed a \$125 per mile fee on all active pipelines in Kentucky to create a new pipeline safety fund, require operators to file plans and take certain actions duplicative of federal requirements, and would have held corporate officers personally liable for failing to comply.

### Kentucky Federal Delegation Races

#### Senate:

Kentucky held its first ever Presidential caucus on Saturday March 5<sup>th</sup> to decide who the KY Republican nominee for President would be. Kentucky Senator Rand Paul is up for re-election to the U.S. Senate this year, and he requested that the Republican Party of Kentucky hold a caucus when he was still a Presidential contender. Kentucky law prohibits anyone from having their name appear on the same ballot for two offices, so Senator Paul could not run on the primary ballot for both President and his U.S. Senate seat. Donald Trump came out ahead in the Republican Presidential caucus, and Rand Paul easily won the Republican primary in his Senate race. Senator Paul will face Lexington Mayor Jim Gray, a Democrat, in November's general election. While Mayor Gray is a formidable opponent who has the ability to self-fund his campaign, Senator Paul will likely win in November.

#### House:

Four of Kentucky's five sitting Congressmen face general election opposition this year, with only Brett Guthrie (R – District 2) failing to draw an opponent. With the retirement of Ed Whitfield (R – District 1), Kentucky will definitely have one new member on its legislative team in D.C. James Comer (R), who very narrowly lost the 2015 Republican Gubernatorial primary to now Governor Matt Bevin, is running against Samuel Lewis Gaskins (D) for Whitfield's seat. Comer is significantly leading Gaskins in fundraising and he is expected to win that seat fairly easily. Of the sitting Congressmen, most have attracted trivial challengers with the exception of Andy Barr (R) in the 6<sup>th</sup> Congressional District, which covers Lexington-Fayette County and what is considered Central Kentucky. Second-term incumbent Barr has a significant fundraising lead over Democratic challenger Nancy Jo Kemper, but Kemper had garnered support and fundraising help from most of the Kentucky Democratic political leaders. Kemper faces an uphill challenge, but the 6<sup>th</sup> Congressional district race will be the main Kentucky Congressional campaign to watch in November.

## **Kentucky State Legislative Races**

In a surprising turn of fortunes, Democrats temporarily turned the Republican tide in Kentucky by winning 3 of 4 special elections in the State House. The special elections were held in March of 2016, and the results bring the balance of power in the House to 53 Democrats and 47 Republicans.

The four special House elections arose because of vacancies (two legislators won statewide elections, and two legislators took appointments from the Governor). The winners will serve through the end of the year and must run in the May primaries and November general election to retain the seat. All 100 House seats are up for grabs in November, and Republicans hope they can ride the wave from Governor's Bevin's 2015 election into control of the state House.

The Kentucky State Senate has 19 of its 38 seats up for election in November of 2016. Republicans have held the majority in the Senate for 16 years, with a current makeup of 27 Republicans and 11 Democrats, and this balance of power isn't expected to change anytime soon. The races to watch in Kentucky this legislative cycle are definitely in the State House.