

2014 LEGISLATIVE SESSION HIGHLIGHTS: FINANCE AND ADMINISTRATION CABINET

This year's legislative session resulted in some significant accomplishments for both the Finance and Administration Cabinet and the commonwealth. Every even-numbered year allows for 60 days of legislative activity (odd-numbered years only allow for 30 days) and the legislature is required to pass a two-year budget, often resulting in contentious and passionate discussions about our state's priorities, and this year was no exception to that rule. The pressure was also increased because this is an election year for every seat in the House of Representatives and half of the Senate, making it difficult to accomplish some priorities.

However, the Finance and Administration Cabinet was able to work with the legislature to pass a majority of our legislative requests, and we used the session to build new relationships and strengthen existing relationships with legislators, legislative staff, and other organizations. These include such organizations as the Property Valuation Administrators Association, the Kentucky School Boards Association, the Kentucky League of Cities, the Retail Federation, and others. These partnerships are vital to the success of our cabinet and its priorities, and we are very pleased with the progress we made with our colleagues.

The most important bill passed this session was House Bill (HB) 235, the Executive Branch budget. As you all are aware, we are still recovering from a recession and the purse strings remain tight. Overall, most agencies are required to take a 5 percent cut over two years, but the governor and the legislature worked hard to restore funding for K-12 education, including providing money for teacher pay raises. The governor and the legislature also provided raises for state employees in incremental amounts of one to five percent based on the employee's current salary. With each budget bill, there is a revenue bill. HB 445, the revenue bill, provided several tax credits to signature industries over the next several years as well.

The legislature also passed two bills related to consumer protection in the wake of major data breaches at Target and South Carolina state government. HB 5 codifies existing information technology and data policies, requiring all public agencies to notify constituents should a data breach occur and personal information released. HB 232 requires the same of private companies, as well as cloud computing service providers containing student data. These two bills ensure that you will have quick and reliable notifications if your information is compromised so that you have time to act.

The Finance and Administration Cabinet and three of its sister agencies – Kentucky Housing Corporation, Kentucky Higher Education Student Loan Corporation, and Kentucky Higher Education Assistance Authority – had 12 bills filed specifically at the request of our cabinet this session, ten of which passed. Most will become law in July of this year. Following are summaries of FAC related legislation and the legislators who sponsored each bill. Also included in this summary are other bills that state employees may find of interest, such as the data breach notification bills, alcohol sales at state parks, adult abuse registry, and updates to the juvenile justice system.

Please note that the secretary's office will be reaching out to each agency to discuss enacted legislation and implementation strategies over the next few weeks.

FAC BILLS THAT PASSED:



HB 69 (De. Butler, Miller, Riner) – AN ACT relating to automated business record falsification devices.

This bill makes it illegal to own, operate, or distribute electronic sales suppression devices. These devices, also referred to as "Zappers," allow retailers to alter or delete

sales transactions within the retailer's point of sales software. This allows the retailers to avoid paying the sale tax that has been collected from their customers by underreporting their receipts. It's estimated that as much as 30% of cash businesses are using zappers. Florida, Georgia, West Virginia, Maine, and Utah are some of the states that have enacted similar statutes.

HB 84 (Denham; Rudy) – AN ACT relating to property leased by the state.

This bill allows agencies to pay up to \$10,000 for improvements to leased property (such as adding walls for offices or security systems) without having to modify the lease to amortize the cost of the project(s). This threshold is currently set at \$1,000. This minimal amount means the property owner has to pay for the project costs up front in exchange for repayment in installments with lease payments. This will create efficiencies and reduce red tape for landlords and all state agencies. Any projects between the \$1,000 and \$10,000 threshold will still be reported to the Capital Projects and Bond Oversight Committee.



HB 170 (Flood; Stone) – AN ACT relating to the utility gross receipts license tax for schools.

This bill clarifies language relating to the Utility Gross Receipts License Tax (UGRLT) more commonly known as the “school tax.” The bill explains the requirements for energy direct pay holders, typically manufacturers and industrial processors, that qualify for the partial tax exemption on their energy purchases. The bill also addresses the confusion regarding the statute of limitations for refunds of this tax. Passage of this legislation has no effect on revenues as it is based on DOR’s current administration of the tax. However, failure to clarify could have resulted in future losses of revenues for school districts. The Kentucky School Boards Association supported this measure and was of great assistance to the cabinet in promoting this bill.

HB 175 (Smart; Richards; Graham; Jenkins; M. King) – AN ACT relating to the Kentucky Housing Corporation.

