

## 2017 Kentucky Political Update

### Kentucky General Assembly

The 2017 session of the Kentucky General Assembly saw the newly minted GOP super-majority in the House, along with the well-established GOP super-majority in the Senate, pass a historic agenda aimed at making the Commonwealth more competitive with Southeastern and Midwestern states in job attraction and retention. Republicans, exercising single-party legislative control for the first time in nearly a century, moved swiftly to pass the following legislation through both chambers during the first week of the session – Right-to-Work, Informed Consent, Repeal of Prevailing Wage, Legislative Pension Transparency, Abortion Limitations, Paycheck Protection, and an overhaul of the U of L Board of Trustees. All seven bills were signed into law by the Republican Governor before the historic first week came to a close.

The entire session was undeniably productive, based on quantity of passed legislation alone. However, despite Republican control across the board, the House, Senate and Governor found many places to disagree with each other. Those disagreements resulted in the defeat of several significant agenda items the Kentucky business community championed. A year-long effort to produce workers' compensation reforms (HB296) died in the final hours without the Senate ever taking the bill up for a hearing or a vote. Additionally, legislation to require transparency in Attorney General litigation (HB271) met its demise in the House when the Senate added a politically charged provision that would have given Kentucky's governor the sole authority to file amicus briefs, also known as friend-of-the-court briefs, in the name of the Commonwealth.

Meanwhile, the first 28 days of the 30-day session was extremely successful for Republican Governor Bevin, who was successful in passing dozens upon dozens of bills that were on his agenda, ranging from government agency reorganizations, to subtle policy changes, to significant changes such as making Kentucky a right to work state and eliminating prevailing wage. Bevin and the legislature's big wins this session included pushing through a tax incentive package for a major Amazon facility in Northern Kentucky (HB368), curbing drug abuse by outlawing some substances and significantly limiting opioid prescriptions to a three-day supply (HB333), negotiating a re-finance of the KFC Yum! Center arena in downtown Louisville that was on the verge of default (HB330), passing additional economic loan pool money for a potential \$1.3 billion business investment in Eastern Kentucky (HB482), killing an effort to separate the County Employee Retirement System from the Kentucky Retirement Systems (SB226), and personally testifying on behalf of charter schools and ending right-to-work.

While all of these efforts required legislative buy-in and approval, it is the fulfillment of many of the campaign platforms on which the Governor ran on in 2015, and the agenda of the freshman House GOP class for which Bevin tirelessly campaigned with last year.

But as the Governor's win's racked up, the newly minted Republican-led General Assembly flexed some independence of its own. During the veto recess, Governor Bevin vetoed all or parts of four bills – all sponsored by Republicans – similar to what the Governor did a year ago the 2016 session, when the legislature passed a flurry of bills in the last hours of the session, foregoing their ability to override any vetoes. This time, House and Senate leadership wasted no time in overriding all four vetoes nearly unanimously.

The legislature adjourned *Sine Die* on Thursday, March 30<sup>th</sup> at 11:52 pm, which ends legislative activity until January 2, 2018 – or when the Governor calls an extraordinary (special) session. Smart money is on the latter, with most signals pointing to an early fall (September) special session to address pension and tax reform in Kentucky. A vote on major tax and pension reform will most certainly be tougher than any vote taken during the regular session. It will require a substantial statewide sales job from the Governor before the new majority in the House and the established majority in the Senate commit to a package that will likely create as many new losers as winners in the tax code.

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

#### **Passed:**

**HB 1:** This **right-to-work legislation** makes union membership an individual employee choice. This bill was the House's main priority for the session. Kentucky is now the 27th state to enact right-to-work legislation.

**HB 3: Repeal of the Prevailing Wage** – repeals prevailing wage requirement for public works projects.

**SB 3: Legislative Pension Transparency** – requires the disclosure of retirement benefits of current and former member of the General Assembly.

**SB 5: Abortion Limitations**– bans abortions in Kentucky past 20 weeks except for in cases where the procedure is required for survival poses serious risk to survival of the mother. It was passed in the early days of session alongside HB 2, which requires “informed consent,” an ultrasound prior to an abortion, with criminal penalty for violations.

**SB 6: Paycheck Protection** – repeals the employer mandate to withhold union dues from an employee's salary and sets forth requirements for labor organizations in collecting and applying dues money for political activities.

**SB 11: Nuclear Power Bill** – ends the state's 33-year-old moratorium on construction of nuclear facilities. The moratorium, enacted by the state in 1984, prohibited construction of nuclear power plants in Kentucky until there was a federally-approved means of high-level nuclear waste disposal. Under SB 11, nuclear power plants have to have a plan for storage, not disposal, of high-level nuclear waste. Construction of a plant can be certified by the state once the facility and its waste storage plans are approved by the U.S. Nuclear Regulatory Commission. It is up to the state to ensure the “costs and environmental consequences” of having a nuclear power facility in the state are fully considered during the permitting and certification process. Construction of low-level nuclear waste disposal sites is prohibited under the bill unless approved by the Kentucky General Assembly and the Governor.