Given the difficult economy, particularly with the real estate market that has resulted in the Kentucky Housing Corporation (KHC) processing far fewer mortgage loans than usual, KHC is exploring options for generating additional revenue. Currently, KHC receives no appropriation from the General Fund; KHC is completely self-sustaining. KHC has been approached by other entities, both in-state and out-of-state, about the possibility of KHC servicing mortgage loans for them and/or administering federal grant programs for them. This legislation allows KHC to perform these functions. These new revenues will help KHC maintain its self-funding model as well as increase the funds available for its existing programs to help Kentuckians achieve safe and adequate housing.



HB 208 (Adkins; Yonts) – AN ACT relating to reorganization.

This bill codifies Executive Order 2012-880, which consolidates IT infrastructure services under the chief information officer (CIO) and renames branches within the Commonwealth Office of Technology (COT). With this executive order, the CIO becomes the executive director of COT and assumes all roles and responsibilities as defined by KRS 42.730 (information technology for the state) and becomes a member of the Governor’s Executive Cabinet. This consolidation will significantly reduce the Commonwealth’s risks associated with system failure and

privacy or security breaches. This bill will help Kentucky achieve estimated savings of \$16.7 to \$27.8 million annually once fully implemented.

This bill went on a journey this session as the senate replaced the contents of this bill with language related to the revenue measures bill that accompanies the budget bill (originally HB 445). Once this happened, the senate added our reorganization language from HB 208 to HB 296, a reorganization bill for the Cabinet for Economic Development (see HB 296 below). It was then determined that the revenue measures language could not be a part of HB 208, so the senate reversed their changes and restored our original language for the reorganization of COT and IT infrastructure services. The bill was also amended at the end of the session in the senate to include an increase in the total amount of tax credits that can be claimed as part of the Endow Kentucky Tax Credit Program, administered by the Department for Local Government.

HB 279 (Denham; Rand; Graham; DeCesare) – AN ACT relating to the Commonwealth postsecondary education prepaid tuition trust fund.

In 2000, the Kentucky Affordable Prepaid Tuition (KAPT) program allowed Kentucky families to pre-purchase tuition. Funds were pooled and invested for future use at any eligible higher educational institution in the country. Earnings were expected to pay the difference between the costs of tuition at the time of purchase versus the time of enrollment. By 2004, tuition inflation was significantly outpacing fund growth and the program was closed to new applicants. However, no statutes were put in place to restrict the use of the funds or for the planned retirement of the program. The bill caps the rate of return on Kentucky Affordable Prepaid Tuition (KAPT) accounts that are not used for college expenses and it sets 2028 as the last year a KAPT account can be used for any purpose.



None of these provisions are retroactive, thereby allowing account owners to keep what they have previously earned. Program enhancements will also reduce the future obligation of the General Fund by over \$20 million.



HB 296 (Adkins; Palumbo) – AN ACT relating to reorganization

This bill originally codified an executive order for the reorganization of the Cabinet for Economic Development. Because of the senate actions on HB 208—the bill filed for the reorganization of COT and IT infrastructure services—meant it could no longer contain our language (see HB 208 above). The senate willingly added this language to the Cabinet for Economic Development’s reorganization bill and CED and FAC worked together to get this bill passed. Though we ultimately ended the session with two bills relating to the reorganization of COT and IT infrastructure services, FAC will only have to implement the changes one time as both bills contained the exact same language.

HB 354 (Westrom; Santoro; Steele) – AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, making an appropriation therefor, and declaring an emergency.

This is the annual legislative claims bill that allows state government to issue checks for bills or claims for which the original time constraints have expired.





SB 70 (Humphries) – AN ACT relating to energy conservation measures for state buildings and property.

This bill allows for more energy savings performance contracts (ESPCs) in Kentucky, saving the state and taxpayers millions of dollars in reduced utility costs. ESPCs focus primarily on limiting energy consumption with projects that are financed by the utility and operational savings from the efficiency measures. Since the enactment of the original enabling legislation in 1996, the Finance and Administration Cabinet has successfully implemented over \$200 million in ESPC projects. This bill expands the definitions of statutory terms relating to energy savings performance contracts to include conservation measures relating to water usage, infrastructure, and other real property improvements not typically defined as “buildings.” Streetlights, traffic signals, and sewage treatment plants are some examples. The Finance and Administration Cabinet seeks to update the statute to broaden the allowable scope of ESPC projects to include these types of conservation measures.

SB 86 (Gregory) – AN ACT relating to Asset Resolution Corporation

This bill allows for the Kentucky Higher Education Student Loan Corporation (KHESLC), KHEAA’s sister agency, to meet the qualifications in other states to bid on collections contracts. KHESLC, a self-supporting agency with no General Fund appropriations, has long held the statutory authority to collect education loans for others. In anticipation of a contract opportunity with the U.S. Department of Education (ED), KHEAA sought legislation in the 2012 General Assembly to create the Asset Resolution Corporation (ARC), an agency that will collect payments for the federal government’s direct loan program. In order to receive a contract with ED, a collection agency must be licensed in all 50 states. The licensing process has revealed that a semantic change needs to be made to ARC bylaws regarding staff designations to meet the qualifications for licensure in a few other states. ARC will allow the agencies to continue to promote access to higher education and administer state student financial aid at no cost to the state.



SB 122 (Girdler) – AN ACT relating to reorganization.

This bill codifies Executive Order 2013-806, reorganizing the Department of Revenue (DOR) to allow more effective administering of the collection of state revenues and tax laws, and to provide services in a fair, courteous, and efficient manner for the benefit of the Commonwealth and its citizens. This reorganization affects the Office of Processing and Enforcement (OPE) and the Office of Property Valuation (OPV). OPE is responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. OPV has many responsibilities including but not limited to providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, administering personal property taxes, collecting delinquent taxes, and overseeing the real property tax assessment and collection processes in each county’s property valuation administrator’s and sheriff’s office. OPV administers all state assessed taxes, including public service property tax, motor vehicle property tax, tangible and intangible taxes, severance tax and unmined minerals property tax programs. OPV also coordinates the DOR geographical information. This allows DOR to achieve managerial consistency across the department and will improve productivity in the assessment of property taxes.

FAC BILLS THAT DID NOT PASS:

HB 129 (Yonts) – AN ACT relating to the financial operations of local governments.

This bill would have updated our statutes to conform to actual procedures and responsibilities by striking language related to the administrative support of property valuation administrators (PVAs) and striking language requiring FAC to remit fees collected by jailers to the fiscal courts. This has no impact on the PVAs as the



Department of Revenue provides administrative support for them. It also does not impact the fiscal courts as they already collect the fees from the jailers directly. The PVA Association and the fiscal courts were aware of these changes and approved this bill. Unfortunately the legislature simply did not have enough time to address this issue during the session. The Finance and Administration Cabinet will pursue this legislation again next session.



HB 272 (Rand; M. King; Yonts) – AN ACT relating to fiscal matters

In response to many comments from Kentuckians and legislators about the complicated and outdated language of several tax laws, this bill offered some technical changes to various tax statutes to improve their clarity. The proposed changes were based on the Department of Revenue’s current interpretation and administration of the statutes and are revenue neutral. We were very pleased to have received full support by both chambers for the original content as it was very technical in nature and it addressed a multitude of issues. However, this bill faced a last minute hurdle with an amendment filed in the senate that did not relate to the original content proposed by DOR. The Finance and Administration Cabinet will pursue this legislation again next session.

Though these items did not pass this legislative session, we will continue to work with our agencies and legislators to accomplish our goals of making government more efficient, effective, and transparent.

OTHER INFORMATION:

In addition to the Finance and Administration Cabinet’s legislative agenda, several other key pieces of legislation were passed this session.

From Capitol Notes (LRC):

http://www.lrc.ky.gov/pubinfo/capitol_notes.htm

1. **Acupuncture.** Senate Bill 29 will require acupuncturists to be licensed.
2. **Adult protection.** SB 98 will create an adult abuse registry to help employers in the adult care profession determine if a prospective employee has a previous history of substantiated adult abuse, neglect or exploitation.
3. **All terrain vehicles.** House Bill 260 will allow an ATV operator 16 years of age or older to cross a public roadway if the speed limit is 45 miles per hour or less without protective headgear in order to get from one ATV trail to another.
4. **Boaters.** SB 66, known as the “Boater Freedom Act,” will require boating enforcement officers to have a reasonable suspicion of violation of the state’s boating laws before boarding and inspecting a boat on Kentucky waterways.
5. **Budget and revenues.** HB 235 is the \$20.3 billion budget that will guide state spending for the next two years. Many state agencies will face 5 percent budget cuts, though some critical areas, such as Medicaid, will be protected from reductions. Per pupil school funding at K-12 schools will go up. Funding for universities and community and technical colleges will be cut by 1.5 percent, though plans for bond-funded capital construction can go forward on many campuses. State employees and teachers will get raises and full contributions will be made to the state employee pension system. HB 445, the session’s “revenue bill” will provide some new dollars to fund state needs over the biennium. Provisions in that bill include, but are not limited to, a phased-in barrel tax credit for distilled spirits, an angel investor tax credit, an expanded historic preservation tax credit, and “new markets” tax credit to help underserved areas of Kentucky.