**SB 12: University of Louisville Board of Trustees bill** – creates a new Board of Trustees for the University of Louisville and requires Senate confirmation of appointees.

**HB 100:** A win for bourbon and tourism industries alike, this bill allows for the **sale of vintage spirits**, including the sale of distilled spirits at fairs, festivals, and similar events.

**HB 156:** This bill establishes the **Kentucky Coal Fields Endowment Authority** to fund improvement projects in coal severance counties. The bill ensures a \$7.5 million installment of coal severance dollars; projects will be awarded based on job creation and economic development potential.

**HB 14:** Otherwise known as the “**Blue Lives Matter**” bill, attacks on first responders will now be considered a hate crime. Previous law defines hate crimes as those committed because of a victim’s race, color, religion, sexual orientation, or national origin.

**HB 520:** The **charter school bill** allows for publicly funded charters to operate as early as next school year. It passed with a mayoral provision for Lexington and Louisville giving the city’s highest power authority to designate a charter school or schools. School boards will elect for the creation of a local charter, which may be overridden by the state Board of Education. In the final days of session, a late-night vote on **HB 471** provided funding for the charters.

**SB1:** In tandem with the charter school bill, the legislature passed this comprehensive **accountability reform for K-12** education. Performance-based assessment reigns supreme, and review of academic standards will occur next school year.

**HB 333:** creates **strong penalties for trafficking** any amount of heroin, fentanyl, carfentanil and fentanyl derivatives that are destroying Kentucky lives and families. It would also clarify definitions and requirements for the prescription of controlled substances, define prescribing authority within long-term care facilities, and allow the Cabinet for Health and Family Services Office of Inspector General to investigative patterns of prescribing and report irregularities to appropriate authorities.

**HB 195:** As part of **juvenile justice reform**, this bill allows expungement of juvenile felony records after two years as an adult or from the date of release. Those with offenses or convictions within the two years will be ineligible.

**SB 4:** This bill establishes a pre-trial **peer review panel for medical malpractice** in an attempt to deter frivolous lawsuits. A complaint can only bypass the panel and accelerate the matter to the court if agreed upon by both parties.

**HB 410:** The **REAL ID bill** allows the option for Kentuckians to obtain a travel ID or enhanced driver’s license for inter-state travel and admittance onto military bases. Though voluntary, it ensures that Kentuckians who choose not to get the travel ID may simply show multiple forms of identification.

**Died:**

**HB 338/SCR 21: 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 165:** Bill to once again permit the **Kentucky Coal Tax Credit**, which had sunsetted for most types of facilities in 2009.

**HB 181:** This bill would have permitted municipal electric utilities to join together as a **Municipal Electric Authority** and buy and sell electricity and natural gas, as well as undertake projects, bonding, and other

borrowing power. The municipal authority would not have been subject to regulation by the PSC, nor bound by the state's bidding rules.

**HB 291/SB 51:** Various **Drone Bills** were filed to address regulation of the up-and-coming technology, including the permitted and prohibited uses of drones and how to protect critical infrastructure.

**HB 392:** This bill would have required **Zoning Compliance** for all non-baseload generation facilities under 10 megawatts.

**SB 214: Net Metering Reform** – This bill to reform Kentucky's net-metering statute never got off the ground.

### **Kentucky Federal Delegation Races**

#### **Senate:**

Kentucky Senator Rand Paul easily won re-election to the U.S. Senate on November 8, 2016, easily defeating Lexington Mayor Jim Gray, a Democrat and formidable opponent who was able to partially self-fund his campaign. Kentucky voters overwhelmingly favored Donald Trump to Hillary Clinton for President of the United States.

#### **House:**

Five of Kentucky's six sitting Congressmen faced general election opposition in 2016, with only Brett Guthrie (R – District 2) failing to draw an opponent. With the retirement of Ed Whitfield (R – District 1) a couple of months before the November election, Kentucky was assured at least one new member on its legislative team in D.C. On November 8<sup>th</sup>, in what counted as both a special/interim and regular election, James Comer (R), who very narrowly lost the 2015 Republican Gubernatorial primary to now Governor Matt Bevin, easily beat Samuel Lewis Gaskins (D) for Whitfield's seat. Rep. Comer was sworn in on November 14, 2016, getting a head start on other members of Congress' incoming freshman class. The incumbent Congressmen won in the remaining four House races (Andy Barr (R), Hal Rogers (R), Thomas Massie (R), and John Yarmuth (D)).

### **Kentucky State Legislative Races**

Republicans achieved the trifecta in Kentucky politics on November 8, 2016, wresting control of the state House from Democrats in a landslide to complement their rule over the governor's office and state Senate. Going into Election Day, the Kentucky House was the only law-making chamber in the South still controlled by Democrats, who held a 53-47 majority. Longtime House Speaker Greg Stumbo (D) was among 17 Democratic incumbents beaten in the Republican wave. Republican now hold supermajorities in both the House (64 Republicans/36 Democrats) and the Senate (27 Republicans/11 Democrats).