6. **Bullying.** SB 20 will designate October as Anti-Bullying Month and a purple and yellow ribbon as the symbol for anti-bullying awareness. The bill was the idea of students at Madison Middle School in Richmond.
7. **Cannabis oil.** SB 124 will allow doctors at the University of Kentucky and University of Louisville to research and prescribe cannabis oil for medical purposes, such as treatment of pediatric epilepsy.
8. **Child abuse.** HB 157 will require more training for doctors on recognizing and preventing abusive head trauma among children.
9. **Concealed weapons.** HB 128 will allow anyone who has been granted an emergency protective or domestic violence order to receive a provisional concealed carry permit in one business day. The petitioners would undergo the same background checks and application requirements as other applicants but would have up to 45 days to complete the necessary training for a full concealed carry license.
10. **Diabetes.** HB 98 will allow school staff trained by health professionals to assist diabetic students with insulin administration.
11. **Driver safety.** HB 90 will require parents or guardians to make a court appearance when a driver under 18 is cited for a traffic violation.
12. **Electronic cigarettes.** SB 109 prohibits the sale of e-cigarettes to those under the age of 18. This was an issue of utmost priority for the Governor.
13. **Health care.** SB 7 will broaden the prescribing authority of Advanced Practice Registered Nurses.
14. **Human trafficking.** SB 184 will allow a person's record to be cleared of a non-violent offense if a judge determines the offense resulted from being a victim of human trafficking.
15. **Invasive plants.** SB 170 will update and expand the state's list of invasive and noxious plants, such as kudzu and poison hemlock, targeted for eradication from roadsides and public right-of-ways.
16. **Jobs retention.** HB 396 expands eligibility for Kentucky Jobs Retention Act benefits to include manufacturers of appliances. The legislation is expected to help GE invest up to \$325 million in its Appliance Park operations in Louisville.
17. **Juvenile justice.** SB 200 will increase and strengthen evidence-based early intervention programs and services provided to young offenders of certain non-violent crimes, such as truancy. It will also increase education and training of certain employees in the juvenile justice system. The measure calls for data collection and reporting to measure the effectiveness of programs and policies, and would create a committee to oversee implementation of the legislation, monitor effectiveness and make recommendations for improvements based on outcomes.
18. **Newborn health.** SB 7 will require periodic reporting of health statistics relating to drug-addicted or dependent newborns.
19. **Road plan.** HB 237 outlines the state's \$5.2 billion plan for road and bridge projects throughout the state for the next two fiscal years.
20. **School calendar.** HB 211 gives schools flexibility in adjusting their calendars to make up for the unusually high number of days schools were closed due to snow in recent months. The bill will allow school districts to increase the length of their school days to a maximum of seven hours for the remainder of this school year. Schools that aren't on track to reach the number of instructional hours required annually by the state by June 6 can ask the commissioner of education to waive the requirement for some of their instructional hours.
21. **State parks.** HB 475 will allow residents near state park lodges and golf courses in counties where alcohol sales currently aren't allowed to vote on whether by-the-drink alcohol sales should be allowed at the facilities.
22. **Veterans.** HB 337 will make it easier for veterans with applicable military experience to become licensed as an HVAC professional.

23. **Voyeurism.** SB 225 will update the state’s voyeurism laws to outlaw a practice called “up-skirting” in which a cell phone is used to take pictures underneath a woman’s skirt without her consent.
24. **Wineries.** SB 213 will allow Sunday alcohol sales at small farm wineries if authorized by a fiscal court vote or a local option election.

The Legislative Research Commission’s website, www.lrc.ky.gov, provides a variety of helpful information about the session. There, you will find lists of bills that were signed by the Governor, bills that passed both the house and the senate and were delivered to the Governor for his signature, and the full language of any bill and amendment that was filed this session.

- [Bills that are now law](#)
- [Bills that were enrolled and delivered to the Governor](#)
- [Bills that were vetoed by the Governor](#) (includes line item vetoes for the budget and the public private partnerships bill, HB 407, that would have directly impacted the Finance and Administration Cabinet).

Enacted legislation in its final form can also be found on the secretary of state’s [website](#).

It is important to remember that though many bills passed both the house and the senate, a piece of legislation must be enrolled, signed by each presiding officer (speaker of the house and president of the senate), and delivered to the Governor for his signature or veto. If you have questions about the outcome of a specific bill, please feel free to contact Corey Kline Buckman with the secretary’s office for more information.

Overall, this session was very successful, but we always have room for improvement. We encourage you to come to our office with ideas for ways to help you and help our constituents. We will take ideas for legislative proposals from now until the next legislative session, and welcome all employees to submit ideas.

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